



Our ref: RPM20181
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By email

Dear Sir/Madam

Resale Price Maintenance Notification RPM20181 lodged by Tooltechnic Systems (Aust) Pty Ltd — Statement of Reasons

The Australian Competition and Consumer Commission (the **ACCC**) has decided not to take further action at this time in respect of the resale price maintenance (**RPM**) notification lodged by Tooltechnic Systems (Aust) Pty Ltd (**Tooltechnic**) on 12 February 2018 for its Festool and Fein power tools.

Under the notification, Tooltechnic requires dealers to:

- not sell any Fein product below a price(s) nominated by Tooltechnic (this is a new arrangement)
- require its dealers to not sell any Festool product below a price(s) nominated by Tooltechnic (this continues an existing arrangement authorised by the ACCC in 2014).

A full copy of the RPM notification is available on the ACCC's website www.acc.gov.au.

Decision

A Statement of Reasons is enclosed.

This is the first RPM notification received by the ACCC since amendments to the *Competition and Consumer Act 2010* (the Act) to introduce the new notification process commenced in November 2017.

Under the notification process, the protection from legal action provided by Tooltechnic's notification automatically commenced on 12 March 2018 and will continue unless the notification is revoked.

The ACCC can revoke a notification if it is satisfied that the likely benefit to the public from the notified conduct will not outweigh the likely public detriment from the conduct.

Tooltechnic has already been engaging in RPM conduct for Festool power tools since it was granted ACCC authorisation to do so in 2014. In considering this notification the ACCC has closely reviewed the effects of Tooltechnic's Festool RPM conduct since 2014.

Based on the information before it, on balance, the ACCC is not satisfied that the legal test to revoke the notification is met at this time.

Future RPM notifications

It should not be assumed that because the ACCC has allowed this notification to stand, the ACCC will not object to future notifications for RPM.

The ACCC considers that under many circumstances, RPM is likely to result in significant public detriments, particularly where the parties concerned have higher market shares, or in markets where there is not vigorous competition. RPM will often not result in sufficient public benefits to offset the detriment from higher prices. The ACCC will require any party seeking legal immunity for RPM conduct to provide substantial evidence to demonstrate that the extent of public detriment will be limited and there are clear public benefits.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Jaime Martin on (03) 9290 1477 or adjudication@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Jones', is positioned above the typed name.

David Jones
General Manager
Adjudication