



Our ref: RPM20181  
Contact officer: Jaime Martin  
Contact phone: (03) 9290 1477

23 Marcus Clarke Street  
Canberra ACT 2601

GPO Box 3131  
Canberra ACT 2601

tel: (02) 6243 1111

fax: (02) 6243 1199

adjudication@acc.gov.au

www.acc.gov.au

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Geoff Carter  
Partner  
MinterEllison

*By email: geoff.carter@minterellison.com*

Dear Mr Carter

**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.

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

As you are aware, 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.

In considering this notification the ACCC has had an unusual opportunity to be able to review 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. A Statement of Reasons is enclosed.

The ACCC may revisit this assessment at any time and take steps to remove the protection provided by the notification.

**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 contact Jaime Martin on (03) 9290 1477 or [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Jones', with a stylized flourish above the name.

David Jones  
General Manager  
Adjudication