

MinterEllison

9 March 2018

Tess Macrae
Assistant Director – Adjudication
Australian Competition & Consumer Commission
Level 17, 2 Lonsdale Street
MELBOURNE VIC 3000

Dear Tess

Tooltechnic notification of resale price maintenance (RPM) – response to public submissions

We refer to your email correspondence dated 2 March 2018 and 6 March 2018.

We write in response to the public submissions received by the ACCC in relation to Tooltechnic's notification of RPM conduct.

The submissions received are from consumers and dealers in relation to Festool branded products. We note that the submissions do not contain concerns in relation to Fein branded products, and that there have not been any submissions received by competitors in the manufacturing market. We have set out below Tooltechnic's response to the concerns raised.

1. Consumer submissions

- (a) One consumer expressed concern that the RPM conduct has not improved the service provided by dealers. This does not reflect the view of the overwhelming majority of consumers. As outlined in Tooltechnic's notification materials, survey feedback (collected from customers post-purchase) has indicated that customers are increasingly satisfied with the service, support and product knowledge of Festool dealers and have given their purchasing experience a high rating in the latest reporting season.
- (b) Another consumer was concerned that dealers do not possess any more specialised knowledge than any other outlet. Again, this does not reflect the view of consumers more broadly. Tooltechnic's survey feedback has indicated that overall, customers regarded the product knowledge of sales as extremely high and continually improving since the RPM authorisation was granted in 2014. Dealers possess specialised service offerings including end-user training sessions and demonstrations, free services for wearing parts, loan tools, product and application assistance with a dedicated hotline, and wider product ranges.
- (c) The same consumer was concerned that stock holding at some dealerships is lacking. However, since the RPM authorisation was granted in 2014, dealers have been incentivised to stock a larger range of Festool products, which gives consumers greater choice and a better experience with product availability. According to Tooltechnic's survey feedback, customers have experienced increasingly better product availability over the past few years.
- (d) We note that another submission was drafted by a consumer as at February 2016, and contains some concerns that have since been addressed. For example, they were concerned that the number of dealers had not increased (especially those with a large range and service offering). However since 2016, there has been a 81% increase in the number of Partner Plus dealers. They also raised concerns about service and product range, which has also improved since that time.



2. Dealer submissions

- (a) One dealer was concerned about the large amount of floor space that is being dedicated to Festool products. Tooltechnic considers its increased floor space and improved displays to be of public benefit to consumers. Displays are critical in selling complicated products such as Festool power tools, and allow customers to readily view the range of products and try before buying tools with the help of professional consultation. Based on Tooltechnic's survey feedback, customers have indicated that the floor space and presentation of the Festool products in store has improved and continues to do so. Without RPM, the dealers are likely to reduce retail space and product range. To address dealer concern about floor space, Tooltechnic has started a program of continually reviewing and revising the product range to ensure that only the products relevant to the dealer category form part of their core range.
- (b) Another dealer was in strong support of the RPM conduct for both Festool and Fein branded products, as they believe the pricing structure works extremely well, the product range is extensive and the products are unique and well-made. We note that the ACCC have since received additional submissions from dealers also in support of the RPM conduct.

If you have any further queries, please do not hesitate to contact us.

Yours faithfully
MinterEllison



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