



8 May 2023

Lyn Camilleri
General Manager | Competition Exemptions
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

BY EMAIL

Dear Lyn

Proposed merger between Armaguard and Prosegur – MA1000022

NCR Australia Pty Ltd and Cardtronics Australasia Pty Ltd (**NCR Australia Group**) refer to the Applicants' Revised Proposed Undertaking dated 1 May 2023, in relation to the proposal by Linfox Armaguard Pty Ltd and Prosegur Australia Holdings Pty Ltd (**Applicants**) to combine their cash distribution and management, device monitoring and maintenance and ATM businesses in Australia (the **Proposed Transaction**).

NCR Australia Group welcomes the opportunity to provide a further submission to the Commission in relation to the Proposed Transaction. As the Revised Proposed Undertaking was only made available to NCR Australia Group on 1 May 2023, NCR Australia Group has, in the time available, addressed only new issues in this submission.

The Revised Proposed Undertaking does not alleviate NCR Australia Group's concerns regarding the Proposed Transaction. Perversely, the Applicants have responded to concerns raised by NCR Australia Group and third parties regarding the inadequacy of the Applicants' previously proposed undertaking by limiting the duration of the protections contained in the undertaking to a 3 year period. The Revised Proposed Undertaking will expire 3 years from completion of the Proposed Transaction (unless withdrawn earlier). After that period, MergeCo will have a monopoly and be able to exploit that monopoly to the detriment of customers and ultimately consumers. Where is the evidence to show that MergeCo will be constrained from exploiting its market power 3 years from now?

NCR Australia Group continues to have significant concerns regarding the Proposed Transaction, for the reasons set out in NCR Australia Group's previous submissions to the ACCC on 28 October 2022, 19 January 2023 and 6 April 2023. NCR Australia Group considers that the Revised Proposed Undertaking will be an ineffective and inadequate remedy for the competition issues that have been identified and will arise from the Proposed Transaction.

Three year term is patently inadequate to address competition concerns

NCR Australia Group considers that the three year term proposed by the Applicants is patently an inadequate remedy for the significant competition issues that arise from the Proposed Transaction. While NCR Australia Group acknowledges that the Applicants have made some amendments to the Revised Proposed Undertaking attempting to simplify and clarify MergeCo's obligations, the protections offered by those obligations will only apply for a 3 year period.

After only a very short period of time, MergeCo would no longer be bound by its obligations under the Revised Proposed Undertaking and would be free to conduct itself as a monopoly provider of CIT services, with the ability and incentive to exploit prices and service quality (subject to complying with legislation and discharging contractual obligations).



Nothing would prevent MergeCo from engaging in the following anti-competitive conduct in just three years' time:

- (a) increasing prices of CIT services in its absolute discretion and without limitation;
- (b) reducing the standard of service or worsening the non-price terms on which it supplies CIT services to customers;
- (c) refusing to supply CIT services to Independent ATM Deployers;
- (d) engaging in other vertical foreclosure strategies as against Independent ATM Deployers, including but not limited to bundling / tying, self-preferencing, and worsening the terms for provision of ATM as a Service;
- (e) reducing geographic coverage;
- (f) no longer allowing Third Party CIT Providers access to MergeCo's cash processing and related services, otherwise enabling them to expand their service offering and compete with MergeCo; and
- (g) abandoning complaints handling and dispute resolution mechanisms.

NCR Australia Group has made extensive submissions to the Commission on the above issues previously, and we have not repeated them in this letter.

We reiterate our views that it is unlikely that the Applicants would exit the Australian market in the near future. To the extent that the 3 year term of the undertaking is intended to cover the period during which the Applicants concede they would both remain in the market (and competition between them would continue, absent the Proposed Transaction), and is not needed after that period because at that time only one national CIT player would prevail, NCR Australia Group does not accept that proposition, and we question the evidence for that.

Further, to the extent that the Applicants consider that new entry or expansion by smaller CIT providers over the next 3 year period will impose a competitive constraint on MergeCo after the expiry of the 3 year term, again, we question the evidence for that. The Revised Proposed Undertaking contains some obligations which appear directed to helping smaller CIT providers expand their business.¹ However, they too only apply for 3 years. It would not be commercially rational for a new entrant or smaller CIT provider to make a significant investment in expanding its business in the knowledge that it may not be able to access MergeCo's ACCs 3 years from now and that they would be competing with the MergeCo incumbent. For that reason, the competitive threat from new entrants or smaller CIT providers is at best speculative, and in our view highly unlikely to emerge.

Due to time constraints, and our overarching concerns with the nature and duration of the undertaking, we have not commented on the specific pricing and other obligations in the Revised Proposed Undertaking. We note that the prices contemplated by the Revised Proposed Undertaking appear to be higher than the prices contemplated by the previous undertaking.

MergeCo will have the ability and incentive to vertically foreclose downstream rivals

As regards (c) and (d) above, NCR Australia Group disagrees with the Applicants' statement in the submission accompanying the Revised Proposed Undertaking that: *"it would be irrational for MergeCo to discriminate against Independent ATM Deployers (such as by way of vertical foreclosure)*

¹ Applicants' Revised Proposed Undertaking dated 1 May 2023, clauses 5.11-5.17; 5.20 – 5.23.



in relation to the supply of CIT services."² NCR Australia Group considers that MergeCo would be likely to leverage its market power in the upstream market for CIT services into downstream or adjacent markets, to capture margins in those markets. Whenever the greater financial opportunity resides in operating ATM networks as opposed to servicing competing ATM network operators, that is what MergeCo will be incentivised to do.

NCR Australia Group urges the Commission not to authorise the Proposed Transaction. The Proposed Transaction raises serious competition concerns and is likely to substantially lessen competition in both CIT and downstream and adjacent markets. The behavioural undertaking offered by the Applicants does not address these concerns. The Proposed Transaction does not deliver a net public benefit. It should not be allowed to proceed.

Yours sincerely



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NCR

² Applicants' letter to the ACCC dated 1 May 2023 attaching the Revised Proposed Undertaking (<https://www.accc.gov.au/system/files/public-registers/documents/Revised%20Proposed%20Undertaking%20-%2001.05.23%20-%20PR%20VERSION%20-%20MA1000022%20Armaguard%20Prosecur.pdf>), p 3.