

## National Office

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National Secretary  
**Michael Kaine**

4 April 2023

Mergers, Exemption & Digital  
**Australian Competition & Consumer Commission**

By email: [Armaguard-Prosegur-Merger@acc.gov.au](mailto:Armaguard-Prosegur-Merger@acc.gov.au)  
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Dear ACCC,

### **MA1000022 Proposed Armaguard/Prosegur Merger – TWU submission in relation to proposed undertakings**

As noted in our previous submission the TWU believes the CIT industry is at crisis point with declining safety standards and unsustainable operations and rates. As a result, we are of the view that the merger of Armaguard and Prosegur will not substantially lessen competition and it is in the public interest to avoid the industry imploding.

With regards to the proposed undertakings, we take no issue with those that relate to service level standards and access to services. However, the TWU do have serious reservations in relation to the price undertakings. These undertakings were proposed with a view to ease competition concerns of the ACCC and major customers. We submit that this does not adequately account for the bargaining power of their major customers and the decade long decline in service, safety and employment standards. These standards must be accounted for in the baseline of operating costs.

The undertakings do not specify what allowances are made for operating costs particularly in relation to safety and employment standards including rates of pay. While we are unable



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to make specific comments there are several issues that the ACCC in its deliberations must consider. These are:

- Whether the price undertakings restrict the ability for the merged entity to bargain with its employees and contractors. Any price undertakings must not undermine industrial bargaining. We remind the ACCC that this is a fundamental right that all workers have and should not be restricted.
- Whether the price restrictions encourage a race to the bottom on safety standards.<sup>1</sup> There is very little consideration on the cost of operating a CIT business that meets proper safety standards. Perhaps it is assumed that all business must comply with relevant industry standards and the pricing reflect this. In our experience this has never been the case, particularly in soft skin operations. Customers are often the ones squeezing the industry and have driven the decline in safety standards. It is the workforce that ends up paying for it, including in the company's ability to invest in safe infrastructure and capital.
- Whether the existing changes already made to avoid a merger such as cost-cutting, restructuring and outsourcing will be revised to reflect genuine and safe operating costs. The use of contractors is particularly dangerous for the armoured division as it should have stricter operating standards.
- An undertaking to ensure that soft skin operations do not become the new standard for work that should be done by the armoured division because of pricing and competition concerns. This cannot be a blueprint for poor subcontracting practices for the remaining soft skins.

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<sup>1</sup> For example, the WHS standards for CIT are set out in Safe Work Australia's CIT Code of Practice. We know that the vast majority of companies would fail a compliance audit and have not way of recuperating costs.

# Transport Workers' Union of Australia

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- The pricing mechanism appears to be underpinned by volume rather than the other concerns outline above. It's unclear how labour and safety costs are factored in and what inputs are considered. We again urge the ACCC to ensure that undertakings make the proper commitments required to create a safe, fair and sustainable industry.

Finally, if the ACCC decides to issue undertakings, particularly in relation to pricing, we submit that the TWU should have access to auditors reports on a confidential basis because it has a significant impact on safety and the ability of its workforce to bargain.

It is the TWU's view that the merger must take place to avoid a fatal drop in safety standards. We urge the ACCC to take a balanced approach to ensure that workers in the industry can achieve fair outcomes that are not pre-determined, particularly as the key clients in the CIT industry are amongst the largest and most profitable Australian corporations. The Fair Work Commission could be given the specific power to determine standards in the industry to ensure that safety is paramount, workers get fair outcomes and labour costs are passed on to wealthy clients who benefit from this work.

Yours sincerely,



**Nick McIntosh**

Assistant National Secretary

Transport Workers' Union of Australia

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