

From: Rob Bernau
Sent: Tue, 19 Mar 2024 14:36:48 +1300
To: Luke Archer
Cc: Reuben Irvine; Jenna Bernstein
Subject: RE: Letter from non-integrated retailers of 6 March - please respond [CCNZ-IMANAGE.FID389340]

Thanks Luke. I think we'll likely want to have another conversation in a couple of weeks, as we refine our thinking a bit.

Re Electric Kiwi, they haven't sent us the further information yet, but we are aware of it (and talking to them).

Ngā mihi

Rob

From: Luke Archer [Section 9(2)(a) Privacy]
Sent: Tuesday, March 19, 2024 11:20 AM
To: Rob Bernau [Section 9(2)(a) Privacy]
Cc: Reuben Irvine [Section 9(2)(a) Privacy]; Jenna Bernstein [Section 9(2)(a) Privacy]
Subject: RE: Letter from non-integrated retailers of 6 March - please respond [CCNZ-IMANAGE.FID389340]

Hi Rob

Thanks for your team's time on Friday too, much appreciated. We found this type of free-flowing discussion a really great way to canvas the issues we spoke about, so do let us know if the team is keen to chat again as the process continues.

On the independent retailer letter – yes, we received the letter on the 6th and we also received further information from Electric Kiwi on the 12th (which s 9(2)(a) said would also be provided to you, but let us know if you haven't received it – there was some interesting information about its recent RFPs).

No broad concerns with the statement, although we would probably add a little bit of content, see markup below. Without seeing the context, some of this extra content might not be needed, but we like the idea of providing an example.

In our view, the Authority is broadly covering the same ground as the Commission would have had it commenced an investigation, but from a different perspective (as our mandate is not based in specific competition law tests, but in [description of the EA's statutory objective or the purpose of this project]).

For example, we are collecting information regarding successful and unsuccessful OTC RFPs, which we understand the Commission would likely request were it to open an investigation into an alleged constructive refusal to deal. However, the specific analysis we will undertake using this data may differ from what the Commission would undertake during an investigation, reflecting our different perspectives.

We continue to work closely with Commission staff, and have greatly valued their perspective and expertise to date.

Thanks,
Luke/Reuben/Jenna

From: Rob Bernau [Section 9(2)(a) Privacy]
Sent: Monday, March 18, 2024 4:34 PM
To: Luke Archer [Section 9(2)(a) Privacy]
Cc: Reuben Irvine [Section 9(2)(a) Privacy]; Jenna Bernstein [Section 9(2)(a) Privacy]
Subject: Letter from non-integrated retailers of 6 March - please respond

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Tēnā koe Luke

Thanks again for your time on Friday.

On a related topic, you should have a copy of the 6 March letter from non-integrated retailers re the Authority's PID for the risk management review (the letter said that it was copied to you, but please let me know if I need to send it through). One of the things we want to say in response is:

In our view, the Authority is broadly covering the same ground as the Commission would have had it commenced an investigation, but from a different perspective (as our mandate is not based in specific competition law tests). We continue to work closely with Commission staff, and have greatly valued their perspective and expertise to date.

Can you please let me know if you have any concerns re this statement? It reflects my impression of the conversations we've had to date, but I still think it's useful to check.

Ngā mihi

Rob Bernau
Programme Manager

M: [Section 9(2)(a) Privacy]

**ELECTRICITY
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