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Contact officer: Jaime Martin
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31 August 2023

Sent via email

Dear Sir / Madam

Re: Graco Australia Pty Ltd resale price maintenance notification - ACCC Draft Notice

The Australian Competition and Consumer Commission (the ACCC) has released a Draft Notice in relation to the resale price maintenance (**RPM**) notification lodged by Graco Australia Pty Ltd (**Graco Australia**) on 21 March 2023 for its airless and air assisted paint sprayers, ranging from entry-level to professional trade products (the **Notified Products**).

The ACCC's Draft Notice proposes to revoke the legal protection provided by Graco Australia's notification.

Graco Australia proposes to require its distributors to advertise the Notified Products at or above a minimum advertised price set by it. However, the minimum advertised price requirement will not apply to in-store price negotiations or merchandising, secure internet sites used for business-to-business transactions, and items in internet 'shopping carts.' Graco's proposal is referred to in this letter as the **Notified Conduct**.

The ACCC's Draft Notice

The legal protection provided by Graco Australia's notification automatically commenced on 4 April 2023. However, Graco Australia publicly committed not to commence the Notified Conduct until the ACCC completes its assessment of the Notified Conduct.

The ACCC may revoke an RPM notification where it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment.

Before revoking an RPM notification, the ACCC must issue a Draft Notice setting out its reasons for concluding that the RPM conduct is unlikely to result in a net public benefit.

A copy of the Draft Notice is enclosed and is also available from the ACCC's [RPM notifications public register](#).

Next steps

The ACCC invites your views in relation to the Draft Notice. Submissions are requested by **22 September 2023** via this [web form](#), which is also accessible on the [RPM notifications public register](#) page.

Alternatively, if you would like to provide comments orally, please contact Jaime Martin via the details in this letter to organise a suitable time.

Submissions, including any oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

Graco Australia or an interested party dissatisfied with the Draft Notice may also request that the ACCC hold a conference to discuss the Draft Notice. Conferences of this kind are chaired by an ACCC Commissioner and provide the notifying business and interested parties with an opportunity to make oral submissions relating to the draft notice and the notification. Requests for the ACCC to hold a conference must be made in writing and received by the ACCC by **14 September 2023**.

If you wish to discuss any aspect of this matter, please contact Jaime Martin on 03 9290 1477 or by email at exemptions@acc.gov.au .

Yours sincerely



Lyn Camilleri
General Manager
Competition Exemptions