



**Acquisition of Automotive Holdings Group Limited
by AP Eagers Limited**

MERGER AUTHORISATION APPLICATION

29 April 2019

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ANNEXES

Number	Description	Restriction of Publication Claimed
Annex 1.5	Company structure chart for AP Eagers	Yes
Annex 1.6	Organisation structure chart for AP Eagers	Yes
Annex 2.1.1	AHG Form 604 - Notice of change of interests of substantial holder dated 27 November 2018	
Annex 2.1.2	AHG Appendix 3B showing total issued shares	
Annex 2.1.3	Bidder's Statement	
Annex 3.3.1	Board paper prepared for the AP Eagers board meeting held on 30 October 2018	Yes
Annex 3.3.2	Board paper prepared for the AP Eagers board meeting held on 23 January 2019	Yes
Annex 3.3.3	Board paper prepared for the AP Eagers board meeting held on 20 March 2019	Yes
Annex 3.3.4	Resolution to issue takeover bid dated 5 April 2019	Yes
Annex 4.1	List of AP Eagers dealership locations and products & services supplied	Of part
Annex 4.2	List of AHG dealership locations and best estimate of products and services supplied	
Annex 5.1	AP Eagers Dealership Agreements for Newcastle and Brisbane Regions (Annexes 5.1.1 – 5.1.28)	Yes
Annex 5.4.1	██	Yes
Annex 5.4.2	██	Yes
Annex 5.4.3	██	Yes
Annex 5.4.4	AP Eagers' General Manager remuneration contract example	Yes
Annex 5.4.5	List of AP Eagers' Representatives on OEM national dealer councils	Yes
Annex 5.4.6	AP Eagers' share of OEM new car sales	Yes
Annex 5.5	Extract of Deloitte Motor Industry Services Overview 2018	Yes

Number	Description	Restriction of Publication Claimed
Annex 8.1	Postcodes of customers of AP Eagers' dealerships in the Brisbane Region, Sydney, the Newcastle Region and Melbourne in 2017	Yes
Annex 8.2.1	AP Eagers total sales revenues and volumes broken down by State/Territory and region	Yes
Annex 8.2.2	AP Eagers revenue and COGS by brand for Newcastle and Brisbane Region dealerships	Yes
Annex 8.3	AP Eagers top 10 customers for its products and services in various geographic regions	Yes
Annex 8.4.1	AP Eagers' market shares broken down by State/Territory and region	
Annex 8.4.2	Manheim Report: 2015 Used Car Market – <i>'Looking Back, Driving Forward'</i>	
Annex 8.4.3	AHG FY2017 Full Year Results August 2017 Report	
Annex 8.4.4	AHG's FY2019 half-yearly results presentation released to the ASX on 22 February 2019	
Annex 9.1	AP Eagers' most recent annual report including audited financial statements (2018)	
Annex 9.2	AHG's most recent annual report including audited financial statements (2018)	
Annex 9.3	AP Eagers' Management Report from December 2018	Yes
Annex 9.4	AP Eagers' strategic plan	
Annex 10.1	AP Eagers Dealership Reports with pump-in pump-out data (Annexes 10.1.1 – 10.1.38)	Yes
Annex 10.2.1	Maps showing locations of dealership sites owned by AP Eagers, AHG and geographically closest competitors in Newcastle region	
Annex 10.2.2	Maps showing locations of dealership sites owned by AP Eagers, AHG and geographically closest competitors in Brisbane region	
Annex 10.3	Independent expert report produced by Deloitte	Yes
Annex 10.4	Independent expert report produced by RBB Economics	Of part

Number	Description	Restriction of Publication Claimed
Annex 10.6	Competing independent repair and service providers in Newcastle and Brisbane regions	
Annex 10.7	Warranty terms and conditions for Carzoos.com.au	
Annex 11.1	AP Eagers' Investor Presentation on future growth strategy: 'The Next100', released to the ASX on 2 April 2019	
Annex 12	Contact details of relevant market participants: the top five multi-dealer group competitors other than AP Eagers and AHG; competing dealerships in Newcastle and Brisbane; OEMs for which AP Eagers and AHG supply new cars and OEM replacement parts; OEMs for with which neither AP Eagers nor AHG has a supply relationship; AP Eagers' suppliers of bailment finance; AP Eagers' finance and insurance providers; AP Eagers' fleet customers; and AP Eagers' associations;	Yes
Annex 13.1	AHG's constitution (dated 14 May 2014)	
Annex 14	Declaration by applicant acquirer	
Annex 15	Section 87B undertaking signed by an authorised officer of AP Eagers not to complete the Proposed Transaction while the ACCC is considering the application	
Annex 16	Evidence that the merger authorisation fee of \$25,000 has been paid	

1 Executive summary

This application is submitted by A.P. Eagers Limited (**AP Eagers**).

AP Eagers is proposing to acquire all of the ordinary shares in Automotive Holdings Group Limited (**AHG**) that it does not already own by way of an off-market takeover (**Proposed Transaction**). In this application, AP Eagers and AHG are referred to as a party or the parties.

In this application, AP Eagers is applying for merger authorisation for the Proposed Transaction under section 88(4) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) on the basis that the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition in any market in contravention of section 50 of the CCA.

Overlapping areas of supply and acquisition

AP Eagers and AHG are both active in the supply of the products and services listed below. AP Eagers does not consider that these are all separate markets. However, to assist the ACCC, AP Eagers also provides a summary of the national estimated shares for each of the parties in key areas in **Table 1** below .

- **the retailing of new and used vehicles:** AP Eagers considers that new and used passenger and commercial vehicles are all in the same market. Authorised dealers face competition from used cars which 'provide competitive pressure and a degree of substitution to purchasing a new car',¹ which AP Eagers considers is equally true for new and used commercial vehicles. AP Eagers has provided information for these segments separately in its submissions to show that, even on a narrower basis, the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition;
- **used vehicle wholesaling and retailing:** in addition to retail used cars, the parties supply used vehicles on a wholesale basis to various used car wholesalers and retailers for resale to other customers;
- **car servicing and maintenance:** the parties are involved in supply of post-sale repair and maintenance services on cars in order to ensure that the car is operating properly. This includes routine vehicle maintenance and repairs;
- **the provision of third party financing:** the parties supply finance products to customers through two channels – point-of-sale financing (on behalf of banks and the captive finance companies of car Original Equipment Manufacturers (**OEMs**)) and finance brokerage (which involves arranging loans for customers, for a fee, as authorised under an Australian Credit Licence);
- **the provision of car insurance:** the parties also supply insurance products to customers on behalf of insurance companies and other financiers which provide insurance products;
- **the sale of spare car parts:** the parties supply replacement parts; and
- **the sale of car care products:** the parties supply related products and services at the point of sale of new vehicles, such as window tinting, fabric protection and extended warranties.

¹ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 35.

AP Eagers and AHG also overlap in the acquisition of the following products and services (although AP Eagers does not consider that these areas constitute separate relevant markets):

- new vehicles and replacement parts from OEMs/distributors;
- bailment financing from third party financiers on a vehicle by vehicle basis (also known as floorplan financing); and
- vehicle advertising platform services (which advertise and allow buyers to compare and enquire to buy new and used vehicles for sale by various other participants).

AP Eagers is also active in the provision of vehicle brokerage services to customers. While this potentially gives rise to a vertical relationship between the parties since both AP Eagers and AHG are active in the retail sale of new and used vehicles, only AP Eagers operates a vehicle brokerage business. AP Eagers' vehicle brokerage services activities are trivial and this does not give rise to any vertical competition concerns.

Table 1 below sets out a summary of estimated market shares for AP Eagers and AHG. The calculation of AHG's shares has, in most cases, been based on extrapolating AHG's share of new vehicle retailing to other areas of its business. Accordingly, these shares are rough estimates and it is likely that some parts of AHG's business may perform above or below the estimates.

Table 1: Summary of AP Eagers and AHG share estimates

Product / Service	National market total	AP Eagers share	AHG estimated share	Merged entity share
New vehicle sales*	1,153,111 units	5.2%	6.7%	11.9%
Used vehicle sales*	3,000,000 units	1.5%	1.9%	3.4%
Finance products*	\$35.7bn	2.5%	3.5%	6.1%
Servicing and repairs*	\$12.23bn	2.1%	2.7%	4.7%
Retail and wholesale replacement parts sales*	\$14.08bn	3.7%	4.8%	8.5%

**The sources, assumptions and methodology used in relation to each of the above product and services areas is discussed further in this Annex 8.4.1.*

National markets for each area of supply

AP Eagers considers that the geographic scope of the services it supplies is national. Motor vehicles are, by their very nature, built to travel. Consumers, better informed than ever before, are willing and able to travel, enquire, source and consult far and wide (particularly aided by the internet and digital platforms and the increasing use by consumers of vehicle brokers) on a new or used vehicle purchase which constitutes the second largest consumer purchase after a home, from which they can stand to earn significant savings in the thousands of dollars. Through this process consumers will often find the lowest price available by searching the internet or

dealerships over a very large geographic area (State or national) and, for convenience, will then ask their local dealer to match the lowest available price or risk losing the sale. This removes or reduces any price disparity between regions.

At a national level, with a combined share of 11.9%² of new vehicle retailing and less than 3.5% of used vehicle sales, and with modest shares in other areas, the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition.

No substantial lessening of competition in any market

However, even if narrower geographic areas are considered, which AP Eagers believes should not constitute the scope of the geographic market, the same conclusion is reached. AP Eagers' and AHG's businesses are largely geographically complementary. AHG does not have car retailing operations in South Australia, Tasmania or the Northern Territory, but has a presence in Western Australia, while AP Eagers has no retailing operations in Western Australia, but is present in South Australia, Tasmania and the Northern Territory. Neither AP Eagers nor AHG has any business premises in the Australian Capital Territory. AP Eagers' and AHG's activities overlap in New South Wales, Victoria and Queensland. In those states AP Eagers' presence is fairly limited in Sydney and Melbourne. Indeed, the geographic complementarity of the two businesses is a key reason for the Proposed Transaction.

Even in narrower geographic areas where AP Eagers' and AHG's activities overlap, there will be continued choice and competition between dealers given the fact that dealers within the merged AP Eagers group compete vigorously with each other and with all other dealers in a wide region. As the ACCC noted in its *New Car Retailing Industry Report*:

ownership of authorised dealers is fragmented, with the four largest firms (owning multiple dealerships) accounting for around 15% of new car sales. The remaining 85% is shared amongst a range of dealership types including many smaller businesses operating single dealerships selling one brand of car.³

Moreover, the level of control and influence exercised by OEMs and their remuneration models means that individual dealers – including those subject to common corporate ownership – are incentivised to compete fiercely to achieve sales volumes targets which unlock additional remuneration from the OEM and additional compensation for dealer principals from AP Eagers under its internal remuneration arrangements. The ability to maximise volume based on Key Performance Indicator (**KPI**) incentives is essential for driving dealership net profit.

In addition, motor vehicle retailing is subject to dynamic competition and significant levels of technological disruption. In recent years the retailing of cars in particular has experienced enormous upheaval as a result of the internet which has resulted in the entry of online comparison and advertising sites (such as carsales.com.au; drive.com.au; autotrader.com.au; carsguide.com.au; gumtree.com.au and facebook.com). These have facilitated consumers' abilities to compare offerings of multiple dealers across broad geographic areas. The industry is set to experience further disruption in the future, with the changing patterns of car ownership owing to the rise in ride-sharing, car-sharing and innovative models of ownerships, such as vehicle subscription, and the rise of electric and autonomous vehicles impacting car retailing business models, as the ACCC noted in its *New Car Retailing Industry Report*.⁴

AP Eagers therefore considers that the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition in any relevant market.

² Based on figures for AP Eagers for the year ended 31 December 2018 and figures for AHG from AHG's FY2019 Half-Year Results (22 February 2019) (see **Annex 8.5.4**, page 42).

³ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 35.

⁴ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 33.

2 Key information

- Q1. Provide details for the applicant acquirer(s) and separately any other parties to the proposed acquisition such as the target company (together, the parties), including:**
- 1.1 name, address (registered office), telephone number, ACN or international equivalent**
 - 1.2 contact person's name, position, telephone number, and email address**
 - 1.3 a description of business activities**
 - 1.4 email address for service in Australia**
 - 1.5 for each party to the proposed acquisition, a company structure chart identifying each party, its respective subsidiaries, and all related bodies corporate and companies in which it holds minority shareholdings that are involved in a relevant business for purposes of assessing this application**
 - 1.6 a current organisation chart for each party and for each of the party's relevant businesses, identifying the key personnel with their full name, title, and contact details.**

The information responsive to the above questions is contained in **Table 2** below. The information provided in respect of AHG has been obtained from publicly available sources. The information for AHG is therefore provided according to AP Eagers' best knowledge and estimates based on public sources and should be confirmed.

Table 2: AP Eagers and AHG information

Question	AP Eagers	AHG*
1.1 Business details	<p>Name: AP Eagers Limited</p> <p>Address (registered office): 5 Edmund Street Newstead Queensland 4006</p> <p>Telephone number: (07) 3608 7100</p> <p>ACN: 009 680 013</p>	<p>Name: Automotive Holdings Group Limited</p> <p>Address (registered office): 21 Old Aberdeen Place, West Perth, Western Australia 6005</p> <p>Telephone number: (08) 9422 7676</p> <p>ACN: 111 470 038</p>
1.2 Contact person's details	<p>Name: Denis Stark</p> <p>Position: Company Secretary and General Counsel</p> <p>Telephone number: +61 7 3608 7130</p> <p>Email address: dstark@apeagers.com.au</p>	<p>Name: David Rowland</p> <p>Position: Company Secretary and General Counsel</p> <p>Telephone number: +61 421 661 613</p> <p>Email address: drowland@ahg.com.au</p>
1.3 Description of business activities	<p>AP Eagers is an ASX-listed automotive retail group whose core business consists of the ownership and operation of motor vehicle dealerships. AP Eagers sells new and used vehicles, service, parts and the facilitation of allied consumer finance.</p> <p>AP Eagers is an Australian company and has no activities outside of Australia.</p>	<p>AHG is an ASX-listed diversified automotive retailing and logistics group.</p> <p>AHG represents 27 brands and 8 truck and bus brands at 121 new car and 35 new truck dealership locations across</p>

Question	AP Eagers	AHG*
	<p>In total, AP Eagers represents 26 car brands and 10 truck/bus brands, which operate from 108 new car dealerships⁵ and 33 new truck and bus vehicle dealerships in Queensland, Northern Territory, New South Wales, Victoria, Tasmania and South Australia.</p> <p>Further details are provided in response to Question 4 below.</p>	<p>Australia, and also owns 13 new car dealerships in New Zealand.⁶</p> <p>AHG's logistics businesses operate throughout Australia through various subsidiaries.</p> <p>Further details are provided in response to Question 4 below.</p>
1.4 Email address for service	<p>The email address for service is:</p> <p>dstark@apeagers.com.au</p> <p>AP Eagers also requests that all correspondence be copied to its legal advisors:</p> <p>jacqueline.downes@allens.com.au / felicity.mcmahon@allens.com.au</p>	drowland@ahg.com.au
1.5 Company structure chart	<p>AP Eagers' franchise relationships with OEMs involve being granted the right to the retail distribution of an OEM's range of vehicles, parts and accessories within a defined PMA. The dealer agreement sets out the parameters of a dealer's rights and obligations in doing so.</p> <p>Details of which entity is the appointed dealer for each OEM franchise are set out in the organisation chart provided at Annex 1.5.</p>	AP Eagers is unable to provide this in respect of AHG as this information is not publicly available.
1.6 Organisation structure chart	Please see Annex 1.6 .	AP Eagers is unable to provide this in respect of AHG as this information is not publicly available.

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

⁵ A **dealership** is a site or a number of sites operated under a single dealer agreement. **Dealership sites** or **dealership locations** refer to each specific location which sits under a dealer agreement. A dealership may operate a number of dealership sites depending on the dealer agreement. Dealerships have been calculated on the basis of brands rather than 'rooftops'. Therefore, by way of example, a Jaguar Land Rover dealership, which sells both brands at one location, has been counted as two dealerships, even though there is only one 'rooftop' location. Toyota and Volkswagen dealerships have been counted by reference to the number of dealership agreements, even though there might be more than one 'rooftop' location covered by that agreement.

⁶ Calculated as at February 2019 by reference to new car dealership *locations* disclosed on AHG's website and publicly available information, including articles published by GoAutoNews Premium on 2 June 2016 <<https://premium.goauto.com.au/ahg-scoops-another-mazda-dealer/>> and 22 February 2019 <<https://premium.goauto.com.au/ahg-opens-mazda-in-liverpool/>>. Dealerships for Toyota and Volkswagen have been calculated by reference to PMAs rather than new vehicle sales locations within PMAs. In relation to New Zealand, we are unable to confirm the number of sites AHG has in New Zealand.

3 The proposed acquisition

Q2. Provide details of the proposed acquisition, including:

2.1 the assets and/or shares to be acquired, and the structure of the proposed acquisition, including any proposed ancillary arrangements

AP Eagers proposes to acquire all of the fully paid ordinary shares in AHG (**AHG Shares**) that are not already owned by it through an off-market takeover bid in accordance with the provisions of Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**)⁷. AP Eagers currently owns 95,632,358 AHG Shares, which constitute 28.84% of AHG's total issued share capital (with 331,623,014 fully paid ordinary shares in total on issue). AP Eagers provides a copy of its last change in substantial holder notice (Form 604) (which was provided to AHG and released to the ASX on 5 April 2019) at **Annex 2.1.1** and AHG's latest Appendix 3B, released to the ASX on 12 December 2016 at **Annex 2.1.2**.

AP Eagers' bidder's statement in relation to the Proposed Transaction was lodged with ASIC and sent to each of AHG and the ASX on 5 April 2019 (see **Annex 2.1.3**). It is currently anticipated that the bidder's statement (including offer document) will be dispatched on 23 April 2019 to AHG shareholders recorded on its register of members at 7.00pm (Sydney time) on 8 April 2019 (**Register Date**) (**Relevant Offerees**).

AP Eagers' offer is conditional on:

- all regulatory approvals being received, including ACCC or equivalent competition approval;
- no material regulatory action occurring;
- no prescribed occurrences (as listed in section 652C Corporations Act) in respect of AHG;
- no material acquisitions, disposals or significant events being undertaken by AHG;
- no material adverse changes occurring in respect of AHG;
- neither the S&P/ASX 200 nor the All Ordinaries Index falling below 85% of the level of that index on 5 April 2019 (being the date the Proposed Transaction was announced) for three consecutive trading days; and
- any third party which could terminate a material contract with AHG as a result of the merger, consenting to the merger or stating an intention not to exercise its rights in that regard.

Full details of each of the above conditions are set out in schedule 2 to the bidder's statement (**Annex 2.1.3**). Relevantly, the offer is not subject to any minimum acceptance threshold, finance condition or due diligence.

The consideration to be provided to Relevant Offerees (other than foreign shareholders) for the transfer of AHG Shares to AP Eagers is 1 fully paid ordinary share in AP Eagers (**APE Share**) for every 3.8 AHG Shares that they own. This exchange ratio reflects the respective market values of the shares in each of AP Eagers and AHG as recorded on the ASX and measured across the four month period prior to the announcement of the Proposed Transaction on 5 April 2019.

⁷ The offer relates to all AHG Shares on issue at the Register Date that AP Eagers does not already own and any AHG Shares that are issued between that date and the end of the Offer Period as a result of the conversion of, or exercise of rights attached to, other securities that are convertible into AHG Shares (including as a result of the exercise of AHG performance rights) that are on issue at the Register Date.

2.2 diagrams to show the change in ownership structure post acquisition

Figure 1 and Figure 2 below are simplified pre-transaction ownership structure charts of AP Eagers and AHG. The change in ownership structure post-transaction will vary significantly depending on the number of acceptances AP Eagers receives under its offer. Figure 3 and Figure 4 below demonstrate the effect of the Proposed Transaction on AP Eagers' and AHG's ownership structures based on AP Eagers owning 100% and 50.1% (respectively) of AHG Shares.⁸

Figure 1: Pre-transaction (current) ownership structures of AP Eagers

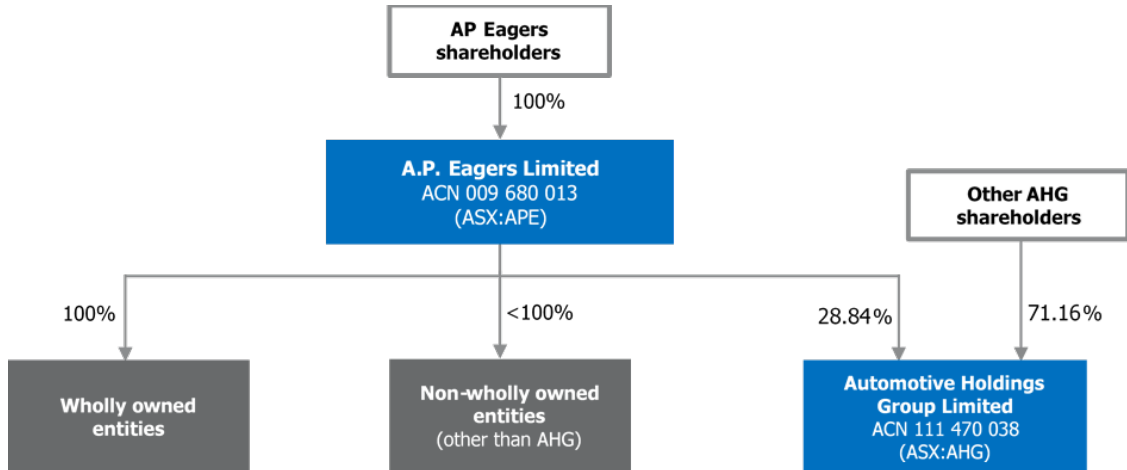
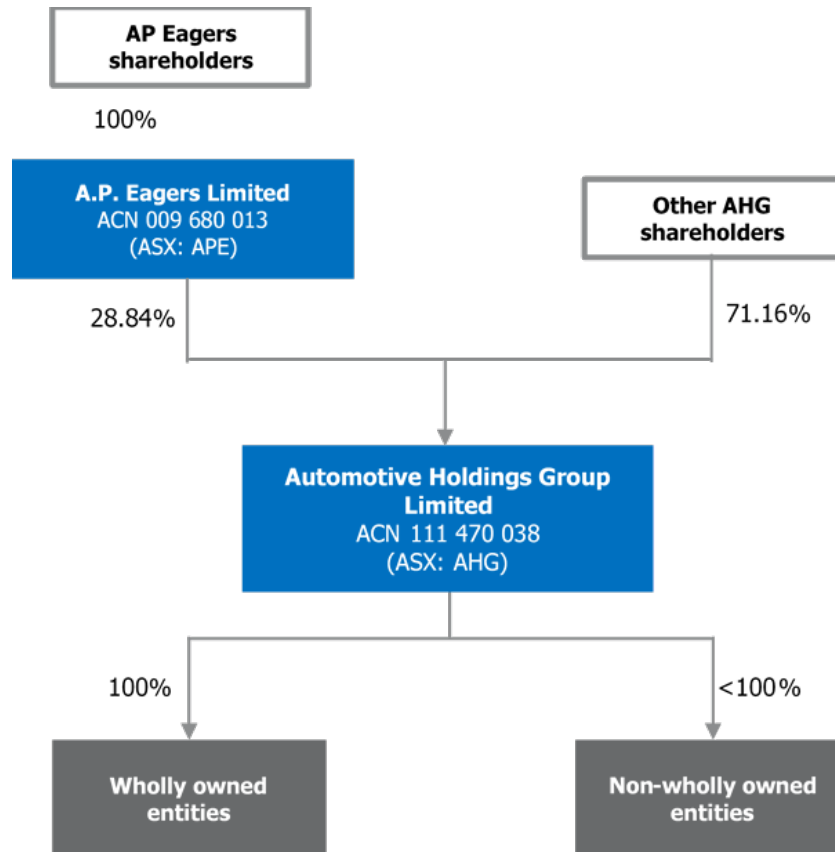


Figure 2: Pre-transaction (current) ownership structures of AHG



⁸ In each case, based on the issued share capital of AP Eagers and AHG as at 5 April 2019, being the date the Proposed Transaction was announced.

Figure 3: Post-transaction ownership structure where AP Eagers acquires greater than 90% of AHG Shares

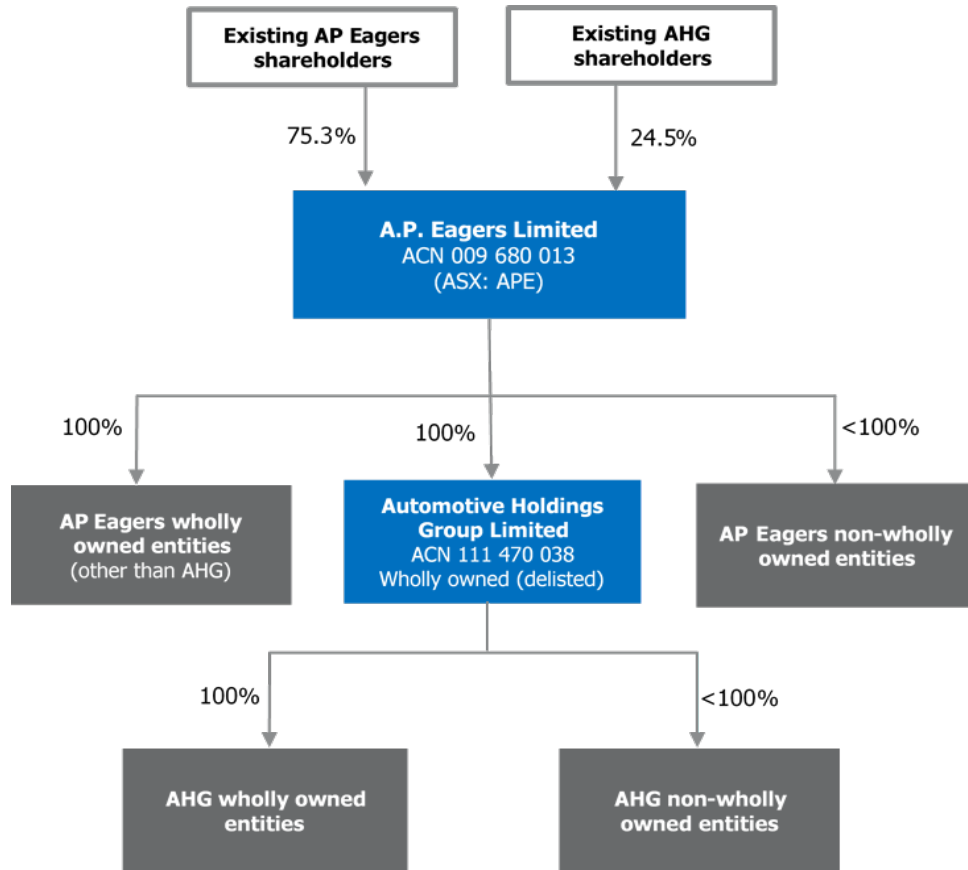
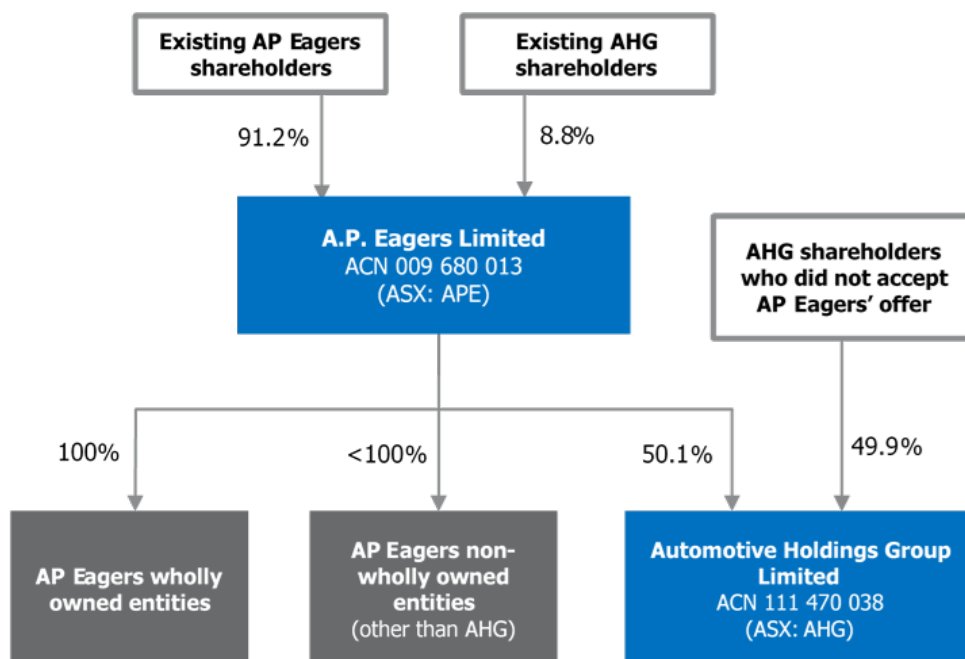


Figure 4: Post-transaction ownership structure where AP Eagers acquires 50.1% of AHG Shares



2.3 The rationale for the proposed acquisition

AP Eagers believes the Proposed Transaction presents an opportunity for growth through geographical and portfolio diversification. In AP Eagers' view, AHG's business over the last three years has produced poor results with reduced dividends and no growth in earnings. AP Eagers has a stable and very experienced management and operational team with a strong track record of delivering returns for all stakeholders.

In particular, the combination of the two businesses is expected to result in:

- **Cost synergies and operational efficiencies:** As outlined in section 2.1 of the bidder's statement, AP Eagers has estimated anticipated pre-tax cost synergies of \$13.5 million per annum if AP Eagers acquires greater than 90% of AHG Shares (and therefore moves, by way of compulsory acquisition, to acquire full ownership of AHG). The anticipated synergies have been assessed by AP Eagers as realisable through:
 - the removal of duplication of costs across the operations of the merged entity, including such areas as head office, board, senior executives, technology, audit, compliance and corporate services; and
 - reduction in AHG's corporate costs associated with operating as a public company listed on the ASX, which are costs that non-publicly listed competing dealerships-would not incur.
- **Greater geographical portfolio diversification:** AHG has a complementary geographical footprint to AP Eagers' business. AHG does not have car retailing operations in South Australia, Tasmania and Northern Territory where AP Eagers has a presence. Likewise, AHG has a presence in Western Australia where AP Eagers does not operate any dealerships and has a presence in Sydney where AP Eagers maintains a very modest presence in the Northern Beaches area. AHG also provides offshore exposure to the New Zealand car retailing market where AHG operates 13 dealership locations in Auckland.
- **Greater brand and operational diversification:** The merged entity is expected to have approximately 229 new car dealerships and 68 new truck and bus dealerships in Australia as well as 13 new car dealerships in New Zealand, representing 33 car brands and 12 truck brands.⁹
- **A larger, more flexible balance sheet:** The merged entity is expected to have the ability to pursue further growth opportunities given it may have greater financial strength than AP Eagers and AHG currently hold independently.

The consideration under the Proposed Transaction is scrip only in AP Eagers on an exchange ratio of 1 APE Share for every 3.8 AHG Shares owned by a Relevant Offeree. This exchange ratio reflects the respective market values of the shares in each of AP Eagers and AHG as recorded on the ASX and measured across the four month period prior to the announcement of the Proposed Transaction on 5 April 2019.

Although the Proposed Transaction will allow for efficiencies and growth, competitive tension between individual dealerships within the merged entity will continue despite the fact that they will be under common ownership. The competitive dynamic between all dealerships is discussed in further detail in section 5.4 of AP Eagers' response to Question 5 below.

⁹ Annex 2.1.3, AP Eagers, *Bidder's statement* (5 April 2019), page 18.

2.4 the expected completion date.

AP Eagers' offer will close on 16 September 2019, subject to any extension to that date made in accordance with the Corporations Act.

Q3. Provide the following documents:**3.1 executed or most recent versions of the transaction documents, such as the sale and purchase agreement, heads of agreement, offer documents, and any related agreements**

A copy of AP Eagers' bidder's statement is provided at **Annex 2.1.3**.

3.2 final or most recent versions of documents governing or particularising the sale process for the proposed acquisition, such as information memoranda or documents required for schemes of arrangement, takeover bids or trust schemes

A copy of AP Eagers' bidder's statement is provided in **Annex 2.1.3**.

3.3 documents submitted to the applicant's board or prepared by or for the applicant's senior management for purposes of assessing or making a decision in relation to the proposed acquisition, and any minutes or record of the decision made. Provide the same documents from other parties to the proposed acquisition, to the extent available.

Copies of AP Eagers' board papers relating to the Proposed Transaction dated 30 October 2018, 23 January 2019 and 20 March 2019 are at **Annexes 3.3.1, 3.3.2 and 3.3.3** respectively.

A copy of the resolution to issue the takeover bid dated 5 April 2019 is at **Annex 3.3.4**.

4 Market information and concentration

Q4. Describe the products and/or services and the geographic areas supplied by the parties.

AP Eagers and AHG provide a range of motor vehicle retailing and ancillary services through their dealerships. AP Eagers sets out below tables which summarise:

- the products and services supplied by each of AP Eagers and AHG at their dealership locations, with additional locations as noted in the table (at **Table 3** below);
- the OEMs with which AP Eagers and AHG each have dealership agreements (at **Table 4** below); and
- AP Eagers' and AHG's dealerships by State (at **Table 6**, **Table 7** and **Table 8** below).

AP Eagers does not consider that the division of products and services in the summary tables below necessarily represents separate relevant product markets from a competition perspective. AP Eagers discusses the relevant markets further in response to Question 10 below.

AP Eagers also provides spreadsheets at **Annexes 4.1 and 4.2** which set out the products and services supplied at each dealership owned by each of AP Eagers and AHG, including the relevant OEM for whom the parties operate each dealership. The information provided in respect of AHG is AP Eagers' understanding based on publicly-available information.

A **dealership** is a site or a number of sites operated under a single dealer agreement.

Dealership sites or locations refer to each specific location which sits under a dealer agreement. A dealership may operate a number of sites or locations depending on the dealer agreement. A Jaguar Land Rover dealership, which sells both brands at one location, has been counted as two dealerships, even though there is only one 'rooftop'. Toyota and Volkswagen dealerships have been counted by reference to the number of dealership agreements, even though there might be more than one 'rooftop' covered by that agreement.

In total, AP Eagers has 108 car dealerships and 33 truck and bus dealerships under 105 car dealer agreements and 14 truck and bus dealership agreements. AP Eagers considers that the appropriate metrics for market share is sales volumes rather than dealership sites.

4.1 Products and services supplied by the parties

Table 3: Summary of products and services supplied by AP Eagers and AHG

Product/Service	Supplied by AP Eagers	Supplied by AHG*
<p>New vehicle retailing</p> <p>Sales of new vehicles, eg, cars, trucks and buses, which have not been previously registered to retail customers.</p> <p>Also includes sales or leasing of fleet vehicles to a single customer (typically a business or government customer).</p>	<p>Yes. AP Eagers owns and operates a number of authorised dealerships which sell both new and used vehicles. A list of OEMs for which AP Eagers retails new motor vehicles is in Tables 3 and 4 below.</p> <p>This includes the sale of new cars, trucks and buses.</p> <p>AP Eagers also owns and operates AP Eagers Fleet, a vehicle quote aggregation platform that connects</p>	<p>Yes. AHG owns and operates a number of authorised dealerships. A list of OEMs for which AHG supplies new motor vehicles is in Tables 3 and 4 below.</p> <p>This includes the sale of new cars, trucks and buses as well as the wholesale of motorcycles.</p>

Product/Service	Supplied by AP Eagers	Supplied by AHG*
	potential customers with the dealership that stocks the vehicle they are interested in.	
<p>Used vehicle retailing and wholesaling</p> <p>Sales of pre-owned vehicles to retail and wholesale customers through various channels, eg:</p> <ul style="list-style-type: none"> • authorised dealerships; • used car yards; • car advertising platforms; • auction houses; and • private-to-private. 	<p>Yes. AP Eagers owns and operates a number of authorised dealerships which sell both new and used vehicles, and operates the brands, '<i>Carzoos</i>', based in Brisbane, '<i>Zooper</i>' and '<i>Cheap Cars</i>' which retail used vehicles from AP Eagers dealerships to end customers in Australia.</p>	<p>Yes. In addition to used car sales at its new vehicle dealerships, AHG also owns and operates:</p> <ul style="list-style-type: none"> • '<i>easyauto123</i>', a fixed price used car business; and • '<i>Carlins Automotive Auctioneers</i>', an auction house.
<p>Vehicle repairs and servicing</p> <p>Post-sale work completed on the vehicle in order to ensure that the car is operating properly. This work includes:</p> <ul style="list-style-type: none"> • routine vehicle maintenance; • repair servicing; and • diagnostic testing. 	<p>Yes. AP Eagers offers these services at its dealerships.</p>	<p>Yes. AHG offers these services at its dealerships.</p>
<p>Financial products on behalf of external providers</p> <p>Sales of finance products to customers on behalf of banks and car OEMs.</p> <p>In particular, AP Eagers and AHG are appointed to offer regulated and unregulated car loans and leases to private and commercial customers on behalf of financiers.</p>	<p>Yes. AP Eagers offers these services at its dealerships.</p>	<p>Yes. AHG offers these services at its dealerships.</p>

Product/Service	Supplied by AP Eagers	Supplied by AHG*
<p>Insurance products on behalf of external providers</p> <p>Sales of insurance products to customers on behalf of car OEMs and insurance companies</p> <p>AP Eagers and AHG also act as agents for insurance companies to offer motor vehicle insurance and related insurance products for sale to customers.</p>	Yes. AP Eagers offers these services at its dealerships.	Yes. AHG offers these services at its dealerships.
<p>Sale of OEM-branded parts</p> <p>Sale of OEM replacement car-parts, ie, the parts used by the vehicle manufacturer in assembling new vehicles.</p> <p>A list of OEMs for which AP Eagers supplies OEM replacement parts is in Tables 3 and 4 below.</p>	Yes. AP Eagers offers these parts for sale at its dealerships.	Yes. AHG offers these parts for sale at its dealerships.
<p>Sale of car care products</p> <p>Products and services at the point of sale of new vehicles, including window tinting, fabric protection and extended warranties.</p>	Yes. AP Eagers offers these products for sale at its dealerships.	Yes. AHG offers these products for sale at its dealerships.
<p>Bond services</p> <p>Holding and processing vehicles purchased by dealers from OEMs prior to delivery to dealers.</p>	Yes. AP Eagers provides bond services for one OEM only and only in Tasmania.	As far as AP Eagers is aware, no .
<p>Smash repairs</p> <p>Supply of panel repair (smash) services</p>	Yes. AP Eagers owns and operates one panel shop at 12 Leonard Crescent, Brendale, QLD 4500.	As far as AP Eagers is aware, no .
<p>Vehicle brokerage services</p> <p>Supply of broking services to customers, ie, arranging the sale of a vehicle from a dealer on behalf of a customer, for a fee</p>	Yes. AP Eagers also owns and operates a vehicle brokerage business in Newcastle, ' Auto Advantage '.	As far as AP Eagers is aware, no .

Product/Service	Supplied by AP Eagers	Supplied by AHG*
<p>Finance brokerage services</p> <p>Supply of finance broking services to customers, ie, arranging loans for customers, for a fee, as authorised under an Australian Credit Licence.</p>	<p>Yes. AP Eagers operates two finance brokerage brands through Leaseline & General Finance Pty Ltd:</p> <ol style="list-style-type: none"> 1. Simplr, which has an employee broker operating in two Brisbane locations: <ol style="list-style-type: none"> a. Carzoos Northlakes (Ground Level Westfield North Lakes Cnr Anzac Ave & North Lakes Drive North Lakes QLD 4509); and b. Carzoos Garden City (Level 1 Westfield Garden City Cnr Logan & Kessels Road Upper Mount Gravatt QLD 4122) 2. Lend Advantage, which has an employee broker operating in each of: <ol style="list-style-type: none"> a. Auto Advantage (2/24 Portside Crescent Maryville, NSW 2293 (Newcastle); and b. the Carzoos storage facility (Brendale). <p>In addition, AP Eagers has appointed Manheim auctions as an Australian Credit Representative under an arrangement which allows Manheim auctions to use the intellectual property rights of AP Eagers in connection with the operation of a finance brokerage business.</p>	<p>Yes. AHG owns and operates a finance brokerage business, 360 Finance, at Level 7, 199 Grey Street, South Brisbane Qld 4101.</p>
<p>Refrigerated and other logistics</p> <p>Supply of logistic transport services with cold storage for products</p>	<p>No.</p>	<p>Yes.</p>

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

4.2 OEMs for which the parties supply new vehicles and OEM replacement parts

AP Eagers supplies new cars and OEM replacement parts for the following OEMs:

Table 4: Manufacturers for which AP Eagers and AHG supply new cars and replacement parts

OEM	AP Eagers	AHG*
Audi	✓	✓
Bentley	✘	✓
BMW	✓	✘
Chrysler	✓	✓
Fiat	✓	✓
Fiat Professional	✘	✓
Ford	✓	✓
Holden	✓	✓
Honda	✓	✓
Hyundai	✓	✓
Infiniti	✘	✓
Isuzu	✘	✓
Jaguar	✓	✓
Jeep	✓	✓
Kia	✓	✓
Land Rover	✓	✓
Lexus	✓	✘
LDV	✘	✓
Mazda	✓	✓
Mercedes-Benz Cars	✓	✘
Mercedes-Benz Vans	✓	✓
Mini	✓	✘
Mitsubishi	✓	✓
Nissan	✓	✓
Peugeot	✘	✓
Porsche	✓	✓
Renault	✓	✘
Skoda	✘	✓
Subaru	✓	✓
Suzuki	✓	✓
Toyota	✓	✓
Volkswagen	✓	✓
Volvo	✓	✘

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

Table 5: Manufacturers for which AP Eagers and AHG supply new trucks and OEM replacement parts

OEM	AP Eagers	AHG*
Freightliner	✓	✓
Fuso	✓	✓
Higer	*	✓
Hino	✓	✓
Isuzu	✓	*
Iveco	✓	✓
Mack	✓	*
JAC	*	✓
Mercedes-Benz Trucks	✓	✓
UD	✓	*
Volvo Trucks	✓	*
Yutong	✓	✓

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

4.3 AP Eagers' and AHG's new motor vehicle dealerships

In Table 6 below, AP Eagers sets out the number of AP Eagers' and AHG's new motor vehicle dealerships in Australia, by State and Territory. In Table 7 below, AP Eagers sets out the number of AP Eagers' and AHG's new car dealerships in Australia. In Table 8 below, AP Eagers sets out the number of AP Eagers' and AHG's new commercial (truck and bus) dealerships in Australia.

Table 6: Summary of AP Eagers' and AHG's new vehicle dealerships in Australia

Region	AP Eagers	AHG*
New South Wales	27	49
Victoria	13	31
Tasmania	20	0
Queensland	50	31
South Australia	29	0
Northern Territory	2	0
Western Australia	0	45
Australia	141	156

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

Table 7: Summary of AP Eagers' and AHG's new car dealerships in Australia

Region	AP Eagers	AHG*
New South Wales	20	40
Victoria	4	27
Tasmania	12	0
Queensland	47	19
South Australia	23	0
Northern Territory	2	0
Western Australia	0	35
Australia	108	121

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

Table 8: Summary of AP Eagers and AHG new truck and bus dealerships in Australia

Region	AP Eagers	AHG*
New South Wales	7	9
Victoria	9	4
Tasmania	8	0
Queensland	3	12
South Australia	6	0
Northern Territory	0	0
Western Australia	0	10
Australia	33	35

*The information provided in respect of AHG is AP Eagers' knowledge based on publicly available information and should therefore be confirmed.

Q5. Describe the industry or industries affected by the proposed acquisition. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

The industries involved in the Proposed Transaction are principally the sale of new and used motor vehicles to consumers, companies and government entities, the ongoing maintenance of motor vehicles, the supply of parts for motor vehicles and the offering of finance and insurance for the purchase of motor vehicles, along with other ancillary services related to the supply of motor vehicles. This section provides:

- a general overview of Australian new and used motor vehicle supply chain; and
- a more detailed discussion of the activities of authorised dealers, including the products and services generally acquired and supplied.

The relevant markets that are affected by the Proposed Transaction are discussed further in response to Question 10.

Australian motor vehicle supply chain

5.1 Overview of Australian motor vehicle supply chain

The Australian motor vehicle industry is an integrated part of global supply chains and operations and involves a number of participants, including:

- **vehicle manufacturers:** which manufacture new vehicles and replacement OEM parts, and then import and distribute these products into Australia to wholesale customers;¹⁰
- **authorised dealers:** which sell new and used vehicles and OEM replacement parts to a wide range of customers, as well as a number of related products and services such as repairs and servicing, financial and insurance products and car care products;
- **bailment financiers:** which provide finance to allow the movement of vehicles from manufacturer-distributors to authorised dealers;
- **vehicle advertising platforms:** which advertise and allow buyers to compare and enquire to buy new and used trucks for sale by various other participants;
- **used vehicle wholesalers:** which act as a middle man between various players in the used vehicle space to redistribute used vehicle stock to used vehicle retailers as needed; and
- **used vehicle sale yards and auction houses:** which are involved in the sale and remarketing of used vehicles (eg, from private customers or fleet customers), usually either by purchasing used vehicle stock and on-selling to buyers or by selling on consignment. Auction houses will generally sell vehicles through auctions or on a used vehicle floor, where customers can inspect the vehicle and negotiate on the price; and
- **independent businesses:** at various levels of the supply chain, eg, involved in the manufacture and supply of third party (non-OEM) replacement parts, the supply of repair and maintenance services for vehicles, the supply of crash repair services and the supply of car care products. This also includes the importing of *parallel parts* (which are typically 'genuine parts' manufactured by the OEM in another country) from dealers located in that other country.

(a) *Import of vehicles and automotive parts*

Since the last remaining motor vehicle manufacturing operation in Australia closed in October 2017, new vehicles sold in Australia have been exclusively manufactured overseas by large multi-national manufacturers. The majority of automotive parts in Australia are also sourced from offshore manufacturers or local third party importers and includes OEMs and aftermarket manufacturers.

Manufacturers have a distribution presence in Australia usually by way of the distribution of new cars through Australian-based subsidiaries. New vehicles are supplied to customers, such as government bodies, businesses and individual consumers, through authorised dealers. It is clear that authorised dealers face a number of competitive constraints which supports the ACCC's conclusion that '*[r]etail markets for the supply of new cars in Australia are generally competitive.*'¹¹ These constraints are discussed further below particularly in sections 5.4 to 5.5 specifically in relation to requirements and KPIs contained in dealership agreements with OEMs and the cost pressures generally on dealerships

Replacement parts are distributed through various channels, including:

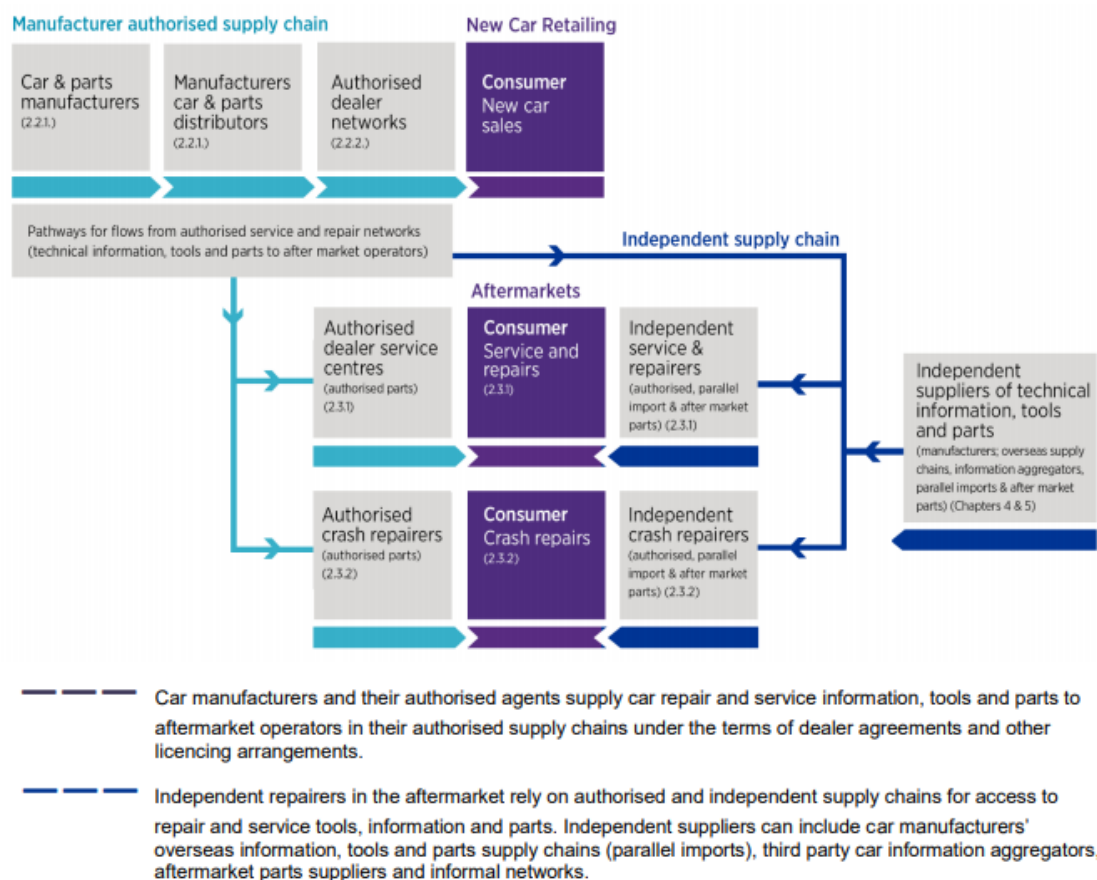
¹⁰ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 28.

¹¹ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 30.

- generalist automotive parts suppliers, who supply to trade and / or retail customers;
- specialist suppliers (such as Ashdown-Ingram);
- OEM parts suppliers and their authorised dealers to retail and trade customers, such as smash repairers; and
- direct supply to end users by importers. This also includes the importing of parallel parts (which are typically 'genuine parts' manufactured for an OEM in another country) from dealers located in that other country.

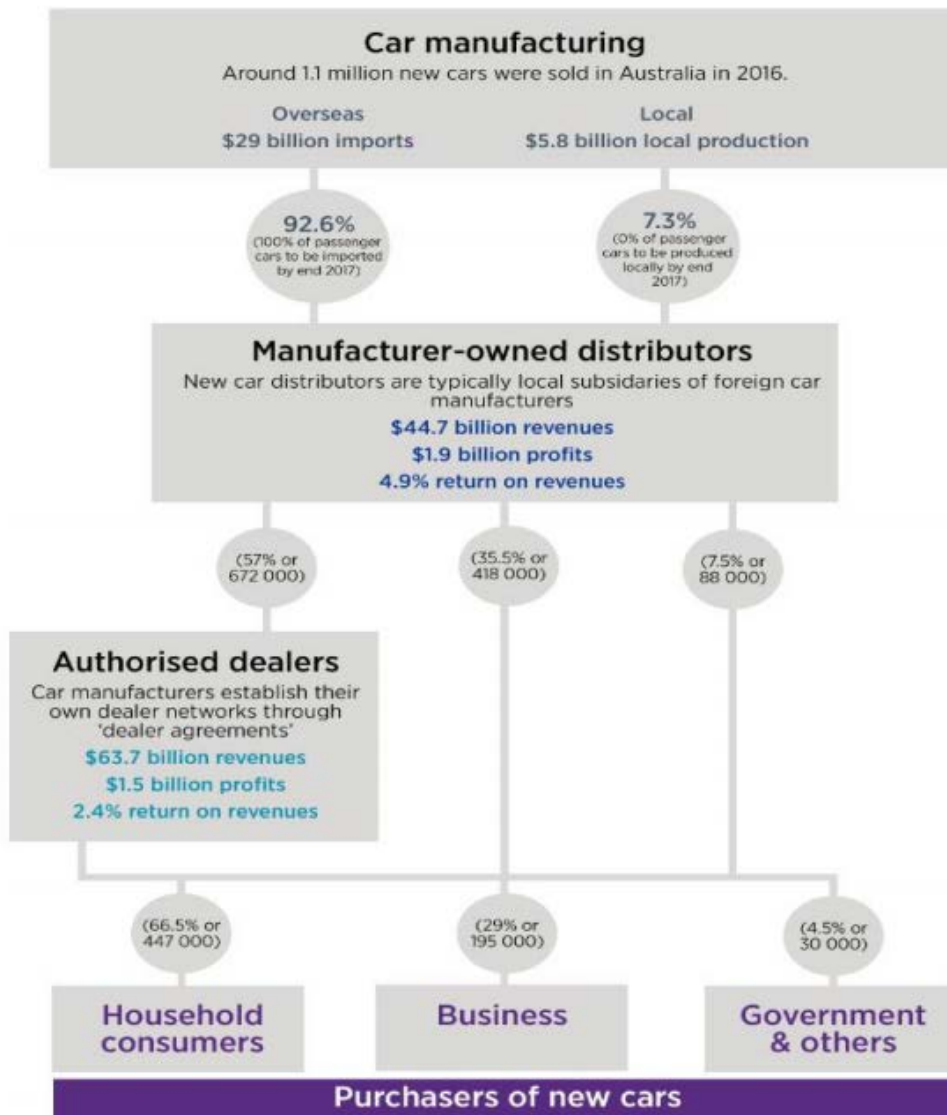
Figure 5 and Figure 6 below show a snapshot of the new car retailing industry and new car supply chain in Australia.

Figure 5: New car retailing industry overview



Source: ACCC Final Report, New Car Retailing Industry Market Study, December 2017

Figure 6: New car supply chain (Australia)



Note: As evidence to this study indicates that a very small number of new cars are currently purchased in Australia through car brokers and direct from the manufacturer these retail avenues are not shown here.

Source: ACCC calculations based on FCAI (VFACTS) motor vehicle sales data (as at December 2016); IBISWorld Industry Report C2311 Motor Vehicle Manufacturing in Australia, October 2016; IBISWorld Industry Report F3501 Motor Vehicle Wholesaling in Australia, August 2016; IBISWorld Industry Report G3911 Motor Vehicle Dealers in Australia, February 2017).

Source: ACCC Final Report, New Car Retailing Industry Market Study, December 2017

(b) Retail supply of new and used motor vehicles

AP Eagers and AHG have the new vehicle retailing dealerships as set out in **Table 6** above.

The retail sale of motor vehicles includes the sale of both new and used vehicles as the two impose competitive constraints on one another (as explained further in section B.4 below on pages 59 to 60). The retail sale of new motor vehicle includes:

- retail sales to individual and commercial consumers, which occurs through authorised dealers.¹² Authorised dealers also sell finance and insurance products and other add on

¹² ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 30.

car care products (eg, window tinting) at the point of sale. This is discussed further below; or

- fleet car distribution, which involves the sale of vehicles to Government purchasers, companies managing their own vehicle fleets as well as fleet management companies who manage large fleets on behalf of their clients.¹³ In dealer groups, fleet sales are typically made at the dealership level. AP Eagers fleet sales teams generally are dealership and brand specific. Approximately 29% of AP Eagers' 2018 annual new car sales were fleet sales. On occasion, subject to the size of the fleet and the individual OEM, OEMs themselves may negotiate fleet sales directly with larger fleet customers and allocate delivery of those fleet vehicles to the most appropriate, locally situated dealership in the OEM's network.

(c) Servicing and repair work

Purchased vehicles require ongoing servicing to ensure they are properly maintained and repaired as necessary. This work can be carried out by either authorised dealers or independent businesses.¹⁴ As at March 2017,¹⁵ there were approximately 25,000 manufacturer-authorised and independent car repair and service centres, which operated across 39,000 outlets in Australia.

5.2 Overview of used vehicles supply chain

Used vehicles compete with and constrain the sale of new vehicles and are therefore part of the same market. Motor vehicles that have previously been sold, registered and driven continue to circulate in the economy with many people buying used cars. As of 31 January 2018, there were 19.2 million registered motor vehicles in Australia, with the average age of all vehicles registered in Australia being 10.1 years (unchanged since 2015).¹⁶ With car buyers regularly choosing between a new and a used vehicle and comparing prices between them, used vehicles provide a competitive constraint on the pricing of new vehicles and vice versa.

Used vehicles are sold through a variety of channels but can be divided into two main categories:

- vehicles can be sold from various private and fleet customers to a number of used motor vehicle retailers and wholesalers such as authorised dealerships, standalone used vehicle dealerships, used car sale yards and auction houses. Used vehicles may then be wholesaled between dealerships, used car yards and auction houses, sometimes through a used vehicle wholesaler, to match demand for certain types of vehicles in various regions, before used vehicles are ultimately bought by private customers; and
- vehicles can also be sold between private buyers and sellers without going through any used car retailers and wholesalers. Such sales are usually facilitated through various advertising platforms such as Carsales, Carsguide, Autotrader, Gumtree, Truckworld and Facebook (Marketplace and Buy/Swap/Sell Groups).

Retail used vehicles are generally only sold to private buyers who may choose to buy from either a used car dealer, a private seller or at a public auction.

The wholesale supply of used vehicles is generally business-to-business with individual dealers, used car sale yards or auction houses acquiring vehicles then on-selling them to private buyers. Fleet sales of used vehicles are almost non-existent.

¹³ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 28.

¹⁴ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 1.

¹⁵ IBISWorld, *Motor Vehicle Engine and Parts repair and Maintenance in Australia* (March 2017), referred to in the *New Car Retailing Industry Report*.

¹⁶ Australian Bureau of Statistics, *Motor Vehicle Census* (31 January 2018) <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/9309.0Main+Features131%20Jan%202018?OpenDocument>>.

5.3 Disruption in the automotive industry

From electric vehicles (**EVs**) and autonomous vehicles (**AVs**) to car mobility services such as ridesharing and carsharing, it is clear that the automotive industry is and will continue to be subject to a high level of disruption in the coming years. These disruptions can be categorised either as alternatives to the traditional car ownership model (ie, ridesharing, carsharing and other mobility services), or as 'cars of the future' – cars using alternative fuel sources or technology inputs (ie, EVs and AVs).

As discussed above, the competitive environment for motor vehicle dealers is currently characterised by high levels of competition, particularly on price, with dealers having increasingly slim profit margins. Industry disruption, through the rise of various technologies and the way that consumers choose to be mobile, is only likely to put further pressure on dealer margins and demand that dealers adapt to this disruption in order to remain competitive.

Electric vehicles

A number of key developments, particularly technological and regulatory advances, are steadily increasing the availability and appeal of EVs to consumers globally and in Australia. While traditionally the price of EVs has been high relative to standard petrol vehicles, this is changing and the price and performance factors of EVs versus standard vehicles has improved.¹⁷ In particular, the price of key technological inputs (such as batteries) is leading to lower retail prices for consumers, making them an increasingly attractive value proposition for consumers. Estimates of global consumer uptake in the next 1 to 6 years (ie, by 2020 to 2025) of EVs vary from conservative estimates of 1% to 10%.¹⁸ In Australia, the sales of EVs are likely to strengthen with increasing customer exposure to EVs, improving technology, price parity with standard petrol vehicles, and industry and government advocacy¹⁹ (eg, recent Labor Party policy announcement regarding sales targets for EVs – see below). EV sales numbers from 2017 are a 67% increase from the previous year.²⁰ Moreover, recent forecasts suggest that even under a 'no intervention' scenario, EV sales could comprise as much as 22% of new passenger vehicles by as soon as 2030, and even more under a 'moderate intervention' or 'accelerated intervention' scenario.²¹

In advance of the 2019 federal election, the Australian Labor Party (**ALP**) recently announced its energy policy, which includes a focus on EVs through a proposed *National Electric Vehicle Policy*.²² This accelerates the timeframe for widescale introduction of EV by OEMs with a consequential impact on dealers which will need to invest in the necessary infrastructure and staff retraining to be capable and competitive in selling EVs. Similar investments will need to be made in relation to car care and servicing for authorised dealerships to support customers in these areas. Moreover, it is expected that EVs will require less servicing less often (eg, no need for regular oil changes or wheel rebalancing) thereby impacting this aspect of dealers' businesses.

¹⁷ Australian Automotive Dealer Association, *Submission 54 to the Report of the Senate Select Committee on Electric Vehicles* (27 July 2018), page 7 <<https://www.aph.gov.au/DocumentStore.ashx?id=bb65ad76-e7a2-4708-bf24-b2b52fa7dd4f&subId=658052>>.

¹⁸ *Ibid.*

¹⁹ Glenn Mercer, *The Dealership of Tomorrow: 2025 – Retail automotive trends for the next decade, An independent study by Glenn Mercer, GM Automotive LLC prepared for the National Automotive Dealers Association* (January 2017) <<https://bil.di.dk/SiteCollectionDocuments/Foreningssites/Bilbranchens%20%C3%A5rsdag%202018/Dealership%20of%20Tomorrow%20Mercer%20NADA.pdf>>; *Report of the Senate Select Committee on Electric Vehicles* (30 January 2019), page 6, paragraph 2.13 <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Electric_Vehicles/ElectricVehicles/Report>.

²⁰ Electric Vehicle Council, *The state of electric vehicles in Australia: Driving momentum in electric mobility (Second Report)* (June 2018), page 3.

²¹ Energeia, *Australian Electric Vehicle Market Study* (2018), as commissioned by the Australian Renewable Energy Agency for its submission to the Senate Select Committee on Electric Vehicles and referred to in the *Report of the Select Committee on Electric Vehicles* (30 January 2019), page 12, paragraph 2.28. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Electric_Vehicles/ElectricVehicles/-/media/Committees/electricvehicles_cte/report.pdf>.

²² Australian Labor Party, *Labor's Climate change Action Plan* (1 April 2019), pages 8-10 <[https://www.alp.org.au/media/1692/labors climate change action plan.pdf](https://www.alp.org.au/media/1692/labors%20climate%20change%20action%20plan.pdf)>.

This will place considerable demands on the already constrained balance sheets and profit and loss statements of dealers in the near term.

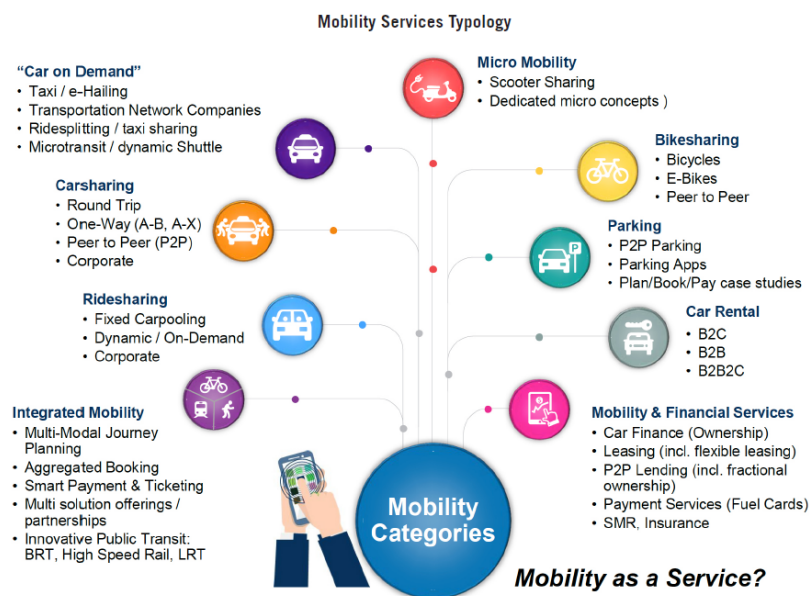
Autonomous vehicles

AVs are vehicles that are automated to drive themselves and may soon be commercially available to consumers. A number of technology companies have developed AV prototypes that will likely be commercialised by the same developer or by selling the technology on to existing OEMs. OEMs are also developing their own AVs. Many of the current vehicles on the road have some of the assisted driving capabilities found in AVs, usually called 'driver assist', 'lane assist' or 'self parking' technologies, which can be activated to provide enhanced AV capabilities with software releases. Australian estimates suggest AVs with a level of automation that is 'eyes-off hands-off' are currently only 7 to 10 years away,²³ although how widely spread this technology is implemented is still unknown. AVs are expected to impact on dealers in a number of ways. First, dealers will need to invest in capital to sell and service AVs and train staff to sell and service AVs. This draws significantly on dealers' resources and places demands on their balance sheets. In addition, AVs are expected to require less servicing since intelligent and AI driving is intended to create less wear and tear on engines than humans do (eg, less need for hard braking as sensors are used to respond sooner and in a less intense manner than when a human is driving). This will have a consequential impact on the ability of dealers to generate revenues from servicing activities.

Mobility services

The term 'mobility services' covers a range of services as outlined in **Figure 7** below. The overall effect of these services and their increasing use is that they may reduce demand for car ownership altogether by providing viable transportation alternatives to consumers.

Figure 7: Mobility Services Diagram²⁴



²³ Senate Select Committee on Electric Vehicles, Parliament of Australia, *Report of the Senate Select Committee on Electric Vehicles* (30 January 2019), page 22, paragraph 2.63.

²⁴ Frost & Sullivan, *Future of Mobility*, Martyn Briggs, UBS Investor Summit (September 2016) – as referred to in Glenn Mercer, *The Dealership of Tomorrow: 2025 – Retail automotive trends for the next decade* (January 2017), page 68.

The mobility services listed above are all likely to have some impact on dealerships over time, with carsharing and ridesharing likely to have the biggest impact as they are already widely available in Australia.

Authorised dealers and their activities

5.4 Authorised dealers and dealership agreements

AP Eagers and AHG are dealer groups which own a number of authorised dealerships across Australia. Authorised dealers and dealer groups in Australia primarily operate a business model across five key business areas:

- new motor vehicle sales;
- used motor vehicle sales;
- parts, accessory and aftermarket sales;
- service workshop sales; and
- finance and insurance products.

An authorised dealer is a business operating under a franchise agreement (between the dealer and OEM) which is permitted by an OEM to sell that OEM's new vehicles and a number of other complementary products and services referred to in the overview above. Authorised dealers range from small family-owned businesses to larger multi-dealership groups. A motor vehicle dealer must also have a licence from the relevant state government.²⁵

Dealer industry competition is driven, amongst other things, by OEMs which exercise significant levels of control and influence over the business operations of dealerships, not only in relation to the business of retailing of motor vehicles but also in relation to related activities such as servicing, repairs and sales of spare parts. This control and influence is exercised primarily through dealer franchise agreements, operating policies and remuneration models.

Dealer agreements

Since a dealer franchise agreement is required in order to sell an OEM's new vehicles, new cars are sold to Australian consumers through authorised dealerships. As the ACCC noted:

a dealer agreement is a legal contract which establishes the terms and conditions the manufacturer and authorised dealer are required to meet for the period of the contract' and 'typically have a duration of one to five years and expire unless a new agreement is reached.²⁶

These dealer agreements outline how the OEM and the dealer will conduct business, the standards and processes that are expected of the dealer in representing the OEM's brand and the geographical area for which the dealer is primarily responsible (often referred to as a Primary Market Area or **PMA**). These agreements enable a dealer to '*act, within a defined geographical area, as the primary seller of the manufacturer's cars and authorised replacement parts, and provider of authorised car servicing and repairs*'.²⁷ AP Eagers has provided copies of all dealer agreements for Newcastle and Brisbane (see **Annex 5.1**).

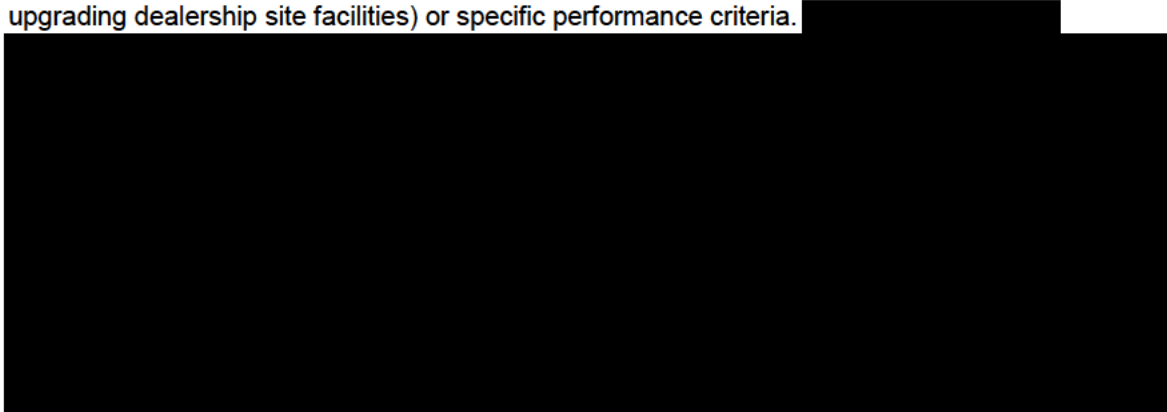
OEMs use standard dealer agreements across all dealers for their brand in Australia, with only very few exceptions. These standardised agreements operate as the overarching framework for

²⁵ See for example: Consumer Affairs Victoria, *Apply for a motor car trader's licence* (25 February 2018) <<https://www.consumer.vic.gov.au/licensing-and-registration/motor-car-traders/licensing/apply-for-a-licence>>; Service NSW, *Apply for a motor dealer licence* <<https://www.service.nsw.gov.au/transaction/apply-motor-dealer-licence>>. The licensing system in Queensland includes three tiers: (1) dealer licences permitting sale of vehicles, which are held by companies and list the addresses from which the dealer is licensed to sell vehicles; (2) dealer licences for 'responsible persons', of which there must be at least one person at each address forming part of the tier 1 licence; and (3) assuming the dealership has fulfilled the first two licensing tiers, then the sales staff at each dealership are considered 'licensed'.

²⁶ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 32.

²⁷ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 31.

the relationship between the OEM and the dealer, stipulating the core details of both parties' roles. Due to the rigid nature of these agreements, dealers are unable to individually negotiate terms with OEMs (although they do negotiate through the OEM's national dealer council, as described in detail below). OEMs sometimes also impose additional 'special conditions' on individual dealerships which can, for example, specify dealers' investment requirements (eg, upgrading dealership site facilities) or specific performance criteria.



The dealer agreement may be supported by more detailed policies and procedures which form part of the contract and can be varied, including:

- KPIs, which – like the dealer agreements – are standardised across all dealers of their brand in Australia; and
- Targets, which are tailored to each dealership (and communicated individually).

Dealer KPIs and targets

OEM KPIs for dealers generally require the dealership to meet certain performance, sales and customer satisfaction targets. A large part of many OEM's remuneration model for dealers is the deferred payment of KPI-related income. These KPIs can cover a broad spectrum of indicators including, behaviour, investment, facilities, training, customer satisfaction and, crucially, sales volume performance targets. The achievement of these KPIs is a fundamental part of the economic model that authorised dealers operate under. The achievement of sales targets set by dealership by the OEM, irrespective of corporate ownership, is a key determinative factor in maintaining a competitive franchise model for the OEM's dealer network whereby every dealership is driven to grow sales volumes.

As noted by the ACCC,²⁸ these KPIs operate in conjunction with the dealer agreement, which collectively cover obligations such as:

- specifications of the dealer's facilities (ie, car showrooms and service facilities);
- dealership ownership arrangements (ie, identification of the dealer principal and any requirement for the dealer principal to be an investor of the particular company that owns the authorised dealer's business);
- dealer management and performance criteria/indicators (ie, car sales, servicing and customer satisfaction targets);
- dealer obligations relating to car sales, service and authorised parts;
- expectations for customer service and support (including how manufacturer warranty claims are dealt with and costs are shared);
- conditions relating to multi-franchising and change of use of premises/facilities;

²⁸ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 32.

- the geographical area (postcodes) where the dealer has primary rights to represent the brand and sales targets for that area (while the OEM determines the number and location of dealers required to achieve their overall sales targets, a dealer contract does not establish an exclusive area of operation/sales); and
- any other special conditions that may apply to a given dealer (eg, obligations to make capital investments).²⁹

KPI programs generally cover performance-based criteria, most notably target achievement and bonuses attached to achieving this criteria. It is also worth noting that KPI programs, as opposed to dealer agreements, are more readily reviewed and altered to reflect changing market conditions whereas the terms of the dealer agreement are generally fixed for the term of the dealer agreement.

These KPIs are then defined for each individual dealership through targets which are set by the OEM, usually monthly or quarterly although this can vary. Individual dealers do not have insight into one another's individual targets, although they are aware of the general KPI framework which is standardised across dealers of the same OEM. In general, the KPIs provide for performance-based payments to dealerships conditional on stringent requirements, where dealerships generally need to achieve at least 80% or 90% (or in some cases more) of its sales' targets in order to be eligible for such payments.

AP Eagers' own internal corporate remuneration packages operate to reinforce and reward satisfaction of the KPIs set by the OEMs. A large proportion of a dealer principal's remuneration is a variable, at-risk component and tied to achieving a net profit outcome which is fundamentally driven by sales target achievement. Typically a dealer principal at each of AP Eagers' individual dealerships will be remunerated by a combination of:

- a fixed salary (in an amount of ██████████ per annum); and
- a fixed percentage of the dealership's profit or bottom line (typically ██████).

Usually, the total cash component of a dealer principal's remuneration will be ██████ fixed salary and ██████ linked to dealership profit performance.

The circumstance, however, of each individual dealership (and the remuneration of the dealer principal) will be influenced by the terms of the dealer agreement and the requirements of the relevant motor vehicle manufacturer. However, the following can be observed across almost all dealerships, namely:

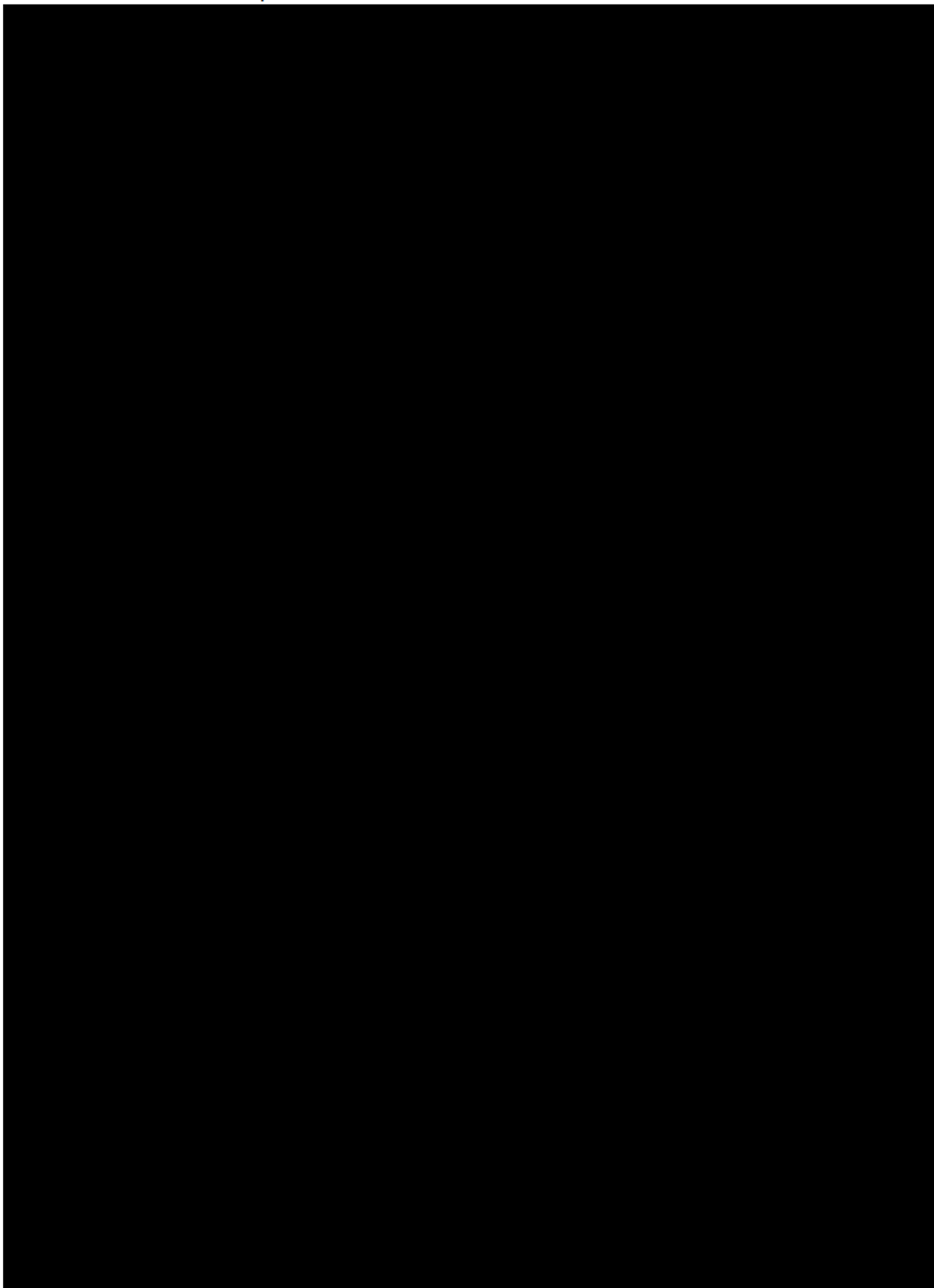
- the remuneration paid to a dealer principal is calculated by reference to the performance of the dealership for which that person has responsibility; and
- typically no part of the dealer principal's remuneration is calculated by reference to the aggregate profit of AP Eagers or the performance of any other dealership owned by AP Eagers.

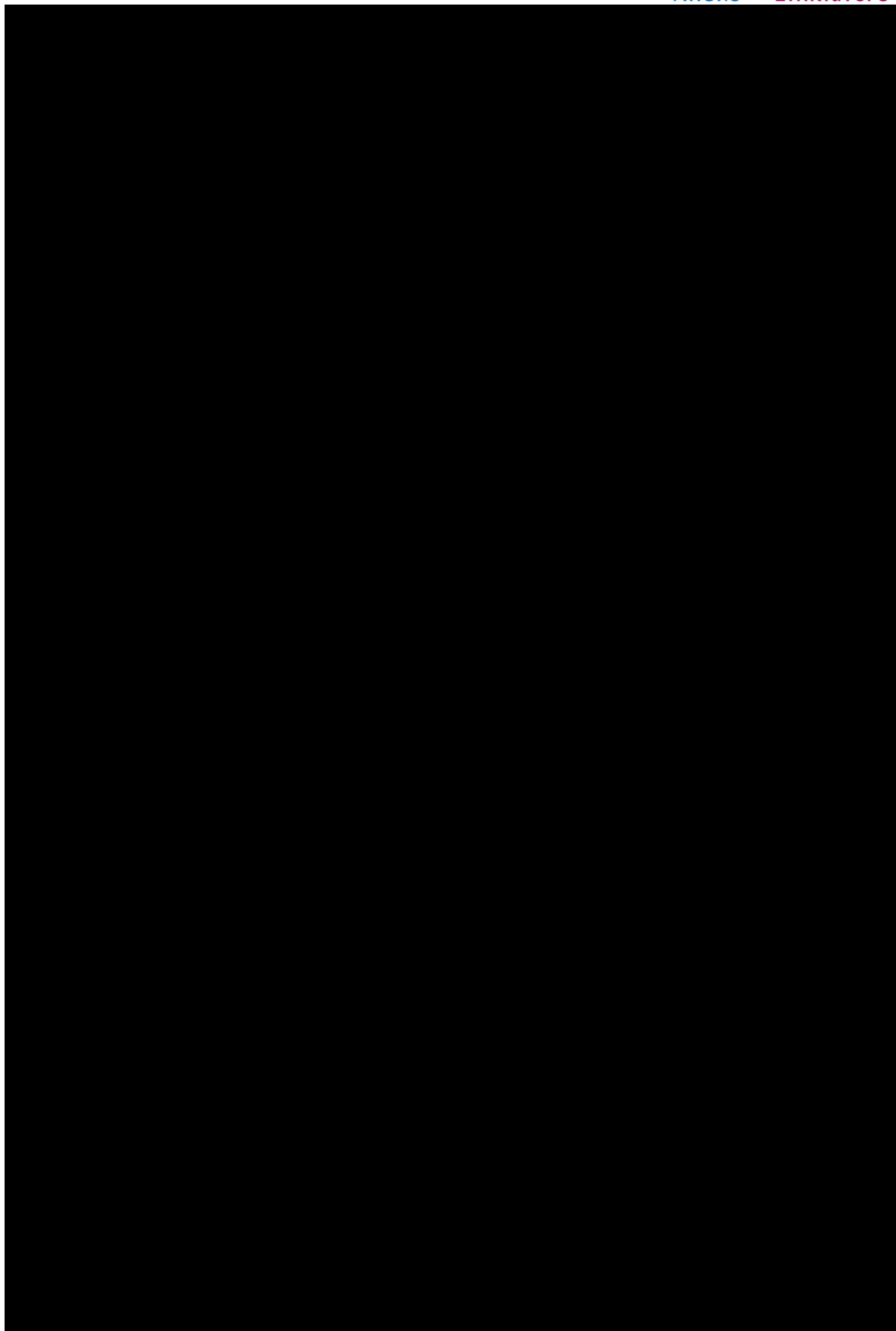
An example of AP Eagers' dealer principal remuneration package is at **Annex 5.4.4** which illustrates this.

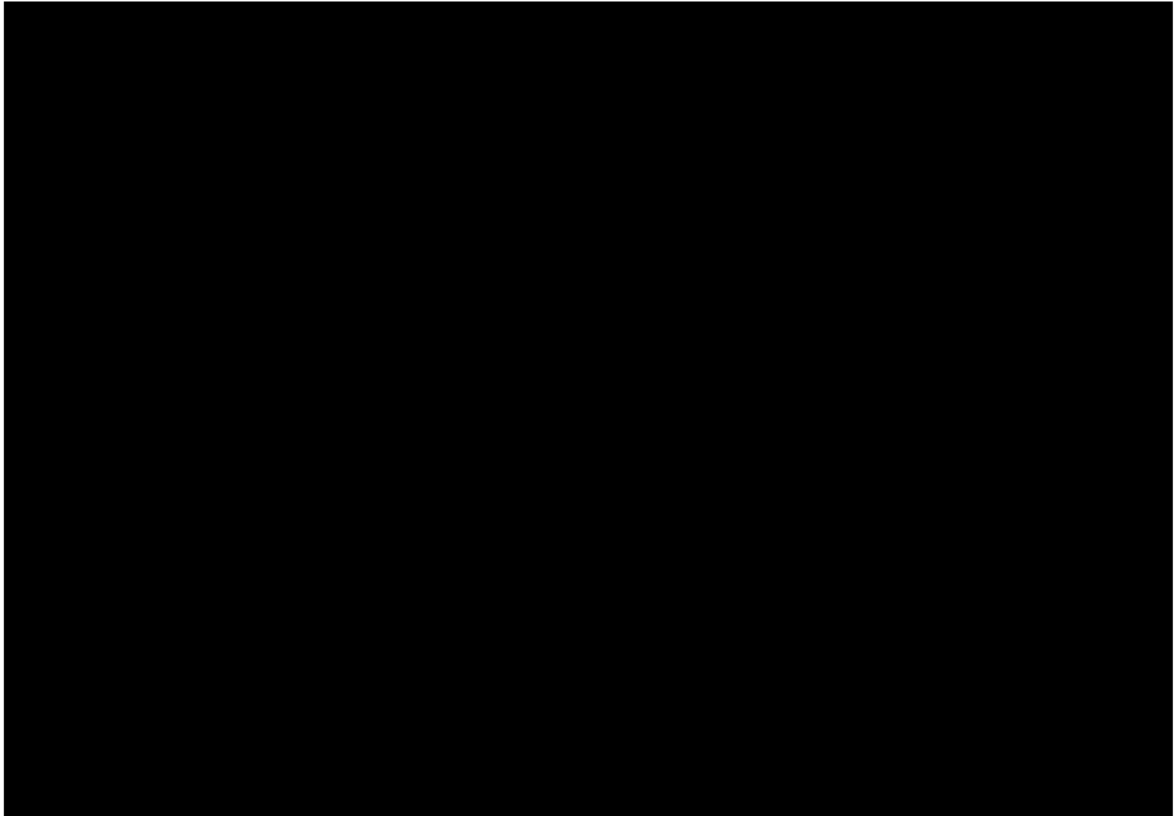
Each dealer principal is therefore incentivised to compete against all other dealerships regardless of the ownership of that other dealership. If a dealer principal fails to do so, he or she would be put at risk of failing to meet targets set by the relevant OEM under its dealer agreement and may risk termination of the dealer agreement because such failure to meet manufacturer targets could constitute a breach of the dealer agreement. The manufacturer may terminate a dealer

²⁹ These obligations are 'special' in that they are non-standard but usually impose additional obligations on individual dealers, particularly as regards investments in capital upgrades or show room facilities. They do not usually permit deviations from the standard obligations.

agreement even though other dealerships in the same dealer or corporate group with the same manufacturer are performing satisfactorily or beyond the targets set by that manufacturer for those other dealerships.







The National Dealer Council framework

For a number of OEMs, there are national dealer councils made up of elected representatives of the dealer network who provide feedback on a range of network-specific issues, including KPI programs and dealer agreements. In many cases these dealer councils are supported by sub-committees to deal with specific areas of dealer business operations (such as, for example, a parts sub-committee and a marketing sub-committee). In some cases, representatives of dealers are elected by dealers at a state (referred to as 'regional') level, who will then form the national dealer council. These representatives must canvass support from all dealers in the region in order to be elected and must agree to represent their constituent dealers. The structure is represented in **Figure 9** below as an example of the most fulsome example of a dealer council.

Figure 9: OEM National Dealer Council Simplified Structure Diagram



While both AP Eagers and AHG have representatives on various OEM national dealer councils (see **Annex 5.4.5** for a list of AP Eagers' representatives), the Proposed Transaction will not give the merged entity any additional power to negotiate with OEMs for better terms. The purpose of

dealership councils is to be representative of the broad interests of all dealers. If AP Eagers promoted its own interests only, AP Eagers and AHG representatives would not be elected to represent dealers at the regional or national dealer council as it would be seen by dealers as contrary to the very spirit of the national dealer council structure.

Moreover, although AP Eagers and AHG will account for a larger proportion of sales of each OEM after the Proposed Transaction is implemented, where AP Eagers' sales as a proportion of total OEM new car sales are outlined in **Annex 5.4.6**, this will not change the fundamental nature of the relationship with the OEM which is defined by an inherent dependency of each individual dealer's business on the ongoing support of the OEM and continued agreement to consent to the individual dealer being a brand representative of the OEM.

5.5 Cost pressures on authorised dealers

Dealers face enormous pressure from a number of sources to deliver returns, however this is increasingly difficult in a highly competitive industry characterised, at the dealer level, by ongoing compression of dealers' profit margins.

Background – recent and ongoing costs trends

Australia's automotive retail sector is the most competitive in the world, with approximately 67 brands offering more than 400 models, in a relatively small local car industry (of just over 1.1 million units sold annually, being less than 1.5% of global demand).³⁴ As such, competition between dealers is fierce and consumers exercise their power to select from the many options available to them. The AADA estimates that Australia's retail motor vehicle industry is 'close to saturation point with an estimated vehicle density of close to 685 vehicles per 1,000 people'.³⁵

Due to these high levels of competition, there are extremely limited opportunities for dealers to increase prices and an ongoing trend towards compression of dealers' profit margins, particularly in relation to new car sales. By way of illustration:

- Deloitte Motor Industry Services provides benchmark data for the automotive industry in Australia. This data is aggregated from over 850 dealers across the country and the benchmarks represent the top 30%.
 - In the Deloitte Motor Industry Services Overview 2018 on dealer profitability (see **Annex 5.5**), prepared using the 2018 benchmark data,³⁶ the average dealer in 2018 was realising a return of 0.9% net profit to sales, down from 1.6% in 2017.³⁷ During the second half of 2018, an average dealer was only achieving 0.4% net profit to sales.³⁸ By way of illustration, if a dealership was to make \$40m in sales per annum across all areas, including new vehicles, used vehicles, finance, service and parts, the dealership only makes approximately 0.4% in net profit, or \$160,000 per annum.
 - Specifically in relation to new car sales, the average dealer makes \$70 raw gross profit per new car and \$2,390 in bonuses and other income while at the same time incurring direct selling costs of \$2,350 per new car sold.³⁹ This highlights the enormous financial impact KPI's have on dealer profitability and the pressure dealers are under to achieve requisite sales volumes to ensure KPI income is achieved.

³⁴ Australian Automotive Dealer Association, *2017-18 Pre-Budget Submission* (19 January 2017), page 2, paragraph 3.1.

³⁵ *Ibid.*, page 3, paragraph 4.1.

³⁶ Deloitte (Motor Industry Services) and Profitfocus, *2019 Dealership Benchmarks* (Report, 2019).

³⁷ Deloitte, *Motor Industry Service Industry Overview 2018*, presented on 1 March 2019, Brisbane. See **Annex 5.5** for the relevant slides.

³⁸ *Ibid.*

³⁹ *Ibid.*

These data sources show that the combination of five operating departments (new vehicle sales, used vehicle sales, finance, service and parts) contribute to an overall net profit on sales ranging from 0% to 3% across the industry, with 36% of all dealerships in 2018 reporting an overall loss. These data sources, and others,⁴⁰ also consistently demonstrate that, of the five key business areas outlined in section 5.5 above, new car sales provide dealers with the lowest profit margins. As such, dealers must continue to provide new car sales, while constantly rebalancing and reducing their overall costs.

The cost pressures authorised dealers are currently facing principally originate from three sources, namely:

- current cost pressures arising from dealer agreements and OEMs;
- current cost pressures arising from operational business requirements; and
- current cost pressures arising from general industry compliance and increasing costs to meet regulatory requirements.

Current cost pressures arising from dealer agreements and OEMs

As discussed above at 5.4, OEMs impose considerable pressure on dealers through dealer agreements to meet various obligations, as well as meet KPIs and high sales and volume targets, which will deliver returns for OEMs (who themselves face pressure to sell high numbers of vehicles given the competitive nature of the industry and the requirement to lock in supply with long lead times from overseas factories). Dealers are required to meet highly prescriptive specifications set out in dealer agreements. These requirements are extensive, highly specific and the cost of satisfying these requirements is borne by dealers in the form of significant capital investments, particularly when establishing a new dealership site.

The ACCC found that *'in circumstances where a dealer has made a significant capital investment in their dealership facility, it is likely that it will take many years to recoup a return on this investment.'*⁴¹ This creates a significant incentive for authorised dealers to maximise sales in order to recoup the costs of their investments over the term of the agreement, which is often a short period of time (between 1-5 years).

Due to the way in which OEMs incentivise dealerships to sell cars, a dealership's priority is to sell the highest volume of cars possible in order to unlock OEM payments for satisfying and exceeding certain KPIs (eg, usually primarily driven by the number of vehicles sold in a given period). Accordingly, the dealership revenue model is geared towards rewarding sales volumes, rather than the return earned on selling a particular vehicle. As a result of this incentive structure and the competitive nature of the industry, in practical terms, dealers can only *discount* from the list prices set by OEMs. Importantly, there are no limits on any AP Eagers' dealer principals with respect to the discounts they can offer. Dealer principals have unfettered discretion as to the discounts applied to vehicles sold in their dealerships because of the responsibility attached to each dealer principal managing his or her dealership independently.

⁴⁰ Glenn Mercer (GM Automotive LLC), *The Dealership of Tomorrow: 2025 – Retail automotive trends for the next decade* (January 2017), p28, 42; Deloitte Australia, *2019 Dealership Benchmarks: Motor Industry Services*, pages 3, 13 and 23. The *Dealership of Tomorrow* report remarks: *'With the expansion of the internet and the information that it gives consumers, car buyers have been able to identify and capture most (and in some cases all) of the new-car gross margin that used to be the bedrock of dealer profitability. OEMs have increased their below-the-line payments to dealers to offset this collapse in margins, but only to a limited extent...As a result, many dealers no longer make any net profit from their new car department (setting aside for now [Finance & Insurance])...'* The 2019 Deloitte *Dealership Benchmarks* report outlines the gross profit amount dealers make per new vehicle sold in each market segment (volume, prestige and luxury), as well as new car sales as a percentage of gross profits. Using the figures in this report, the average gross profit per new vehicle sold is \$1,112.

⁴¹ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 80.

Moreover, AP Eagers does not have any policies setting out how a dealer principal should respond if a customer cites an offer from another AP Eagers dealership as part of the negotiations. AP Eagers expects each individual dealership owned by it to compete with all other dealerships regardless of the ownership of the dealership. A decision to match or better an offer, including one by another AP Eagers dealership, is the sole discretion of the dealer principal and can be made without reference to any other person within AP Eagers' management. A dealer principal simply can never risk a customer leaving his or her dealership without closing a deal, particularly given the onerous KPI targets and the consequential risk to loss of income that this could give rise to for a dealer principal.

AP Eagers always wants each of its dealer principals to pursue every sale opportunity as vigorously as is commercially reasonable. Each dealer principal is therefore encouraged to maximise the opportunity to make a sale from any and every customer that may make an enquiry of their dealership. This behaviour reflects the highly competitive nature of the marketplace in which all dealers must operate. This highly competitive environment means that dealers must focus on reducing their cost bases in order to deliver better returns and secure the long term survival of their businesses.

Current cost pressures arising from operational business requirements

Dealers must also absorb various overhead costs required to effectively operate a dealer business. These include overheads such as:

- human resourcing – hiring, remunerating, training and retaining productive and non-productive staff members;⁴²
- significant land and building costs, including capital investment (initial and periodic) and ongoing maintenance costs;
- investment in, and maintenance of, workshop facilities and equipment;⁴³
- IT system costs; and
- costs of customer-relationship management activities (eg, providing loan cars and courtesy buses to customers, as required by dealer agreements and often mandated in OEM operating policies).

Future cost constraints arising from industry disruption

Dealers' profit margins, particularly in the area of new car sales, are likely to be further compressed by the industry disruption outlined in section 5.3 above. Some examples of how this may occur include:

- new car sales are likely to come under pressure from the rise of ridesharing, carsharing and AVs;
- as explained above in relation to industry disruption, there is significant uncertainty around the role dealers will play in car servicing in the future when new types of cars, such as EVs and AVs enter the car sales industry. If dealers play a reduced role in servicing due to the highly technical nature of servicing new types of cars or reduced need for servicing by design, then dealers' servicing volume and returns may fall; and

⁴² Training is a particularly significant investment for dealers. The Australian Automotive Dealer Association noted, in its submission to the ACCC's New Car Retailing Industry Market Study, that '*one large listed AADA member company has estimated that service training costs amount to \$235 per vehicle, which excludes the opportunity cost forgone as a result of these employer absences due to off-site training*'. See: Australian Automotive Dealer Association, *AADA submission to ACCC New Car Retailing Industry Market Study* (21 November 2016) pages 13-14.

⁴³ The Australian Automotive Dealer Association estimated, in its submission to the ACCC's New Car Retailing Industry Market Study, that '*the franchised dealer network in Australia has invested around \$17 billion in facilities and equipment*'. See: Australian Automotive Dealer Association, *AADA submission to ACCC New Car Retailing Industry Market Study* (21 November 2016) pages 13-14.

- increasing regulation and compliance costs generally.

In circumstances where dealers are unable to raise car prices, and where profits are likely to be further compressed by disruption in the automotive industry, dealers are only able to improve the return they can deliver to shareholders by reducing their cost bases.

5.6 Acquisition of new cars

Acquiring new vehicles and replacement parts

Dealers acquire new vehicles and replacement parts for sale from manufacturers in two ways:

- individual dealers are allocated a certain number of new vehicles and parts by the manufacturer. The manufacturer maintains control over supply of vehicles across its entire authorised dealer network to ensure that vehicles and parts are fairly distributed throughout the network nationally. Dealers do have the ability to accept or decline an allocation, but this generally follows extensive discussions with the manufacturer to justify why the allocation is not appropriate and risks the dealer's performance being affected with follow-on impacts for the dealer's remuneration; or
- dealers can order vehicles and parts from the manufacturer distributor on an "as needs" basis. The wholesale price of vehicles ordered by dealers from the manufacturer is consistent across the national dealership network, regardless of the volume of vehicles and parts ordered or the volume of vehicles and parts previously allocated and regardless whether the dealer is part of a dealer group. The manufacturer can either accept or decline the order taking into account the manufacturer's overall inventory management position and the distribution of the limited stock received from overseas factories across the entire dealership network.

Bailment financing

In acquiring new vehicles for sale, dealers use automatic release bailment financing, also called 'floor plan' financing. Bailment finance is acquired by dealerships to finance the new vehicles and used vehicles held in their dealerships before they are sold to customers.

Bailment finance loans are made against a specific vehicle. When the vehicle is sold, the loan is repaid to the financier. The financier will take a security (bailment) over the vehicle title while the vehicle is in the possession of the dealer. When the vehicle is sold, title then transfers to the customer and the dealer is legally obligated to repay the loan to the financier. A dealer will usually purchase bailment financing from a provider who is also contracted to supply point-of-sale (**POS**) car financing to ultimate purchasers of the vehicles sold by the dealer, although usually dealers will use a number of finance providers to cover a range of customer credit risk profiles.

Many dealers also acquire bailment financing for used cars, but these arrangements are usually subject to strict criteria which relate to the age and condition of the relevant vehicles.⁴⁴

Providers of bailment finance fall into two broad categories:

- manufacture aligned financiers, eg. Toyota Finance, Nissan Financial Services, Mercedes-Benz Financial Services and Volkswagen Financial Services; and
- unaligned financiers, eg. St George, Macquarie Leasing and Bank of Queensland.

Dealerships which sell vehicle brands associated with a manufacturer-aligned financier are not required to obtain bailment financing from that financier and can obtain bailment finance from an unaligned financier.

⁴⁴ Australian Automotive Dealer Association, *Response to Issues Paper (New Car Retailing Industry – A Market Study)* (21 November 2016), page 4, paragraph 1.12.
<<https://www.accc.gov.au/system/files/Australian%2520Automotive%2520Dealer%2520Association.pdf>>.

Terms and conditions of bailment facilities are generally negotiated nationally, but facilities are arranged for individual dealerships.

Bond store

Before delivery is made to dealers, vehicles are held and processed at bond stores. Given the absence of overlaps here, this is not considered further.

New car sales

The path to consumers purchasing a new car is quite long, with most shoppers taking several months to go from decision to action.⁴⁵ A consumer will typically undertake the following initial steps:

- **Research:** the consumer will consider their needs and review vehicle information on classified and editorial websites. Online classifieds include websites such as Carsales, Carsguide and Autotrader. These websites are the primary means by which consumers conduct research into which vehicles should be shortlisted for further consideration and inspection. Research conducted by Google and Shopper Sciences found that consumers used on average 18.2 sources of information to help them make their purchase decision.⁴⁶ Macquarie, which owns MotoMe, estimates that car buyers conduct an average of 11 hours of online research, across up to 8 different sources.⁴⁷
- **Selecting vehicles:** once the consumer has an understanding of potential vehicles, the consumer will typically cull the shortlist to a very small number of vehicles and brands.
Price discovery: before making contact with dealerships, many customers will also attempt to determine the best available price through websites such as Carsales, Carsguide, Autotrader, Gumtree and Facebook (typically through Facebook Marketplace and Buy/Swap/Sell groups). This is relevant to new car retailing as carsales.com.au allows for users to search and look up prices for new cars through the 'New Car Showroom' section of the website. It also defaults to give a price on a national basis although customer can also search locally. The consumer is also able to use these websites to understand options available in the used car segment. Similarly, very 'new' used cars assist consumers in the price discovery of new cars, particularly those with additional features or packages (eg, 'vision pack' or 'audio kit'). Examples of websites consumers may use for the purposes of price discovery are at **Figure 10** to **Figure 17** below.

⁴⁵ Google and Shopper Sciences, *The Zero Moment of Truth Automotive Study* (April 2011), <https://www.thinkwithgoogle.com/_qs/documents/675/zmot-auto-study_research-studies.pdf>.

⁴⁶ Ibid, slide 8.

⁴⁷ Macquarie, *How technology is disrupting the automotive industry: Keeping up with the speed of technology*, <<https://www.macquarie.com/au/business-banking/loans-asset-finance/expertise/how-technology-is-disrupting-the-automotive-industry/>>.

Figure 10: Carsales.com.au 'New Car Showroom'

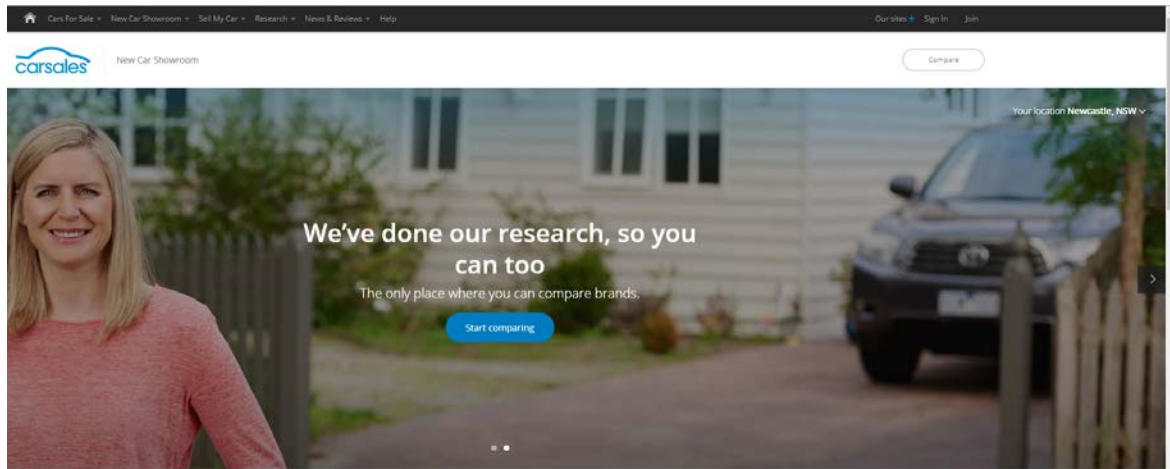


Figure 11: Carsales.com.au new car search tool

Start your new car search

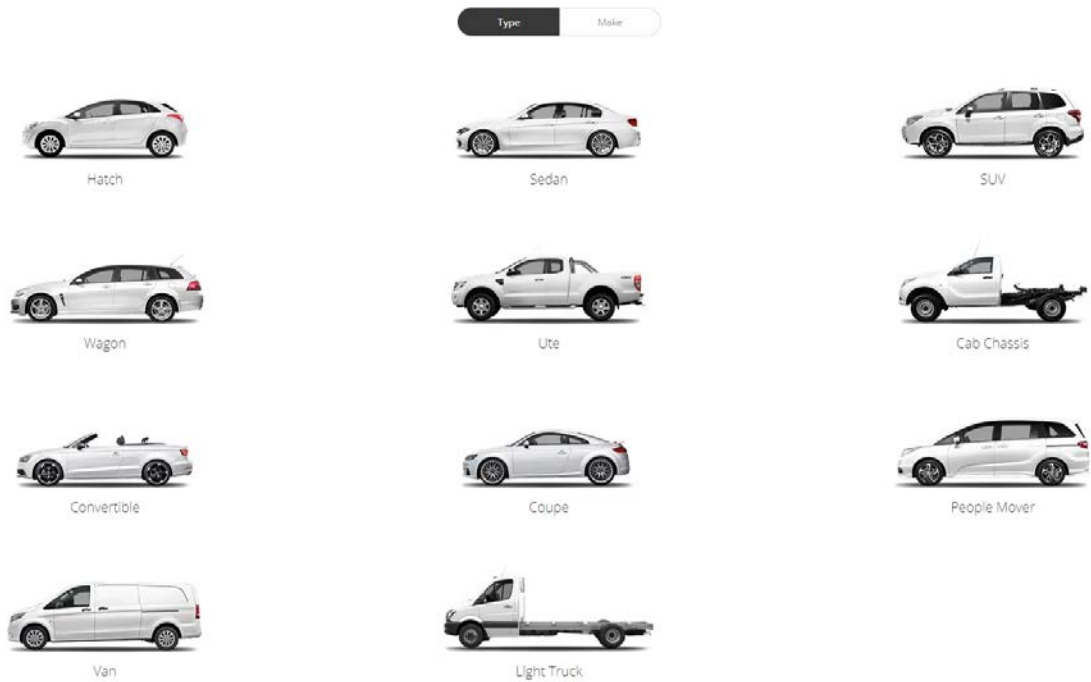


Figure 12: Example of brands available on Carsales.com.au

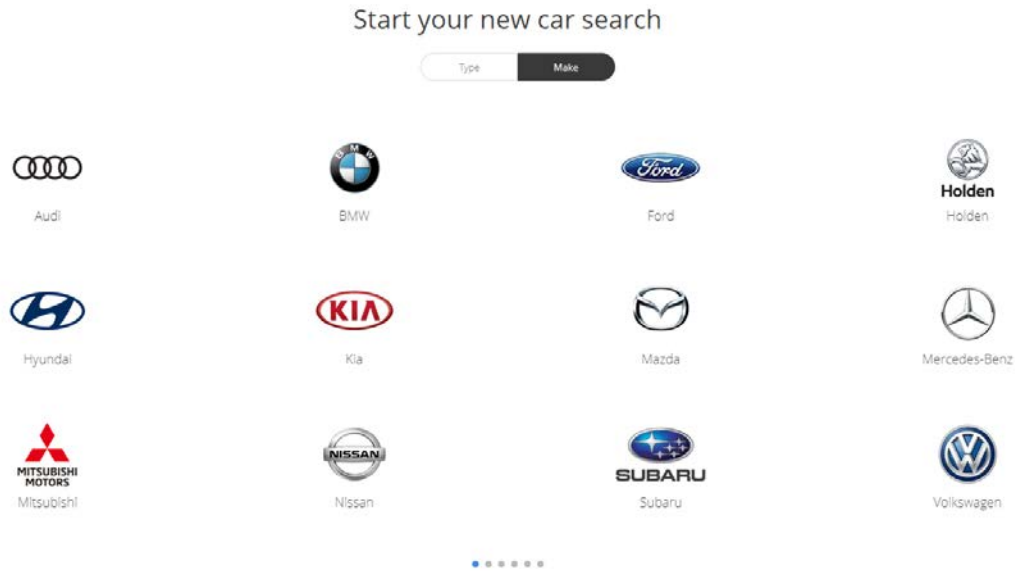


Figure 13: Example of range of new vehicle types available on Carsales.com.au

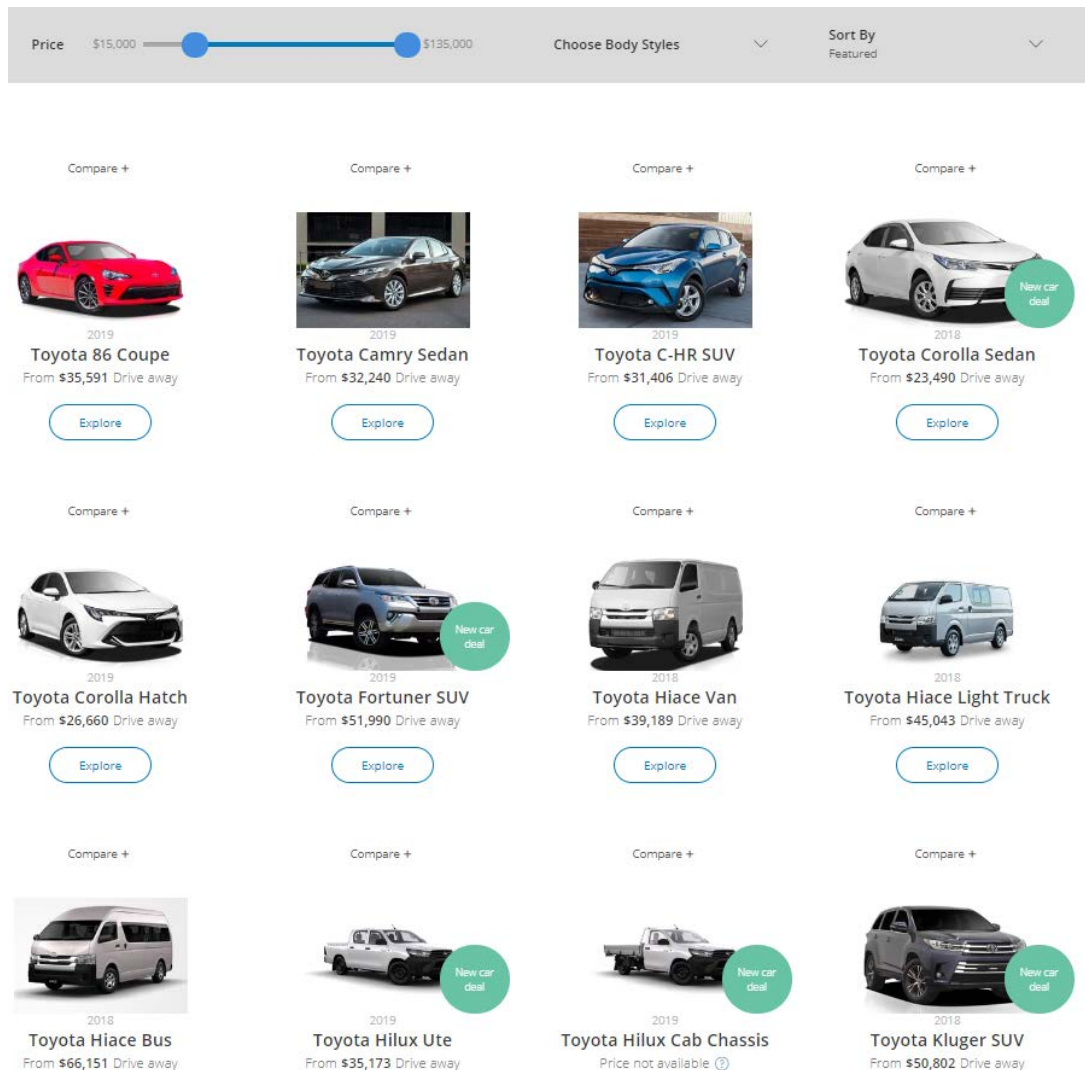


Figure 14: Example of price comparison for new vehicles available on Carsales.com.au

The screenshot displays four vehicle listings on the Carsales.com.au website. Each listing includes a car image, a 'Sample photo only - not actual vehicle' disclaimer, and detailed specifications. The listings are as follows:

- 2019 Toyota Camry Ascent Auto:** Body: Sedan, Transmission: Automatic, Engine: 4cyl 2.5L Petrol, Colour: Frosted White. Price: From \$34,532 Drive Away. Excl. Govt. Charges: \$30,540*. Description: "Fitted with a start/stop engine system when idle. My car has great fuel economy at 4.2L per..."
- 2019 Toyota Camry Ascent Auto:** Body: Sedan, Transmission: Automatic, Engine: 4cyl 2.5L Petrol, Colour: Steel Blonde. Price: From \$32,240 Drive Away. Excl. Govt. Charges: \$28,240*. Description: "This Stunning Brand New Toyota Camry Ascent has forward collision alert/warning. This car has..."
- 2019 Toyota Camry Ascent Auto:** Body: Sedan, Transmission: Automatic, Engine: 4cyl 2.5L Petrol, Colour: Glacier White. Price: From \$34,082 Drive Away. Excl. Govt. Charges: \$30,090*. Description: "It has 7 airbags to protect you and your family. This car has forward collision alert/warning..."
- 2018 Toyota Camry Ascent Auto:** Body: Sedan, Transmission: Automatic, Engine: 4cyl 2.5L Petrol, Colour: Glacier White. Price: From \$31,790 Drive Away. Excl. Govt. Charges: \$27,790*. Description: "7 airbags to give you added protection. This Stunning Brand New Toyota Camry Ascent Sedan has..."

Figure 15: Example of price comparison for new vehicles available on Autotrader

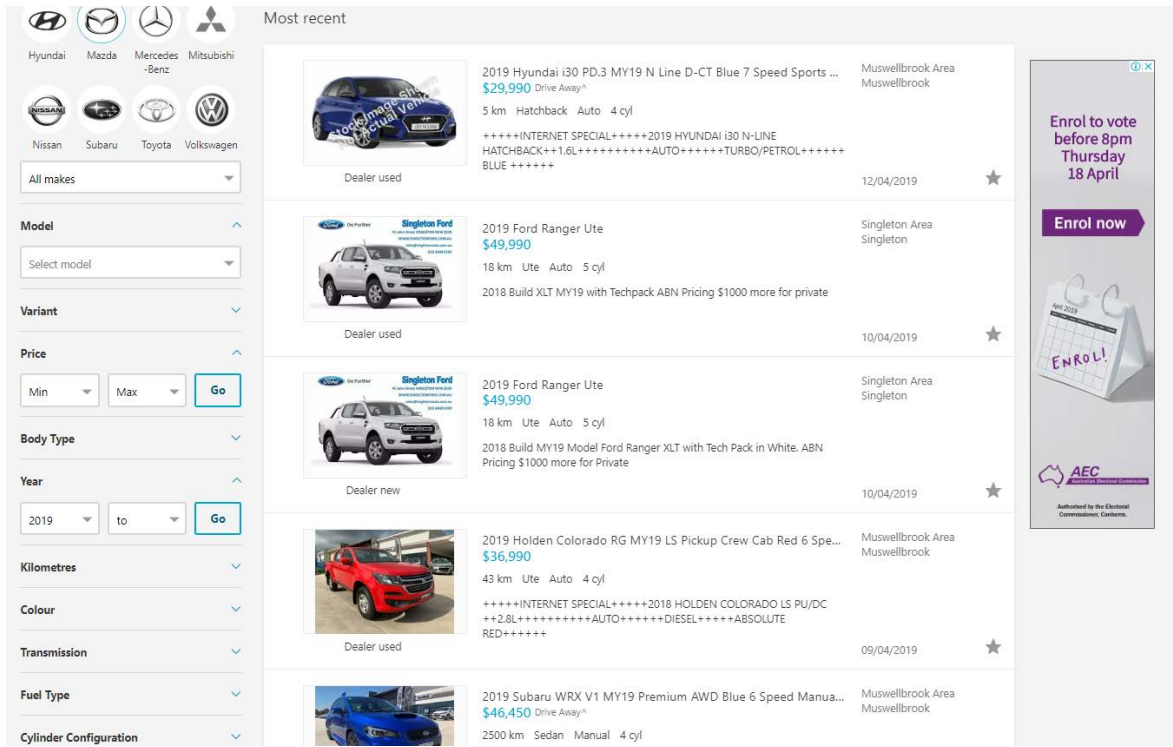
The screenshot shows the Autotrader website interface. On the left is a 'Filters' sidebar with sections for 'Make' (Holden), 'Price' (with \$ Min and \$ Max dropdowns), 'Cars' (All New & Used Cars, New Cars, In Stock, Demo Cars, Used Cars, Dealer Used, Private Seller), 'Postcode', 'Location', 'Year' (Min Year and Max Year dropdowns), and 'Kilometres'. The main content area is titled '220 Holdens for Sale' and features a 'Relevancy' dropdown. The primary listing is for a '2018 Holden Acadia LT (2WD) AC' priced at '\$42,990 DRIVE AWAY'. Below the car image, it lists 'Auto' and 'Zetland NSW (64km from Sydney)'. A 'View More Details' button and a 'Check Availability' button are present. The listing includes a description: "*** 3 Years Free Scheduled Servicing *** The All New Acadia is Here. This is a full-sized 7-seat SUV that's big on versatility. We're talking space, c...". Other elements include a 'SendGrid Expert Email Delivery' banner, a 'DUMBO IN CINEMAS NOW' advertisement, a 'Need to make room for a new car? Sell your car today' prompt, and a 'You only have to look a little further for a good rate Get a finance quote' advertisement.

Figure 16: Example of cars available from dealerships through Facebook Marketplace in the Newcastle region

The screenshot displays the Facebook Marketplace interface for vehicle listings in Newcastle, NSW. The search bar is set to 'Search in Vehicles'. The left sidebar contains navigation options and filters. The main area shows a grid of 16 car listings, each with a photo, price, and dealership information.

Year	Make/Model	Price	Distance	Source
2018	Mercedes-Benz B180	\$39,900	4,710 km	Dealership
2018	Mercedes-Benz A200	\$55,888	2,065 km	Dealership
2018	Mercedes-Benz A 180	\$39,990	8,800 km	Dealership
2019	Suzuki Swift	\$15,990	2,100 km	Dealership
2017	Mercedes-Benz A 180	\$39,990	6,800 km	Dealership
2017	Ford Focus	\$40,990	680 km	Dealership
2019	Audi A3	\$43,885	2,047 km	Dealership
2017	Holden Commodore	\$28,990	3,488 km	Dealership
2018	Suzuki Swift	\$15,990	2,144 km	Dealership
2018	Hyundai i30	\$24,990	4,164 km	Dealership
2018	Volkswagen Arteon	\$54,888	8,179 km	Dealership
2018	Hyundai i30	\$24,888	1,002 km	Dealership

Figure 17: Example of cars available through Gumtree in the Newcastle region



- Once a shortlist of vehicles and competitive pricing is determined, consumers quite often go through a similar online research process around the value they may be able to achieve for any trade in they have and/or pursue competitive pricing on finance and insurance products via countless online aggregators.
- The consumer will then look to make contact with dealerships.

This process allows for the customer to gain a strong appreciation of what they are looking for and the nature of the vehicle(s) they are interested in. Importantly, this provides a powerful price discovery tool. When the customer has a relatively complete understanding of what they are looking for (ie, their needs, available options and price ranges) and have decided they want to purchase a new car they may attend a dealership. At the point at which a customer attends a dealership they usually have a strong understanding of the vehicle they are interested in and what the price range is likely to be. The sales process in a dealership is typically as follows:

- the customer attends the dealership;
- the salesperson and customer discuss the customer's needs and requirements;
- the customer may test drive a car they have interest in;
- the customer and the salesperson will discuss finance and add-on products (eg, paintwork protection, tyre protection and insurance products);
- the salesperson and the customer will typically discuss and negotiate price;
- the customer will provide a deposit and sign the purchase order; and
- the salesperson will inform the customer when the new car is ready for collection.

These steps may take place over the course of one or a number of interactions.

5.7 Other related products and services sold by authorised dealers

Point of sale products and services

Authorised dealerships also offer the following related products and services at the point of sale:

- **car care products:** these include window tinting, fabric protection and extended warranties. These products are available from third parties;
- **financing and insurance products:** dealers are typically appointed by or act as agents to sell financial and insurance products to both private and commercial customers on behalf of banks, car manufacturers and insurance companies for a commission. Customers are not restricted to purchasing these products from dealers and may purchase them from third parties. Such products include:
 - regulated and unregulated car loans and leases;
 - motor vehicle insurance;
 - add-on insurance products (such as loan protection insurance and GAP insurance); and
 - Compulsory Third Party insurance (in NSW only).

A background paper prepared on car financing as part of the Royal Commission into Misconduct in the Banking Superannuation and Financial Services Industry reported that 90% of all car sales are arranged through finance, of which around 39% are financed through a dealership and around 61% are financed from other sources.⁴⁸

This provision of financial products by dealers in relation to cars sold by the dealership falls under the point-of-sale exemption. Therefore, dealers do not require an Australian Credit Licence.

In June 2018, AP Eagers secured a credit licence and since then has been building a business platform, systems and back-end processes in respect of a new business called Modus Financial Services (**Modus**) (FinMo Pty Ltd, ABN 85 621 801 054, trading as Modus Financial Services). In early 2019, AP Eagers was accepted as a member of the motor finance section of the Australian Finance Industry Association.

When its operations commence, Modus' car financing products will be available to be offered to AP Eagers' customers. The objective is to provide 'rate-for-risk' financing with a rate and payment which is based on a customer's individual credit scores and other factors which is not possible within the current point-of-sale exemption regulatory framework. Modus also intends to provide a simplified and accelerated approval process for customers and competitive finance deals.

AP Eagers intends to continue to maintain relationships with existing providers of car financing (including Toyota Finance, Nissan Finance, Volkswagen Financial Services, St George, Macquarie and others), however, Modus would be offered among the broader mix of finance options currently offered to customers through AP Eagers' dealerships. The Proposed Transaction will have no impact on AP Eagers' decision to establish Modus or offer its products to customers, except that AP Eagers may choose to offer Modus' products from AHG dealerships as well, in addition to existing finance options.

This information is provided for completeness. AP Eagers' decision to introduce Modus is not affected by the Proposed Transaction. AP Eagers is not aware that AHG has any business which would directly overlap with the activities of Modus. Moreover, Modus would be offered as an additional finance option to customers. Customers will remain free to choose the finance products

⁴⁸ Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Background Paper 3: Some Features of Car Financing in Australia*, page 3 <<https://financialservices.royalcommission.gov.au/publications/Documents/some-features-of-car-financing-in-australia-background-paper-3.pdf>>.

which suit their needs, whether those are options provided by dealers or by any number of independent third parties. To the extent that this raises vertical concerns, there is no prospect that the Proposed Transaction will result in any foreclosure giving rise to any substantial lessening of competition since the parties represent a small portion of overall car finance sales, AP Eagers intends to continue offering other financial options, the parties are just one of many sales channels for suppliers and customers will still drive the choice of product (and therefore supplier).

Post-sale products and services

Post-sale, authorised dealers typically offer vehicle servicing and manufacturer branded parts.

Vehicle servicing is post-sale maintenance or other work undertaken on the vehicle in order to ensure that the car is operating properly. This work includes:

- routine vehicle maintenance; and
- repair servicing.

OEM branded parts are the parts used by the car manufacturer in assembling the new car. These parts are generally made by the car manufacturer or by 'Tier 1' suppliers (these being companies that supply directly to the car manufacturer for installation in new cars in the car manufacturer's brand).⁴⁹ These products are distributed by authorised distributors and authorised resellers and are available for purchase by any repairer, including independent repairers. Also available are non-branded replacement parts which are generally sold by independent repair and service providers. Authorised dealers are generally limited by their dealer agreement to be resellers of OEM parts obtained through the OEM's distribution chain exclusively, or can only sell non-genuine products which do not conflict with the OEM's range of parts.

Other relevant services in the automotive industry not provided by dealers

Outside of a dealership context, AP Eagers also provides vehicle and finance brokerage services while AHG only provides finance brokerage services:

- ***vehicle brokerage services***: which involve arranging the purchase and sale of a vehicle on behalf of a customer from a dealer (including third party dealers). The broker will obtain competitive quotes and can also obtain discounted pricing in some circumstances;
- ***finance brokerage services***: this channel for the supply of financial products involves arranging for a loan on a customer's behalf through a financier the dealer considers is likely suitable to the customer's circumstances in purchasing a vehicle(s). This will typically involve the broker considering the customer's credit position, and any barriers to acceptance by particular financiers, and then selecting an appropriate financier. The dealer will offer particular finance options, which are available to customers shopping at that dealership due to the dealer's agreements with specific financiers. As such, the dealer will send an application to the one financier the dealer considers the most appropriate for the customer; if that application is unsuccessful, the dealer may send an application to one second-tier financier. AP Eagers' finance brokerage business, Leaseline & General Finance Pty Ltd, holds an Australian Credit Licence and is accredited with various financiers (both first and second tier lenders).⁵⁰

⁴⁹ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 136.

⁵⁰ In contrast, the services of a dealer arranging for finance for a customer's purchase of a new or used car are provided under the 'point of sale' exemption under regulations issued under the National Consumer Credit Protection Act 2009. This exemption is only available provided certain conditions are met, including where the introducer provides its own goods or services and introduces customers directly to credit providers/lessors. The exemption cannot be relied upon to obtain financing for a car that is not being supplied by the dealership or for refinancing of existing loans. Accordingly, finance brokerage services require an Australian Credit Licence while this is not necessarily required where a car dealer introduces a customer to a third party financier for cars that it is supplying to the customer.

Q6. Describe any upstream or downstream activities currently undertaken by the parties (including their related bodies corporate).

AP Eagers and AHG engage in the following upstream and downstream activities which are commonplace in the industry:

6.1 Wholesaling of used vehicles

AP Eagers is active in the wholesaling of used vehicles. This involves AP Eagers selling used car vehicle stock that it has acquired for on sale through a range of other distribution channels, including auction houses, online sales, and owned and third party dealerships.

AP Eagers' activities as a wholesaler of used vehicles could be considered upstream of AHG's subsequent sale of those used car vehicles to end consumers.

6.2 OEM replacement parts

A number of OEMs appoint certain dealers as the wholesale supplier of replacement parts for certain regions, to facilitate the distribution of parts in a timely manner. In these cases, wholesale suppliers need to invest in facilities and hold inventory to be distributed to dealers in the OEM dealership network regardless of their ownership structure. The additional cost to provide these parts is partially compensated by a wholesale-to-retail differential in pricing.

However, under these wholesale arrangements, dealers who are not wholesale dealers are able to choose which wholesale supplier they buy replacement parts from based on service and price offered.

Authorised dealers, as suppliers of manufacturer-branded replacement parts, also sell parts to various servicing and repair service providers, which can provide servicing and repair services for the same brand of cars sold by the relevant dealership.

6.3 Vehicle broking

As discussed above, AP Eagers operates a small vehicle broking business called **Auto Advantage Pty Ltd**, which helps retail customers find and buy cars, often at discounted or fleet vehicle prices, from dealerships for a brokerage fee. Auto Advantage is not limited to connecting retail customers to AP Eagers dealerships, it also connects customers to third party dealerships. Auto Advantage is based in Newcastle but sources cars from all over Australia. Its client base is predominantly located in NSW and approximately 70% of its total clients are based in Newcastle, although it also provides services to national clients online. Of the total vehicles sourced by Auto Advantage in 2018, 53.27% were sourced from dealerships outside the AP Eagers group.

6.4 Minor shareholdings in car advertising platforms with no special rights

AP Eagers and AHG have minor interests in car advertising platforms through their indirect interests in Cox Automotive Australia Pty Ltd (**Cox Automotive Australia**). Cox Automotive Australia is an Australian subsidiary of Cox Automotive Inc, which is one of the largest automotive service organisations in the United States⁵¹. Cox Automotive Australia controls and operates Manheim Pty Ltd, Dealer Solutions Pty Ltd, Cox Australia Media Solutions Pty Ltd (trading as Carsguide), and also owns the Autotrader brand. The primary operations of these companies comprise the trade and service of cars in Australia.

Current directors of Cox Automotive Australia comprise personnel from Cox Automotive, and local Australian automotive dealership groups, including:

- Sanford Schwartz (CEO, Cox Automotive);
- Martin Ward (CEO and MD, AP Eagers);

⁵¹ See Cox Automotive Inc's website for more information: <https://www.coxautoinc.com/about-us/>

- John McConnell (MD, AHG);
- Simon Jefferson (MD, Jefferson Auto Group);
- Michael Buxton (President, Cox Automotive International);
- Mark Bowser (CFO, Cox Automotive); and
- Andrew Parry-Okeden.

In addition, Keith Thornton, AP Eagers' Chief Operating Officer, is the current Chair of the Dealer Advisory Board to Cox Automotive Australia. The Dealer Advisory Board is intended to provide coalface feedback from dealer investors to the board and executive members of Cox Automotive Australia.

Cox Automotive holds a 69.3% share in Cox Automotive Australia, with the remaining 30.7% share held by DealerMotive Limited. DealerMotive Limited is comprised of a consortium of 60 dealer groups, including AP Eagers which holds a 25.5% share, and AHG which holds a 13.9% share. This equates to an indirect equity interest in Cox Automotive Australia of 7.82% and approximately 4.27% respectively. AP Eagers has no additional veto or other interests that would give it a greater influence over the operations of Cox Automotive Australia, including any shareholders agreement.

Q7. Identify all products and services in the relevant areas in which they overlap or have a vertical relationship.

Although AP Eagers does not consider that the following segments constitute separate product markets, as set out in **Table 3** above in response to Question 4, the areas in which AP Eagers and AHG overlap are:

- new vehicle retailing (including fleet car distribution and supply of commercial vehicles);
- used vehicle retailing;
- used vehicle wholesaling;
- vehicle repairs and servicing;
- finance and insurance products on behalf of external providers;
- manufacturer branded parts to retail and trade customers; and
- car care products (for example, window tinting, fabric protection and extended warranties).

As noted above, a combined list of OEMs for which AP Eagers and AHG supply new cars and OEM branded parts, together with contact details, is provided in **Annex 12**. The entries for AHG are based on AP Eagers' own knowledge and publicly-available information.

In relation to vertical relationship between the parties, as outlined in response to Question 6 above, the parties engage in some upstream and downstream activities which are common in the industry, namely: wholesaling of used vehicles, OEM replacement parts, vehicle broking and car advertising platforms.

Q8. For each relevant product or service in respect of which the parties overlap or have a vertical relationship, provide (for each party):

8.1 the geographic locations in which the product or service is manufactured, distributed, or supplied

AP Eagers considers that the market in which they supply products and services is national, however, to illustrate no issues exist in narrower regions, AP Eagers has also provided information broken down on narrower bases. Without prejudice to AP Eagers' position that there is a national market for the supply of all new and used motor vehicles, and to assist the ACCC's consideration of the Proposed Transaction, the following observations can be made regarding the overlaps between AP Eagers and AHG within each Australian State and Territory regarding vehicle retailing (new, used and commercial):

- **Western Australia** – there are no overlaps between AP Eagers and AHG;
- **South Australia** – there are no overlaps between AP Eagers and AHG;
- **Tasmania** – there are no overlaps between AP Eagers and AHG dealerships in Tasmania;
- **Australian Capital Territory (ACT)** – there are no AP Eagers or AHG dealerships located in the ACT;
- **Northern Territory** – there are no AHG dealerships located in the Northern Territory;
- **New South Wales** – AP Eagers' and AHG's dealerships overlap in the Newcastle region, which AP Eagers considers includes, at the very least, Newcastle, Hunter and Central Coast. AP Eagers considers that Sydney is in this region as well. However, to assist the ACCC, where available AP Eagers has provided information for the narrower Newcastle region. Outside of the Newcastle region, AP Eagers only has five dealerships in Sydney, located on the Northern Beaches at Pittwater Road, Brookvale. While AHG has a number of dealerships in metropolitan Sydney, none of these are located on the Northern Beaches. The closest AHG car dealerships to the AP Eagers' Northern Beaches dealerships are located in Castle Hill, Blacktown and Cabramatta;
- **Victoria** – AP Eagers has four car dealerships in Melbourne, while AHG has 23 car dealerships. In Melbourne, the merged firm will continue to face significant levels of competitive constraint in Melbourne from a number independent car dealerships. While AHG has four car dealerships outside of Melbourne, AP Eagers does not have any car dealerships in Victoria outside of Melbourne. In addition, AP Eagers has six commercial vehicle (truck/bus) dealerships in Melbourne, while AHG has four, although there are a number of independent commercial vehicle (truck/bus) dealerships in Melbourne.
- **Queensland** – AP Eagers and AHG have overlapping dealerships in Brisbane. Outside of the Brisbane region, AHG has car dealerships in Beaudesert. The closest AP Eagers car dealerships to AHG's dealerships in Beaudesert are located in Toowong (which is a suburb of central Brisbane) and Bundamba (Bundamba being part of the Ipswich city region). Beaudesert is approximately a one-hour drive from either Ipswich or Brisbane and there are a number of car dealers in Brisbane and Ipswich. All of AP Eagers' and AHG's commercial vehicle (truck/bus) dealerships in Queensland are over 200km away from each other.

Accordingly, although AP Eagers' considers that the relevant markets are national in scope, the parties have dealerships which supply overlapping products and services in :

- New South Wales (Newcastle region and Sydney);

- Victoria (Melbourne); and
- Queensland (Brisbane).

AP Eagers therefore provides information to the ACCC on these narrower bases.

Addresses for both AP Eagers' and AHG's dealerships in these States are listed in the spreadsheets at **Annexes 4.1 and 4.2**.

AP Eagers also provides at **Annex 8.1** postcodes of customers who purchased new vehicles from AP Eagers' dealerships in Brisbane, Sydney, the Newcastle region and Melbourne in 2017.

8.2 the sales revenues and volumes and, where relevant, current capacity and capacity utilisation

Annex 8.2.1 sets out AP Eagers' total sales volume and revenue figures for calendar year 2018. Although we consider the market to be national, we have separated the data into national, state and regional levels. Even on a more narrow view, we consider that the Newcastle region and Sydney make up a single market, however we have broken down revenues by State/Territory and region (Newcastle region, Brisbane, Sydney and Melbourne), in the following areas of overlap in supply (although AP Eagers does not consider that the following areas constitute separate relevant product markets):

- new car retailing;
- new commercial (truck and bus) retailing;
- used car wholesaling;
- used commercial (truck and bus) wholesaling;
- used car retailing;
- used commercial (truck and bus) retailing;
- vehicle repairs and servicing;
- finance products;
- insurance products;
- vehicle brokerage services;
- OEM parts to retail and trade customers combined; and
- car care products.

AP Eagers has also provided the following data:

- in **Annex 8.2.1** sales volumes and revenues for AP Eagers at state and regional levels (ie, for Sydney, Newcastle region, Brisbane and Melbourne) for the following activities: new car and commercial (truck and bus) sales, used car retailing and wholesaling, used commercial retailing and wholesaling, provision of servicing and repairs, sale of financial products, sale of insurance products, sale of replacement parts, and sale of car care products; and
- in **Annex 8.2.2**, gross revenue and Cost of Goods Sold (**COGS**) for new car retailing in each dealership in the Newcastle region and in Brisbane.

AP Eagers does not have access to revenue numbers and vehicle numbers sold for AHG dealerships but has provided estimates of AHG's market shares where available in response to Question 8.4.

AP Eagers' best estimate of competing dealerships in Sydney and Melbourne (which are not owned by either of the Merger Parties) is as follows:

- **Sydney** – 260 sites.
- **Melbourne** – 221 sites.

AP Eagers has also set out the locations of competing dealerships in the Newcastle/Hunter area and Brisbane at **Annex 12**. While Annex 12 only includes locations for competing dealerships in the Newcastle/Hunter area, AP Eagers considers that dealerships outside the Newcastle/Hunter area compete with those listed in Annex 12, including at least dealerships in the Central Coast and Sydney.

8.3. gross revenue earned from each of its top ten customers

Annex 8.3 sets out AP Eagers' top 10 customers for the following areas:

- supply of new fleet cars;
- supply of new fleet commercial vehicles;
- used car wholesaling; and
- supply of replacement parts to trade customers.

Annex 8.3 also sets out AP Eagers' top 10 suppliers for the following areas:

- financial products;
- insurance products;
- car care products;
- OEM replacement parts; and
- bailment finance.

8.4 an estimate of the total market size (by sales in dollars and units and, where relevant, capacity or an alternative measure if more appropriate) and the current market shares for each of the parties and each competitor (including via imports). Identify the source of the data used to prepare this information, and any assumptions used.

AP Eagers does not accept that the following segmentations represent distinct product markets, however, for the purposes of assisting the ACCC's review, AP Eagers' provides in **Annex 8.4.1** AP Eagers' best estimates of shares of supply for the following areas of overlap between AP Eagers and AHG:

- new vehicle sales;
- used car retailing and wholesaling;
- vehicle repairs and servicing; and
- finance products.

AP Eagers also provides a report by Manheim titled '2015 Used Car Market Report: *Looking Back, Driving Forward*' (2015) at **Annex 8.4.2** which provides further industry background.

AP Eagers again notes that it does not have access to revenue numbers and vehicle numbers sold for AHG dealerships but has provided estimates of AHG's market shares where available.

Q9. Provide each party's most recent annual report, audited financial statements, business and strategic plans, and management accounts for the company as a whole and for each relevant division or business unit. [ACCC Note: Applicants should consult with the ACCC prior to lodgement to discuss the scope and range of documents needed in the context of the particular proposed acquisition for which merger authorisation is sought.]

A copy of AP Eagers' most recent annual report (2018) (including audited financial statements) is at **Annex 9.1**.

A copy of AHG's most recent annual report (2018) (including audited financial statements) is at **Annex 9.2**.

A copy of AP Eagers' Management Report from December 2018 is provided at **Annex 9.3**.

AP Eagers is unable to provide copies of internal documents for AHG.

5 Competition effects

Q10. Describe the constraints on the parties to the proposed acquisition in the relevant industry or industries, including any likely change to those constraints should authorisation be granted and the proposed acquisition proceed. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the competition effects. You should address:

10.1 existing or potential competitors, including via imports, to the parties

10.2 the likelihood, sufficiency and timeliness of entry and expansion by existing and potential competitors (including costs)

10.3 the countervailing power of customers

10.4 any other relevant factors.

A. Introduction

AP Eagers provides information on the following areas of overlap between AP Eagers and AHG:

- the retail supply of new vehicles (which is also in AP Eagers' view in a broader market with the retail supply of used vehicles);
- the wholesale and retail supply of used vehicles;
- the retail supply of new and used commercial vehicles (although these may form part of a broader vehicle retail supply market);
- the supply of repair and maintenance services for vehicles;
- the supply of financial products;
- the supply of insurance products;
- the supply of vehicle brokerage services;
- the supply of replacement parts; and
- the supply of car care products.

The post-merger entity would be constrained by the number of dealer and non-dealer competitors in each of those markets. These markets are addressed in **Parts B to J** below.

We also address why the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition in any acquisition markets, namely, the acquisition of:

- new vehicles from manufacturers/distributors;
- replacement parts from manufacturers/distributors;
- bailment financing from third parties; and
- car advertising platform services.

These markets are addressed in **Parts K to N** below.

Supply markets

B. Competition assessment for the retail supply of new cars

B.1 Introduction

As outlined above, the parties overlap in relation to motor vehicle retailing. In terms of *new* car retailing, both AP Eagers and AHG own authorised dealers which enter into dealer agreements with car manufacturers to sell motor vehicles. As the ACCC found in its *New Car Retailing Industry Report*, new car retailing in Australia is generally competitive due to a number of reasons, including:⁵²

- the range of car manufacturers and their products, with no car manufacturer capturing more than 18.5% of total new motor vehicle sales as of March 2019;⁵³
- the range of car makes and models to choose from within any segment of the market (eg, small, people mover, sports);
- the intra-brand competition between authorised dealers and inter-brand competition between dealers; and
- the impact of the growth of car-sharing and ride-sharing services as well as innovative models of vehicle ownership, such as vehicle subscription.

These attributes of new vehicle retailing also apply to used vehicle retailing and the ACCC has acknowledged that used vehicles provide competitive pressure and a degree of substitution to purchasing new vehicles. The view that the market is extremely competitive was also supported by ASIC in its March 2017 report on flex commission arrangements in the car finance market.⁵⁴

AP Eagers considers that new and used motor vehicles should be treated as the same market but have also provided separate market shares. As outlined above, at both a national level and in each state in which the merger parties overlap, the merged entity would have a modest share of supply of the retailing of new and used vehicles, the retail supply of new vehicles only and the supply of used vehicles only.

Without prejudice to AP Eagers' position that there is a national market for the supply of all new and used motor vehicles, and to assist the ACCC's consideration of the Proposed Transaction, we refer to the observations outlined above in response to Question 8.1 regarding potential overlaps in each of the States and Territories.

Estimated market shares

Table 9 below sets out the estimated market share for new vehicles by State based on the available market share data with respect to AP Eagers and AHG.

Table 9: Estimated shares for new vehicle retailing by State and Territory (AP Eagers and AHG)

State / Territory	Total sales volume (units)*	AP Eagers' sales volume (units)**	AP Eagers' share (%)	AHG share (%)***	Implied merged entity share (%)
QLD	231,541	25,704	11.1	3.6	14.7
NSW	370,967	12,493	3.37	7.4	10.77

⁵² ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 35.

⁵³ Federal Chamber of Automotive Industries, *VFACTS National Report – New Vehicle Sales, March 2019 (YTD)*

⁵⁴ ASIC, *Flex commission arrangements in the car finance market – Attachment 2 to CP 279: Regulation Impact Statement* (March 2017), page 6 <<http://download.asic.gov.au/media/4172129/attachment-2-to-cp279-published-3-march-2017.pdf>>.

State / Territory	Total sales volume (units)*	AP Eagers' sales volume (units)**	AP Eagers' share (%)	AHG share (%)***	Implied merged entity share (%)
NT	10,253	2,550	24.87	0	24.87
SA	71,027	11,743	16.53	0	16.53
TAS	20,566	2,927	14.23	0	14.23
VIC	333,392	4,246	1.27	3.6	4.87
ACT	18,191	0	0	0	0
WA	97,174	0	0	23.70	23.7
National	1,153,111	59,663	5.2	6.7****	11.9

*Source: VFACTS December 2018 National Report supplied by Federal Chamber of Automotive Industries (FCAI).

**Source: AP Eagers' internal reports for 2018.

***Source: AHG's FY2017 full year results presentation released to the ASX on 25 August 2017 (provided at **Annex 8.4.3**).

****Source: Slide 9 of AHG's FY2019 half-yearly results presentation released to the ASX on 22 February 2019 (provided at **Annex 8.4.4**).

Data relating specifically to new vehicle retailing for Sydney, Melbourne, Brisbane and the Newcastle region is provided in **Annex 8.4.1**. The only two areas in which the combined parties have a more than modest presence in the supply of new cars is the Brisbane region and the Newcastle region. Accordingly, the focus of this analysis is in these areas.

However, in any market there is no substantial lessening of competition as a result of the Proposed Transaction for the following reasons which are addressed below in **Sections B.3 and B.4** below:

- First**, AP Eagers considers that the geographic market for the supply of new cars is national or at least state-based, with a significant number of customers purchasing vehicles outside of their local area. Accordingly, the scope of the geographic market draws in competition from much further afield than a regional basis. Further, the internet facilitates comparison of prices and deals offered by geographically disparate dealers, thereby crystallising competitive tension. To the extent to which the ACCC does not find broader regional, state-based or national markets, it must at least take into account the competitive constraint that other regions provide, eg, Sydney on Newcastle.
- Second**, as described in response to Question 5 above, pricing is largely controlled by manufacturers and all authorised dealers will remain under significant pressure to compete to maximise sales to satisfy important KPIs in their dealer agreements. Not meeting these KPIs risks the success and survival of the business and the continued right to distribute the manufacturer's cars. Although the individual dealers are owned by, and are part of, a corporate group, the obligations in the dealer agreements treat and incentivise individual dealers to compete with one another despite any common corporate ownership. This will remain the case for dealers that will form part of the merged entity. As outlined above, the requirement that Dealerships meet KPIs in order to succeed is further reinforced by the way in which dealer principals are remunerated. A large proportion of a dealer principal's remuneration is variable and tied to achieving performance targets. An example of a dealer principal remuneration package within the AP Eagers corporate group is provided at **Annex 5.4.4**.

- **Third**, AP Eagers considers there is significant downward pressure on prices from the substitutability of *used* cars, and as such customers will continue to have significant buying power in this market.
- **Fourth**, Dealerships are incentivised to keep their pricing competitive to create opportunities to sell follow-on and related products and servicing offered by most (if not all) dealerships which tend to provide higher returns, such as repairs and servicing and car care services.
- **Fifth**, there is also significant competitive pressure on new vehicle prices from the substitutability of other transport options. In particular, the strong growth and uptake in alternative models to car ownership, such as car-sharing and ridesharing services, will require new car dealers to offer competitive prices in order to attract customers and continue to make sales.

B.2 Product market

Given the high level of substitutability between different vehicle types, brands and makes, AP Eagers does not consider it meaningful to segment the product market any further and therefore considers the competitive effect of the Proposed Transaction on the sale of all types of cars. This is because:

- most authorised dealers and manufacturer-owned distributors sell all types of vehicles (eg, sedan, hatch, 4WD) to all kinds of customers;
- while different dealers will be authorised to sell different brands, the brands are substitutable from a customer point of view, although ultimately a combination of price, features and marketing will drive decision-making;
- customers are able to make extensive comparisons between different brands, makes and models before deciding which particular model they will purchase; and
- although the needs of customers (ie, individuals, fleet, business or government) may differ,⁵⁵ the sales channel and pricing model through which these customers purchase a car is largely the same. Although government and large fleet buyers may also be able to negotiate pricing directly from an OEM, this only serves to increase competitive pressure, and does not otherwise alter the way in which the fleet buyer purchases from the dealer.

B.3 Geographic market

AP Eagers considers that the market for the retail supply of new vehicles is national, or at least State-based and cannot be confined to narrow population centres. As the ACCC noted in its *New Car Retailing Industry Report*:

Buying a new car is one of the most significant purchases for a consumer, typically second only to the purchase of a home. Data indicates that buying a car and its ongoing maintenance accounts for around five per cent of average annual household expenditure.⁵⁶

The following factors support AP Eagers' view that the supply of new and used vehicles is national in scope:

- **Nature of product:** Motor vehicles are, by their nature, portable. They are designed to move by road. They are not perishable by nature. Moreover, cars represent significant purchases for household budgets. Accordingly, consumers themselves are willing to

⁵⁵ In 2016, VFACTS data estimated that households accounted for approximately 66 per cent of dealer retail sales, general business, car-rental companies and taxi operators account for 29 per cent of sales, and government and other customers accounted for five per cent: ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 31 <https://www.accc.gov.au/system/files/New%20car%20retailing%20industry%20final%20report_0.pdf>.

⁵⁶ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 24.

travel some distance in order to make savings, particularly for the initial outlay to purchase a vehicle where it is well known that significant savings can be made.

- **National price comparison:** While customers may transact with their local dealer for convenience, AP Eagers still contends that the market is national because it is extremely easy for customers to obtain competitive pricing nationally, which is then taken to the local dealer to price match.
- **Low transportation costs:**
 - Transportation costs between regions within Australia for motor vehicles (as a percentage of the value of the item) are very low and would not typically provide a barrier for movement of vehicles from region to region. Vehicles can also be delivered to a dealer near the consumer, if not directly to the consumer themselves. This is true of both used and new cars – in the case of new cars, these can and are frequently swapped between dealerships of the same manufacturer at no cost to the consumer.
 - The costs for dealers or customers to transport vehicles from a dealership in one location to the customer in another location is low. Dealers readily entertain customer requests to deliver vehicles in different states / territories and use the dealership network of the brand to assist in the delivery of the vehicle to the customer.
 - **Transport costs are low as percentage of overall costs:** The costs of obtaining motor vehicles from an alternate region, as a percentage of the cost of the vehicle, is extremely low and would not typically prevent or inhibit transactions of this nature. In AP Eagers' experience, those costs are not material in the purchasing decision-making process for customers.
- **Customers compare prices nationally:** The internet facilitates much broader searching and comparison by consumers across a much wider geographic area. This is because consumers are able to compare prices from various sellers online, eg, by using aggregator sites such as carsales.com.au and carsguide.com.au to view vehicles available at a number of different dealerships over a wide range of areas (see for example **Figure 18**, **Figure 19** and **Figure 20** below, where **Figure 19** shows there are 26,020 new cars for sale in what Carsguide defines as Newcastle and **Figure 20** shows there are also 26,020 new cars for sale in what Carsguide defines as Brisbane). Furthermore, the regularity of interstate dealer swaps indicates the ease with which cars can be transferred between dealerships across the country, expanding the pool of available cars to customers to any located across the country. This includes the transfer and delivery of vehicles from any dealership outside a PMA to the relevant dealership in the PMA in which that consumer is located.

Figure 18: Example of price comparison for new vehicles available on carsales.com.au

The image displays two side-by-side screenshots of the carsales.com.au website, showing listings for a 2019 Toyota Camry Ascent Auto. Both listings include a car image, a 'Sample photo only - not actual vehicle' watermark, and a 'Save' button with a star icon. The left listing shows a price of \$34,532 (Drive Away) for a Frosted White model. The right listing shows a price of \$32,240 (Drive Away) for a Steel Blonde model. Both listings include details such as Body (Sedan), Transmission (Automatic), Engine (4cyl 2.5L Petrol), and Colour. A 'Sample photo only - not actual vehicle' watermark is visible on the car images.



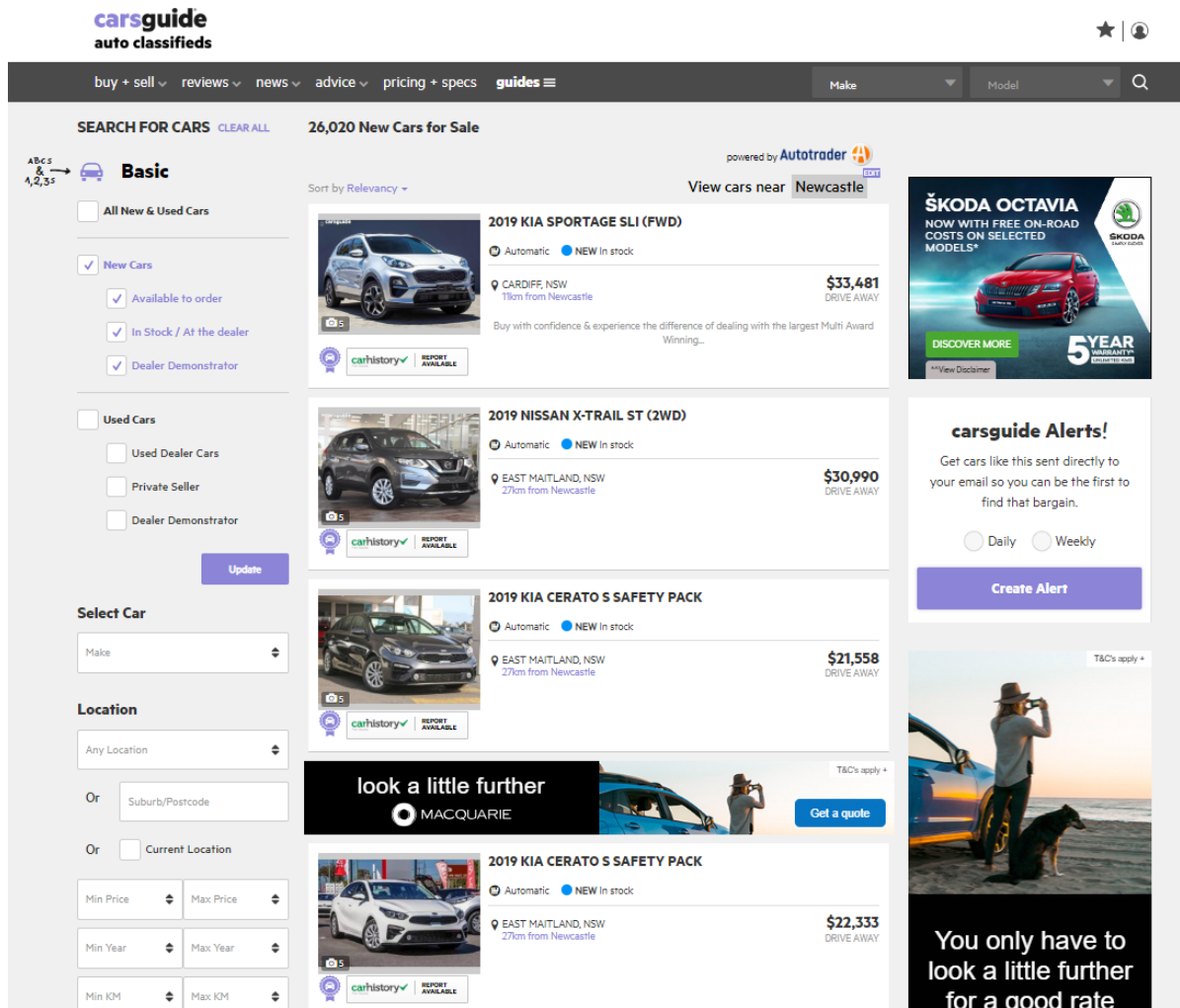
2019 Toyota Camry Ascent Auto	2018 Toyota Camry Ascent Auto
 <p>Body: Sedan Transmission: Automatic Engine: 4cyl 2.5L Petrol Colour: Glacier White</p> <p>From \$34,082 Drive Away <small>\$30,090* Excl. Govt. Charges</small></p> <p>Sample photo only - not actual vehicle</p> <p>***It has 7 airbags to protect you and your family. This car has forward collision alert/warning...***</p> <p>New Car</p> <p>Contact Consultant View</p>	 <p>Body: Sedan Transmission: Automatic Engine: 4cyl 2.5L Petrol Colour: Glacier White</p> <p>From \$31,790 Drive Away <small>\$27,790* Excl. Govt. Charges</small></p> <p>Sample photo only - not actual vehicle</p> <p>***7 airbags to give you added protection. This Stunning Brand New Toyota Camry Ascent Sedan has...***</p> <p>New Car</p> <p>Contact Consultant View</p>

Figure 19: Example of price comparison for new vehicles available on carsguide.com.au (Newcastle region selected)

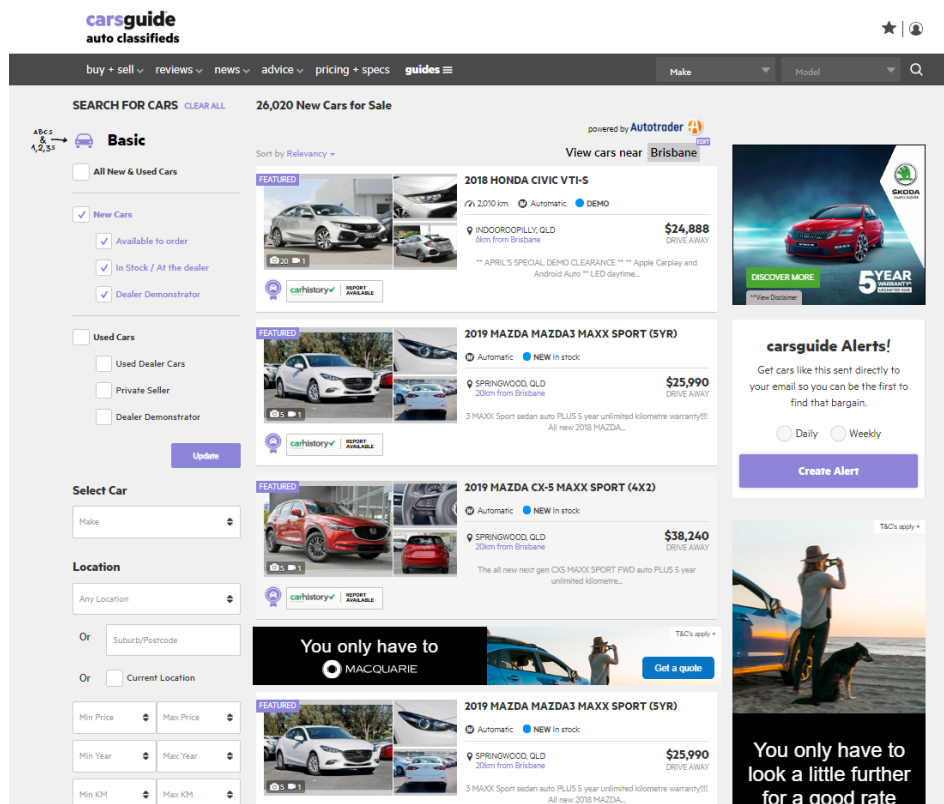


The screenshot shows the carsguide.com.au website interface. At the top, there's a navigation bar with 'carsguide auto classifieds' and search filters for 'Make' and 'Model'. Below this, a search bar indicates '26,020 New Cars for Sale' in the 'Newcastle' region. The left sidebar contains filters for 'Basic' search criteria, including 'All New & Used Cars', 'New Cars', 'Used Cars', 'Select Car', 'Location', and price/year/KM ranges. The main content area displays three car listings:

- 2019 KIA SPORTAGE SLI (FWD)**: Automatic, NEW In stock, \$33,481 Drive Away, Cardiff, NSW (11km from Newcastle).
- 2019 NISSAN X-TRAIL ST (2WD)**: Automatic, NEW In stock, \$30,990 Drive Away, East Maitland, NSW (27km from Newcastle).
- 2019 KIA CERATO S SAFETY PACK**: Automatic, NEW In stock, \$21,558 Drive Away, East Maitland, NSW (27km from Newcastle).

Below the listings is a 'look a little further' banner for Macquarie. At the bottom, another listing for '2019 KIA CERATO S SAFETY PACK' is shown with a price of \$22,333 Drive Away. On the right side, there are promotional banners for 'SKODA OCTAVIA' and 'carsguide Alerts!'.

Figure 20: Example of price comparison for new vehicles available on carsguide.com.au (Brisbane region selected)



- The KPI model which rewards overachievement against targets, is often achieved by dealers providing low priced cars, often below costs, onto online advertising portals in an effort to sell extra cars outside of their PMA and in turn, maximise bonuses available to the dealership.
- **No barriers to moving vehicles:**
 - There are no barriers to prevent domestic customers acquiring vehicles from regions outside those in which they reside. The speed, access and cost of digital communication means that customers throughout Australia can readily ascertain prices for vehicles in any other part of Australia.
 - There are no specific regulatory or other practical constraints to motor vehicles in any district or region being sold to customers located interstate in Australia, over and above any State licence required to operate a vehicle dealer business generally or vehicle registration with the relevant State transport authority.
- **Advertising and pricing national:**
 - Advertising tends to be conducted on a national basis. Responsibility for advertising new vehicles primarily falls to the manufacturer (rather than the dealerships selling the vehicles). The manufacturer's advertising will usually consist of two distinct campaigns: (a) campaigns to establish branding of the manufacturer (brand campaigns); and (b) campaigns to stimulate sales (retail campaigns).
 - A branding campaign would typically be undertaken on a national level. Identical advertisements would be run nationwide for that purpose in respect of a particular

brand of vehicles. A retailing campaign might focus on regions within Australia, rather than a national campaign.

- The smallest of the regions which is likely to be the focus of any retailing component would, in AP Eagers' experience be an individual State. None of the manufacturers, of which AP Eagers is aware, would run an advertising campaign (whether brand or retailing) which focused on a single city or town.
- While dealers can sell below the OEM's RRP, differences in advertised retail prices on new cars are limited as the margins available remain small relative to the price of the vehicle. Greater advertised pricing variants occur with near-new and demonstrator vehicles which is where dealers often aggressively compete.

Accordingly, AP Eagers considers that it is appropriate to consider the retail supply of new and used vehicles to be national in scope. This is further supported by the evidence in the Deloitte and RBB Economics Reports commissioned by AP Eagers' legal advisor. However, as requested by the ACCC, AP Eagers provides further detail on the Newcastle and Brisbane regions.

Background – Expert Reports

AP Eagers' legal advisor instructed:

- Deloitte to conduct an analysis in relation to Newcastle and Brisbane new car buyer behaviour. AP Eagers provides Deloitte's report on its *Automotive Car Buyer Behaviour Study: Newcastle and Brisbane* dated 16 April 2019 at **Annex 10.3**. AP Eagers also provides at **Annex 10.1** the available dealership reports for its Newcastle and Brisbane region dealerships which were used as the basis for the analyses by Deloitte. In particular, these reports set out the number of cars sold:
 - from the relevant Dealership to customers outside of its PMA (ie, *pump-out*); and
 - from the Dealerships outside of a Dealership's PMA to customers within that Dealership's PMA (ie, *pump-in*).
- RBB Economics to conduct an analysis of new car dealership sites in the Newcastle and Brisbane regions where AP Eagers and AHG activities overlap. RBB Economics' analysis of these sites was underpinned by: 'pump-in' and 'pump-out' data provided by several of AP Eagers' Brisbane and Newcastle dealership sites and analysed by Deloitte. AP Eagers provides RBB Economics' report on *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* at **Annex 10.4**.
- RBB Economics to prepare a series of maps using mapping software to show the location of new car retailing sites in Newcastle and Brisbane. There are six maps for the Newcastle Region (the **Newcastle Maps**) and five maps for the Brisbane Region (the **Brisbane Maps**).⁵⁷ They are contained in **Annexes 10.2.1 and 10.2.2** respectively. These maps show the site locations for dealerships irrespective of whether they fall within the same dealership agreement. This approach has been taken because it is not possible for AP Eagers to identify in relation to third parties whether multiple sites form part of a single dealership agreement. However, in respect of AP Eagers' sites, we note that various Brisbane dealership sites form part of the same dealership agreement, as outlined in **Table 10** below.

⁵⁷ The Newcastle Maps and Brisbane Maps show the location of new car retailing sites in these areas and beyond. Annexed to the Newcastle Maps and Brisbane Maps is a table identifying the name of the dealership site, which has been assigned a 'dealer ID' based on the numbered sites on each of the maps. The table also identifies whether the dealership site is owned by AP Eagers, AHG or an independent, as well as if the independent dealership site is part of a broader dealership group or corporate group. The Newcastle Maps and Brisbane are organised in order from a macro to micro view, starting with map 1 showing the entire Newcastle/Central Coast/Sydney and Brisbane/Sunshine Coast/Gold Coast areas. The other maps provide various more micro (ie, 'zoomed in') views of various parts of Newcastle and Brisbane.

Table 10: AP Eagers' Brisbane dealership sites indicating common dealership agreements

AP Eagers Site	Dealership Agreement
Brisbane	
Southside Toyota (Mt Gravatt)	Southside Toyota
Southside Toyota (Woolloongabba)	Southside Toyota
Kedron Subaru	City Automotive Group
Toowong Subaru	City Automotive Group
City Subaru	City Automotive Group
Brisbane City Jaguar	Jaguar Land Rover
Brisbane City Land Rover	Jaguar Land Rover
Torque Toyota (North Lakes)	Torque Toyota
Torque Toyota (Strathpine)	Torque Toyota
Austral Honda	Austral Honda
Austral Volkswagen	Austral Volkswagen
Eagers Holden	Eagers Holden
Eagers Nissan	Eagers Nissan
Ipswich Kia	Ipswich Kia
Ipswich Mazda	Ipswich Mazda
Ipswich Nissan	Ipswich Nissan
Ipswich Volkswagen	Ipswich Volkswagen
Southside Honda	Southside Honda
Torque Ford	Torque Ford
Torque Honda	Torque Honda

Consistent with AP Eagers' view that the retail supply of cars is national in scope, AP Eagers does not consider that these maps represent particular geographic markets. However, AP Eagers provides these maps to the ACCC to demonstrate that even when considering the overlaps created by the Proposed Transaction on a narrower geographic basis, there are a number of alternative choices available to consumers in the form of independent dealership sites spread across the Newcastle and Brisbane regions. Accordingly, the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition.

Newcastle

As evidenced by the analysis conducted by Deloitte and RBB (outlined in further detail below), Novocastrian consumers can and do purchase new cars, at current prices, beyond Newcastle City, travelling to the Central Coast and Sydney.

The Newcastle Maps demonstrate that after the Proposed Transaction, Novocastrian consumers will continue to have considerable choice among dealership sites

The following observations can be made about the Newcastle Maps:

- In relation to the **Newcastle/Hunter** area, It is apparent that Newcastle/Hunter consumers have many dealership sites from which to purchase or test drive a new vehicle, including a mix of dealership sites owned by AP Eagers, AHG and various independent dealers. Outside of Newcastle City, there are several clusters of dealership sites within 15km to 60km of Newcastle City at Cardiff, Gateshead, Rutherford, Maitland, Cessnock and Singleton. Some clusters, such as Gateshead, contain independent dealership sites only (ie, AP Eagers and AHG have no dealership sites). As such, the large number of independent dealership sites in Newcastle/Hunter will continue to impose a competitive constraint on the merged firm post-transaction.
- In relation to the **Newcastle/Hunter/Central Coast/Sydney** area, beyond Newcastle/Hunter, consumers can easily access an even wider variety of dealership sites on the Central Coast and in Sydney. Novocastrian consumers can and do easily travel to the Central Coast or Sydney to purchase a new car, particularly given the short driving distances (approximately 1 hour and 2 hours respectively) and the ease of driving on the M1 highway between these locations. On the Central Coast, neither AP Eagers nor AHG operate any dealership sites, meaning a number of independent dealership sites are instead available to consumers, which will continue to act as a constraint on the merged entity.

Accordingly, even within the narrow area of the Newcastle/Hunter area, or the Newcastle/Hunter/Central Coast/Sydney area, the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition.

The RBB Economics and Deloitte Reports demonstrate that the merged firm faces competitive constraint from Sydney and Central Coast Dealership sites

In addition to a variety of dealership options in the Newcastle Region, data from the Deloitte report (see **Annex 10.3**) which was considered by RBB Economics in its report (see **Annex 10.4**) shows that substantial numbers of Newcastle-based consumers purchase cars from outside the Newcastle region at current prices.⁵⁸ The pump-out data demonstrates that the catchment areas for APE dealership sites in Newcastle includes at least Newcastle and the Central Coast and likely also includes Sydney.⁵⁹ On average, only 48% of sales made by Newcastle dealership sites are from within the dealer's own PMA.⁶⁰ 21%, on average, of customers located in the Newcastle Region are purchasing vehicles from outside of the Newcastle region.⁶¹ Moreover, 'on average, 10 per cent of customers in a Newcastle region PMA purchase from Sydney'.⁶²

These two reports provide evidence for the fact that the scope of the relevant market is wider than Newcastle and includes both the Central Coast and Sydney. Given the large number of independent dealership sites located in both Sydney and the Central Coast, the merged firm will continue to be constrained by competition from dealers located in Newcastle, the Central Coast and Sydney. Indeed, the ease with which Newcastle consumers can research and locate cars, and arrange for transportation, from Sydney supports the view that Newcastle consumers can and do shop for new cars outside of their immediate or surrounding area in Newcastle. On this

⁵⁸ RBB Economics, *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* (23 April 2019), page 8.

⁵⁹ RBB Economics, *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* (23 April 2019) page 8.

⁶⁰ RBB Economics, *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* (23 April 2019), page 8.

⁶¹ RBB Economics, *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* (23 April 2019), page 11.

⁶² RBB Economics, *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* (23 April 2019), page 12.

basis, the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition.

Brisbane

The Brisbane Maps demonstrate that Brisbane consumers are able to access a variety of AP Eagers, AHG and independent dealership sites both within and beyond Brisbane. While pump-out data is not available for the Sunshine Coast and Gold Coast to demonstrate consumer buying behaviour in relation to these areas, it is clear that consumers can choose from many independent dealership sites to purchase a new car. As evidenced by the analysis conducted by Deloitte and RBB (outlined in further detail below), Brisbane consumers can and do purchase new cars, at current prices, beyond Brisbane, travelling to the Sunshine Coast and Gold Coast.

The Brisbane Maps demonstrate that after the Proposed Transaction, Brisbane-based consumers will continue to have considerable choice among Dealership sites

The Brisbane Maps demonstrate the variety of new car dealership options available to Brisbane consumers. These options include many dealership sites in Brisbane, sites located just beyond Brisbane in Redcliffe and Ipswich and sites located further afield in the Sunshine Coast and Gold Coast. The following observations can be made:

- In relation to the **Brisbane** area, the majority of dealership sites are located on an approximately 50km 'axis' extending north and south from the Brisbane City centre (see Maps 1 and 2).⁶³ Both Southern Brisbane and Northern Brisbane, which are largely divided by the Brisbane River, have a proximate number of car dealership sites. Just outside of Brisbane there are a number of dealership sites in Redcliffe and Ipswich available to Brisbane-based consumers. Furthermore, Brisbane-based consumers can travel with ease between dealerships located on the opposite side of the Brisbane River from which they are based for a greater range of dealership sites. For example, for a consumer to travel between the southernmost (Motorline Mini Garage) and northernmost dealership (Torque Toyota – Strathpine) dealership sites on Maps 3 and 4 would take approximately 40 minutes (according to Google Maps' drive time). Crossing the Brisbane River is not a difficult endeavour for consumers travelling to a dealership site by car: there are eight bridges crossing the Brisbane River which allow vehicles to travel across them.⁶⁴
- In relation to the **Brisbane/Sunshine Coast/Gold Coast** area, Brisbane-based consumers can access dealership sites located in the Sunshine Coast and Gold Coast, both of which contain a large number of independent dealership sites. The Gold Coast and Sunshine Coast are both within 1 hour and 20 minutes' drive of Brisbane city (according to Google Maps' drive time). Both of these areas contain many independent dealership sites. Indeed, on the Gold Coast, neither AP Eagers nor AHG operate any dealership sites.

The RBB and Deloitte Reports demonstrate that the merged firm faces competitive constraint from Gold Coast and Sunshine Coast Dealership sites

With Gold Coast and the Sunshine Coast being well-connected to Brisbane by the M1 Highway, and no more than 2 hours driving time from Brisbane, it is not uncommon for consumers to travel to between these areas, particularly for a purchase as important and heavily-researched by consumers as a car. Data from the Deloitte report (see **Annex 10.3**) which was considered by

⁶³ While the majority of dealership sites are clustered inland, consumers travelling inland from coastal areas do not need to travel far before finding a cluster of car dealerships. For example, consumers travelling from Cleveland need only drive 15 minutes to find six dealership sites, all of which are operated by independent dealers, in Capalaba.

⁶⁴ If not travelling by car to the dealership site, consumers walking, cycling or using public transport are able to access up to 15 different bridges to cross the Brisbane River.

RBB Economics in its report (see **Annex 10.4**) demonstrates that consumers in Brisbane purchase cars from the Gold Coast and the Sunshine Coast based on current prices, and would be encouraged to shop even further afield by shifting prices.

RBB Economics' report notes that, on average, in the Brisbane region only 41% of a dealership site's sales come from within its PMA.⁶⁵ 15 per cent of Brisbane consumers are purchasing their cars outside the Brisbane region, likely due to the close proximity of Brisbane's two closest urban centres: the Gold Coast and the Sunshine Coast. While no pump-in data is available for the Gold Coast and Sunshine Coast, RBB Economics anticipates that due to the proximity of these cities to Brisbane there would be a significant number of Gold Coast and Sunshine Coast residents purchasing cars in the Brisbane region. On this basis, the Proposed Transaction will not have the effect or the likely effect of substantially lessening competition.

B.4 Competition analysis

In addition to the reasons outlined above, the Proposed Transaction will not have the effect or likely effect of substantially lessening competition in the new and/or used car retailing market in any region, including in either of the Brisbane or Newcastle regions, for a number of reasons.

Large number of competitors providing effective constraints

All dealerships in a given area compete against each other regardless of ownership. The ACCC found:

There is intra-brand competition between authorised dealers within a manufacturer's network and inter-brand competition between dealers in local markets. While dealer agreements give dealers primary rights to represent a brand within a geographical area, they typically do not establish exclusive areas for sales.⁶⁶

This is largely due to the constraints imposed by dealer agreements with OEMs for each dealership. Dealers are all required to have a dealer agreement in order to sell a manufacturer's new vehicles in Australia. Such dealer agreements mean that each dealership is incentivised to compete against all other dealerships, regardless of ownership and of the brand of vehicles being sold. This is because each individual dealership has separate KPIs set for it by the manufacturer of the new vehicles sold by that dealership under its dealer agreement. If a dealership did not compete against all other dealers, for example, by raising prices, it would be at risk of failing to meet targets set by the manufacturer under its dealer agreement and may risk termination of the dealer agreement. Failure to meet manufacturer targets may constitute a breach of the dealer agreement regardless of the performance of other dealerships owned by the same entity. That is to say, the terms of the dealer agreements with the manufacturer ensure that dealerships operated by the same entity or within the same corporate group will still compete as if they were operated by different entities.

Dealerships owned by the post-merger entity would also face ongoing competition from other competitors, local or otherwise. As the ACCC found in its *New Car Retailing Industry Report*, there are a large number of new car dealers dispersed throughout population centres competing for sale and market share, and there is also a low level of market concentration.⁶⁷

Competitive pressures from availability of information to customers

Customers have access to a wealth of information, and the majority of customers do a large amount of research before purchasing a vehicle given it is a significant expense. In the survey commissioned by the ACCC for its *New Car Retailing Industry Report*, the ACCC found that 55%

⁶⁵ RBB Economics, *An assessment of local market definition for new car dealership sites in Newcastle and Brisbane* (23 April 2019), page 9.

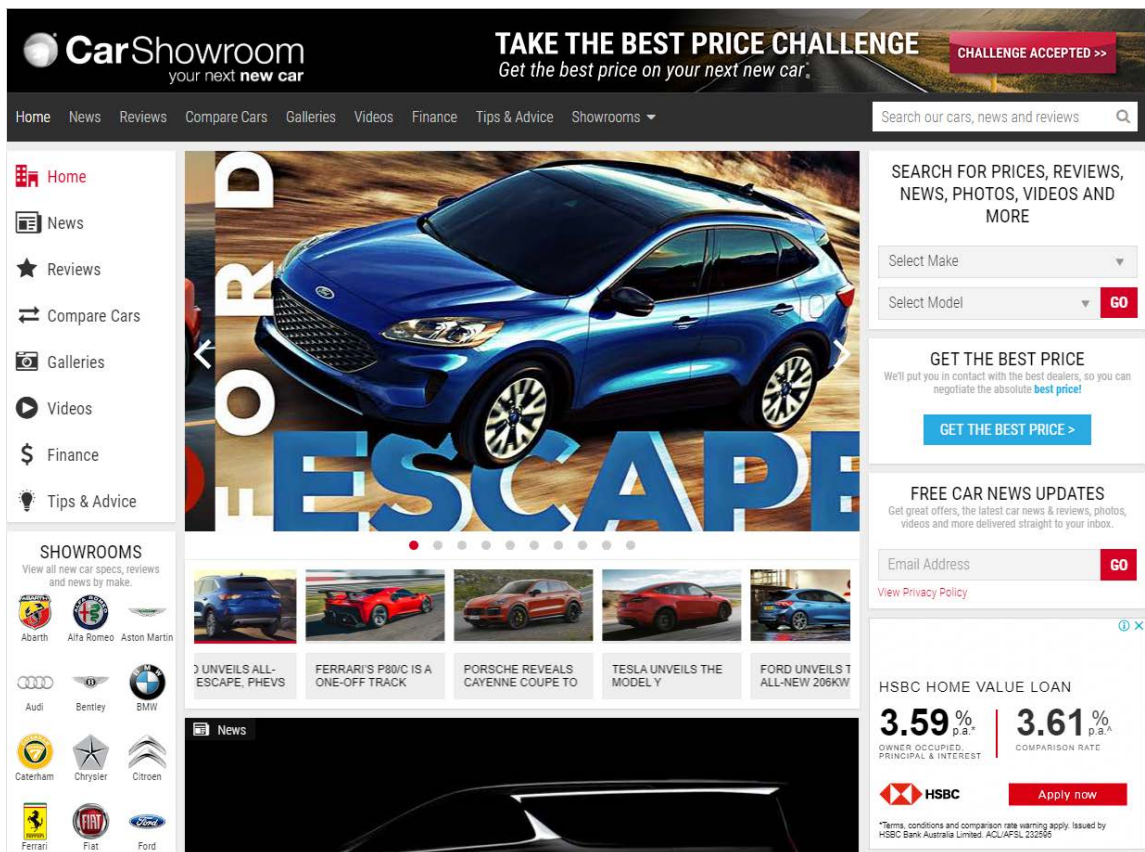
⁶⁶ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 35.

⁶⁷ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), pages 4 and 35.

of new car buyers typically spent from one week to a month researching their purchase, while 31% spent more than a month researching their purchase.⁶⁸

This means that new car dealers are constantly being pitted against each other and must remain competitive in order to win sales. Before purchasing a vehicle, customers are able to use websites such as Car Showroom⁶⁹ to compare across brands, makes and models, and provide a large amount of relevant information including price guides which will help customers to shop around for the best price between dealers. Images of the Car Showroom website and comparison tool are at **Figure 21** and **Figure 22** below. Customer also have access to vehicle brokers who can help customer negotiate on their behalf.

Figure 21: Car Showroom website



⁶⁸ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 37.

⁶⁹ www.carshowroom.com.au. Carshowroom, owned by the Trading Post, which is in turn owned by Unique Websites, a group which is owned and managed by a group of entrepreneurs, including an ex carsales executives, Geoff Holmes, which is its CEO. CarShowroom.com.au is one of Australia's leading online automotive publications - offering news, reviews and buying tools for automotive vehicles to new car buyers. Carshowroom.com.au describes itself as "the go-to website for active new car buyers wanting the latest Car News, Reviews, Updates and Buying Tools. We are one of the leading independent automotive sites with experienced journalists and over 7,000+ articles in our catalogue. Australians trust Carshowroom for advice about their next new car." It says that it has 178,220 unique visitors per month and more than 120,000 weekly wrap email subscribers. It also positions itself as providing premier advertising to car dealers. It allows dealers to exclusive use their retail campaigns (model launches, EOFY sales, run out sales, dealer promotions etc) to reach and convert active buyers in a state by allowing one showroom sponsorship per brand category per state. When a customer searches for a car and decides on a particular model, the customer can enter his/her contact details (including postcode and state) in order to be put in contact with dealers to facilitate the negotiation of a sale.

Figure 22: Price guide and vehicle specification comparison

The screenshot shows a 'Compare Cars' interface. At the top, there's a navigation bar with 'Home', 'News', 'Reviews', 'Compare Cars', 'Galleries', 'Videos', 'Finance', 'Tips & Advice', and 'Showrooms'. A search bar is on the right. Below the navigation, there's a sidebar with 'SHOWROOMS' and logos for various car brands like Abarth, Alfa Romeo, Aston Martin, Audi, Bentley, BMW, Caterham, Chrysler, Citroen, Ferrari, Fiat, Ford, Geely, Great Wall, Haval, Holden, Honda, HSV, Hyundai, Infiniti, Isuzu, Jaguar, Jeep, and KIA. The main content area is titled 'Compare Cars' and features a 'Quick add' search bar. Below it, three car models are listed: 2019 Toyota Camry Ascent, 2019 Mazda CX-3 Akari LE (AWD), and 2019 Ford Focus Active. Each model has a 'READ REVIEWS' button. Below the car cards is a table with 'GENERAL INFO' and 'GREEN & SAFETY RATINGS'.

GENERAL INFO			
Release Date	01 Aug 2018	01 Aug 2018	01 Dec 2018
Price Guide	\$ 27,790	\$ 38,000	\$ 29,990
Body Style	4D SEDAN	4D WAGON	4D HATCHBACK
Engine	MULTI POINT FUEL INJECTION	DIRECT FUEL INJ	TURBO DIRECT FUEL INJECTION
Transmission	6 SPEED AUTOMATIC	6 SPEED AUTOMATIC	8 SPEED AUTOMATIC
Safety Rating	★★★★★	★★★★★	★★★★★
Green Vehicle Guide Rating	N/A	N/A	N/A
Fuel Type	PETROL	PETROL	PETROL
Fuel Consumption	7.8l/100km	6.7l/100km	6.4l/100km
Max Power	133kw@6000rpm	110kw@8000rpm	134kw@1600rpm
0 - 100 km/h	N/A	N/A	N/A
GREEN & SAFETY RATINGS			
ANCAP Rating	★★★★★	★★★★★	★★★★★

Incentive to keep new vehicle prices competitive

In addition to the KPIs set out in dealer agreements, motor vehicle dealers are incentivised to compete in terms of pricing new vehicles because of the range of related products and services offered by most, if not all, dealerships, such as repairs and servicing and aftercare services. As such, it is in a dealer's interest to keep new vehicle prices competitive in order to attract customers and create opportunities to offer a number of further products and services which help secure the customer over a longer period which in turn will compensate for the high operating costs involved in running a dealership.

Competitive pressures from used car market

As the ACCC has acknowledged in its *New Car Retailing Industry Report*, used cars provide competitive pressure and a degree of substitution to purchasing a new car.⁷⁰ This adds a significant amount of competitive pressure because used cars are sold through a number of other channels in addition to authorised dealers, such as used car yards and private sellers.

Consumers are also able to search and compare used vehicles directly with new cars through a number of digital aggregators and online marketplaces, such as carsales.com.au, Gumtree, Cars Guide, Drive and Autotrader. An example of comparisons available through aggregators is at **Figure 23** below. This means consumers are able to compare prices and deals, thereby assisting in price discovery and easily identify and buy vehicles from other sellers where new vehicles prices are too high at a particular dealership site. It also assists customers in negotiating with dealers for better prices or terms.

⁷⁰ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 35.

Figure 23: Example of price comparison for new vehicles available on Carsales.com.au

The figure displays four screenshots of car listings from Carsales.com.au, arranged in a 2x2 grid. Each listing includes a car image, specifications, price, and a 'Contact Consultant' button.

Model	Price (From)	Transmission	Engine	Colour
2019 Toyota Camry Ascent Auto	\$34,532	Automatic	4cyl 2.5L Petrol	Frosted White
2019 Toyota Camry Ascent Auto	\$32,240	Automatic	4cyl 2.5L Petrol	Steel Blonde
2019 Toyota Camry Ascent Auto	\$34,082	Automatic	4cyl 2.5L Petrol	Glacier White
2018 Toyota Camry Ascent Auto	\$31,790	Automatic	4cyl 2.5L Petrol	Glacier White

Dynamic aspects of competition resulting in expanded choice for customers and greater ability to discover information

The market for new vehicles has been subject to significant disruption in recent years due to the rise of various digital platforms and new innovative offerings which take advantage of those advances. As a result, customers have been presented with an abundance of options both in choosing a vehicle to purchase, and also in transport.

Advances in technology have created significant opportunities for dealers to capitalise on a changed automotive industry and experiment with new ways of doing business. As discussed above in Question 5, customers have significant buying power in this market due to the degree that new vehicles can be substituted by used vehicles and by other forms of transport, including increasingly by ridesharing services and carsharing services which continue to grow rapidly. Customers are also able to respond to any price increase of new vehicles by dealers by purchasing a used vehicle of similar, if not the same, make and model, and from private sellers or independent dealerships.

Also, as indicated above in this section, the availability of aggregator sites such as carsales.com.au, Gumtree, Cars Guide, Drive and Autotrader have made more sellers, including private sellers, significantly more accessible and made comparing prices much easier in recent years. This accessibility of information means that consumers are better able to navigate and negotiate new car purchases, and as a result new car retailers must keep their pricing competitive.

There is also a degree of substitutability by other transport means as an alternative to traditional car ownership, including car leasing as well as the growth of ridesharing services in recent years and car share networks such as Go Get, as well as car subscription services. The ACCC referenced the rapid increase of carsharing services in its *New Car Retailing Industry Report*.⁷¹

Australian consumers are increasingly being offered access to carsharing services which allow them to use a car without buying and maintaining their own vehicle. Carsharing services offer an alternative model to traditional car ownership whereby consumers pay (through a combination of flat membership fees and usage charges) to access cars stationed near to where they live. The

⁷¹ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), p33.

carsharing service owns, insures, services and maintains fleets of cars, typically in densely populated urban areas. Industry analysts estimated there are currently 18 carsharing services operating Australia and generating an estimated \$84 million in revenues over 2016–17 with average annual growth rates of more than 20 per cent over the last five years. It is estimated that global revenue from carsharing will increase from \$30 billion in 2017 to \$1.5 trillion by 2030.

The likelihood of entry and expansion by potential and existing competitors

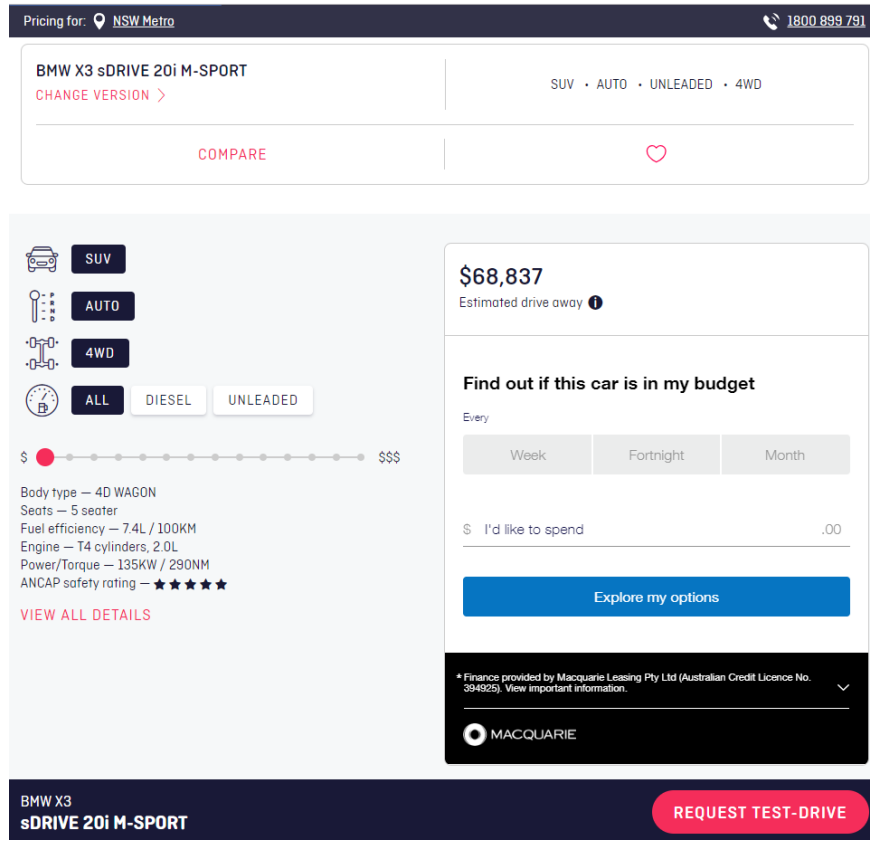
There is also scope for new entry, and expansion by existing competitors. Expansion of existing dealerships could be through measures to increase sales capacity and volumes. This can occur, for example, by renovating existing dealership premises to expand the physical capacity for display vehicles at the site. There is also a gradual shift occurring in the types of real estate that dealers are targeting within their PMAs. Rather than just focusing on the traditional suburban 'glass box' dealership styles of sites, AP Eagers anticipates that in the future cars will tend to be sold from stores located in shopping centres.

Some new entrants are using new business models. For example, Macquarie Bank, through a platform called **MotoMe**, has created a digital platform coupled with a physical presence in suburban shopping centres that may be aimed at disrupting the dealership business model. Through its Macquarie Leasing arm (which provides car finance), Macquarie initially launched the MotoMe website in 2016, followed by establishing a retail store in late 2018. Neither Macquarie (or Macquarie Leasing) nor MotoMe is an authorised dealer. The website aggregates a number of services, some of which are usually provided by car comparison sites, and others traditionally by authorised dealers. These services include:

- choosing a car through comparison or by asking for a tailored suggestion – the site aggregates information from across car dealerships and OEMs nationwide;
- arranging test drives;
- negotiating the price;
- organising payment – either upfront or as a lease (through Macquarie Leasing); and
- organising delivery.

The screenshots in **Figure 24** below provide examples of some of these services as displayed on the MotoMe website (at www.motome.com.au). The screenshot shows that finance is provided by Macquarie Leasing and bears the Macquarie branding.

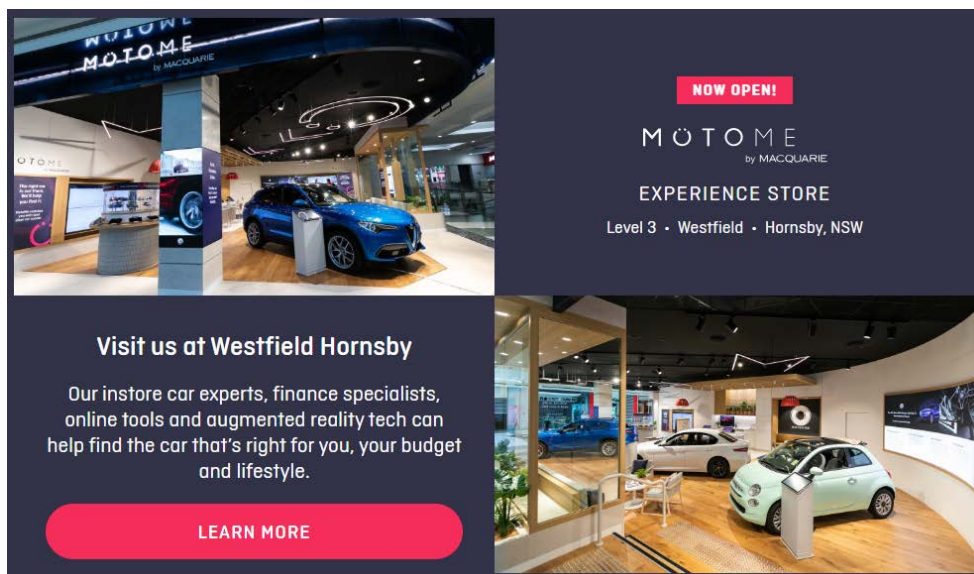
Figure 24: Screenshots of the MotoMe website



In November 2018, MotoMe expanded its consumer-facing offering by opening a store in the Westfield Hornsby shopping centre where customers can access advice on cars to buy, obtain qualified finance and then be connected with car dealers to buy a car. The store operates together with the **MotoMe.com.au** website.

Figure 25 below contains a screenshot from the MotoMe website of advertising for the physical MotoMe store located in Westfield Hornsby (a suburb of Sydney).

Figure 25: MotoMe Store in Westfield, Hornsby, Sydney, NSW



While the MotoMe.com.au website could, in some ways, be considered by consumers as similar to car comparison websites, the Hornsby retail offering likely places MotoMe (in the consumer's eye) as a viable alternative to a car dealership, providing a recent example of entry by a potential competitor.

While it sources cars from authorised dealers, its storefront and ability to negotiate on behalf of customers positions it as a competitor to dealers. Interestingly, a similar proposition to MotoMe could not be replicated by authorised dealers. This is because dealership agreements prohibit an authorised dealer from establishing any physical facilities outside of their designated PMAs. However, it would be possible for the OEM to establish a brick-and-mortar presence or shop-front like MotoMe in a suburban shopping area, as Tesla has done throughout Australia, with its 'stores' or 'galleries' in major Australian cities (including major shopping promenades such as Martin Place in Sydney, NSW, and Chadstone Shopping Centre in Melbourne, Victoria).

C. Competition assessment of the wholesale and retail supply of used vehicles

C.1 Product and geographic market

AP Eagers does not consider that the supply of used vehicles constitutes a separate and relevant product market. However, for the purposes of assisting the ACCC's review, AP Eagers is providing information in relation to the supply of used cars. AP Eagers considers that the market for supply of used vehicles is national in scope as supply and demand for used cars comes from all over the country from a range of buyers, including private individuals, dealerships, used car yards, and auction houses. There are a range of sellers as dealerships, used car yards, and auction houses, and many are able to deliver used cars to consumers regardless of where they are in Australia.⁷² For example, various used car retailers in Tasmania and Northern Territory regularly make purchases of used cars from interstate to fulfil demand for used cars in those areas.

C.2 Competition analysis

The Proposed Transaction will not result in any substantial lessening of competition for a number of reasons:

- **Low combined market shares:** AP Eagers estimates its share of the supply of used cars (retailing and wholesaling) to be 1.47%.⁷³ Assuming AHG has a similarly low market share, AP Eagers estimates that the parties combined will have a combined share of roughly 3.4%. In any case, any sale of used vehicles is generally done at the dealership level, which means the merged entity will not be able to foreclose any supply in relation to other participants in the market.
- **Large number of competitors and rise of digital platforms:** There are a number of large national auction houses including Manheim Auctions, Pickles, Shannons, Lloyds Auctions, Grays Online and Slattery Auctions which will continue to buy and sell used vehicles in competition with the merged entity. While AP Eagers owns a shareholding in Manheim Auctions through its 7.7% shareholding in Cox Automotive Australia, the resulting shareholding in Manheim Auctions is trivial and AP Eagers has no special veto powers associated with its shareholding.

The post-merger entity will still face significant competition not only from independent used car dealers and other corporate sellers, but also in large part from private sellers which greatly broadens the number of competitors. The AADA's submission to the

⁷² See, eg, Car City <<https://www.carcity.com.au/our-dealers>> and Mid North Motor Co <<https://www.midnorthmotorco.com.au/used-vehicles/>> which can deliver to consumers.

⁷³ Given there is no exact data on used car sales, AP Eagers has based its estimates on an assumed used car sales volume of 3,000,000 as provided in Manheim, *2015 Used Car Market Report: Looking Back, Driving Forward* (2015), page 87.

ACCC's *New Car Retailing Industry Report* states that an Automotive Holdings study found that 'private to private' sales of used cars accounted for around 42% of all used cars sold nationally, and this proportion was growing annually due to the rise of non-dealer internet platforms such as Carsales, Gumtree and Facebook.⁷⁴ Examples of used vehicles available on Carsales, Gumtree and Facebook are provided at **Figure 26** to **Figure 28** below.

⁷⁴ Australian Automotive Dealer Association, *AADA submission to ACCC New Car Retailing Industry Market Study* (21 November 2016) pages 12-13 <<https://www.aada.asn.au/wp-content/uploads/2018/03/AADA-Submission-to-ACCC-New-Car-Retailing-Industry-Market-Study.pdf>>.

Figure 26: Example of used cars available on Carsales.com.au

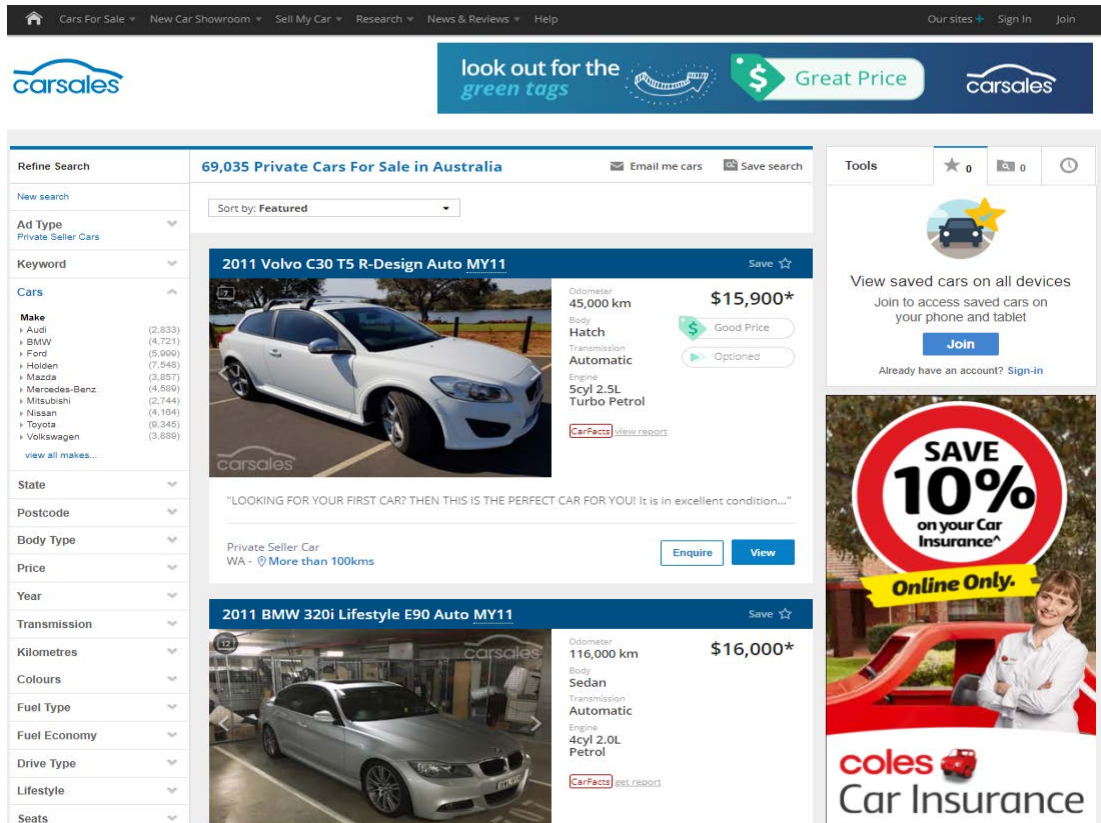


Figure 27: Example of used cars available on Gumtree

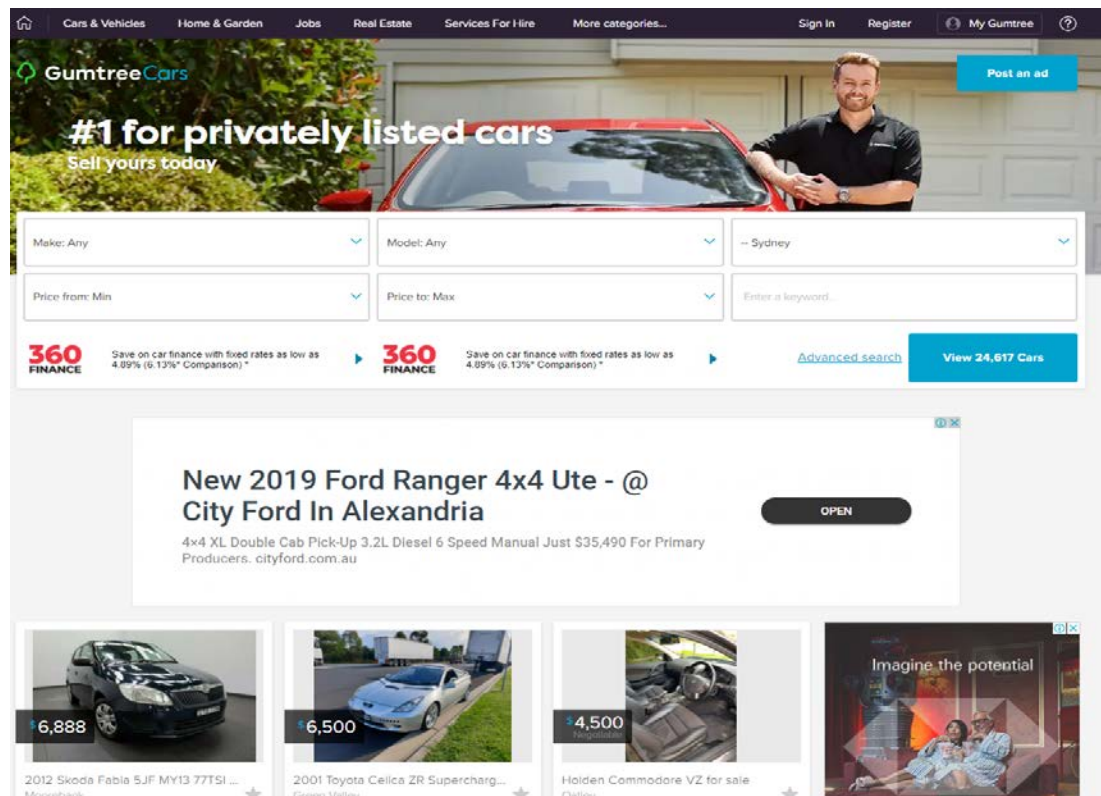
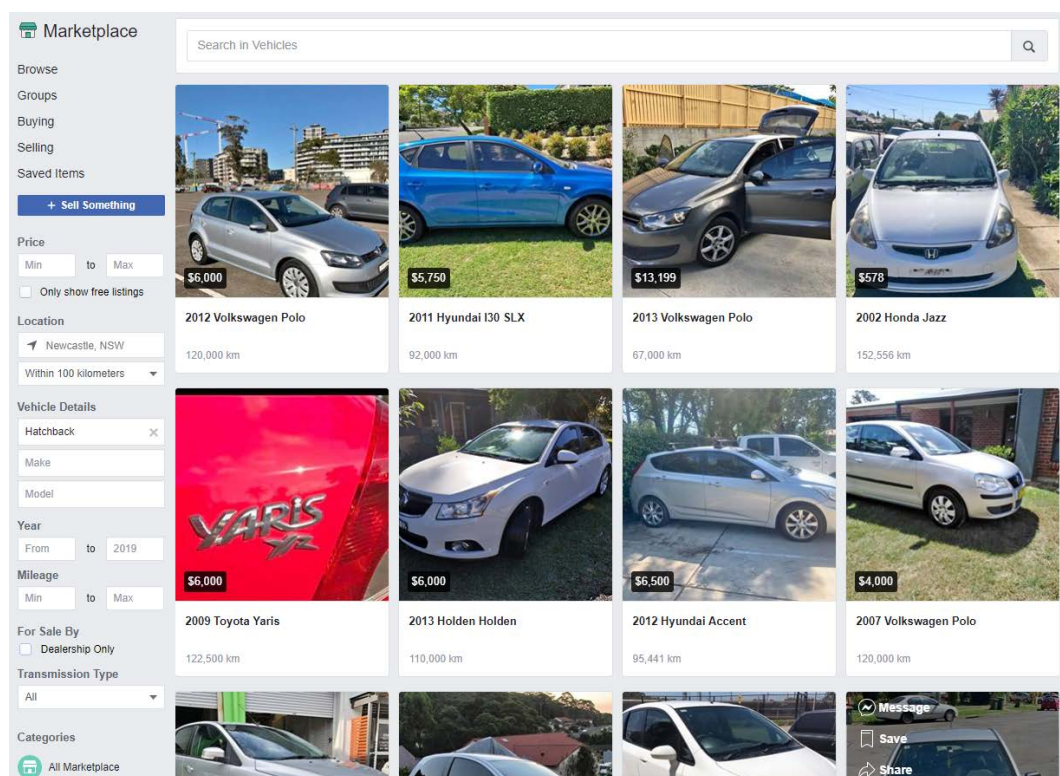


Figure 28: Example of used cars available on Facebook marketplace



- **Availability of information to consumers:** Car advertising platforms and auction houses, which specifically facilitate the sale of used cars, make it easier for customers to compare and shop around which will necessarily limit any ability of a used car retailer to increase prices.
- **Low barriers to entry and likelihood of new entrants:** There is no requirement for a 'dealer agreement' for anyone looking to sell used cars. Accordingly, there are very low barriers to entry, and similarly private sellers do not need any licence to sell a used car to another private party for one off sales. Indeed, this has been key to the rise of private to private sales in the market.
- **Substitutability of other transport options:** As with new cars, there are a number of transport options available, ie, bus, train, ferry, and taxis, which will always put downward pressure on demand for car ownership.
- **Dynamic aspects of competition:** In addition to the growth of online platforms, the rapid growth in mobility options for consumers such as carsharing and ridesharing platforms as discussed above also impacts on used car sales. There is also room for disruption to the traditional channels through which used cars are sold.
- **Downward pressure from new car retailing market:** Just as used cars influence prices of new cars, the prices of new cars act as a limit on used car prices as used car prices must take into account the current condition of the vehicle and will inevitably be compared to the price of a new car of that (or a similar) make and model with the same features.
- **Greater opportunities for customers to negotiate:** Because used cars vary considerably by condition and mileage, there is greater opportunity for a customer to negotiate the price of a used car to reflect the value the customer places on these factors. Accordingly there is a considerable degree of variation in prices of used cars even between cars of the same model, year and make.

D. Competition assessment of the retail supply of new and used commercial vehicles

D.1 Product and geographic market

AP Eagers considers that the retail supply of new and used commercial vehicles forms part of the market for the supply of all new and used cars and that this is national in scope. This is because these vehicles are all supplied from the same dealerships and because there is a considerable degree of supply side substitutability between all kinds of commercial and non-commercial ('passenger') vehicles. As outlined above, however, to assist the ACCC's review AP Eagers is providing information on the retail supply of new and used commercial vehicles in Australia.

In relation to commercial vehicles in particular, AP Eagers considers the relevant geographic dimension is national is because customers of commercial vehicles tend to be business owner / operators which have specific requirements for their vehicles that are business-critical, eg, refrigerated logistics require trucks with temperature control. Such bespoke used vehicles cannot necessarily be located in any specific regional or even State-based area, and so prospective customers regularly conduct their search on a national basis to find appropriate used commercial vehicles.

D.2 Competition analysis

The Proposed Transaction will not result in any substantial lessening of competition for a number of reasons:

- **Large number of competitors:** As with new car retailing, the post-merger entity will face competition from a large number of competitors, despite common ownership. As with new car dealerships, truck and bus dealerships are subject to similar KPIs in their dealer agreements with manufacturers which means that maximising sales is necessary for the dealership to retain its dealership agreement. Furthermore, there are also used truck yards which compete with authorised dealers in the supply of commercial vehicles and will remain independent post-merger.
- **Significant countervailing power of customers:** Given that businesses, governments and corporations are the main buyers, they will be able to choose from any dealer across Australia. This again reinforces the fact that there will be a number of dealers across Australia that will constrain any market power that the post-merger entity could be said to have. Since the value of commercial vehicles to businesses and the significant financial outlay they represent, government and business customers have a strong incentive to drive a hard bargain to secure the best possible price. Commercial vehicle customers will also consult a number of dealers from a wide geographic area prior to ultimately deciding to purchase the vehicle. Commercial customers can also utilise the services of fleet or vehicle broking services.
- **Modest barriers to entry:** AP Eagers submits that the number of small independent dealers in the commercial vehicle space which operate only one dealership is evidence that there are relatively modest barriers to entry into the market. Again, the barrier for new entrants would be to acquire a dealership agreement with a manufacturer. Otherwise, the costs associated with entry include finding suitable real estate on which to operate the dealership and any equity requirements stipulated by OEMs.

E. Competition assessment of the supply of car repairs and servicing

E.1 Introduction

As with car retailing, the parties only have limited overlaps for OEM brands where both parties operate dealerships. In the Newcastle region, the parties only overlap in relation to the supply of car repairs and servicing for three OEMs, and in the Brisbane region the parties only overlap in relation to four OEMs (see maps at **Annex 10.2.1** and **Annex 10.2.2**).

However, no substantial lessening of competition will result from the Proposed Transaction for the following reasons:

- there are a large number of competitors, given that the market includes not only repairs and services from other authorised dealers, but also independent service and repair providers, eg, Kmart Tyre & Auto Service, Midas Australia, Ultra Tune, and Lube Mobile;
- the competitive constraint imposed by independent businesses will be further increased by new legislation being introduced this year to ensure even more accessibility of technical repair information to all repair and servicing providers;
- the price of repairs and servicing is capped by a number of OEMs. This is an effort by OEMs to combat the consumer perception created by fierce competition from independent repair and servicing providers that independent service providers provide cheaper services than authorised dealers;
- the likelihood of entry and expansion by independent repair and service providers which are not linked to any specific OEMs. There are low barriers to entry particularly for independent repair and servicing providers because they are not required to invest the same amount of capital required of an authorised dealership to provide a certain level of customer experience;
- it is noteworthy that the new car franchise market is generally limited to servicing vehicles of the brand the dealership represents, whilst aftermarket competitors are able to market to and service all makes and models of vehicles which provides them with a substantially larger opportunity. Dealers are not legally limited in this way, but due to the nature of being OEM specific a new car franchise service department has extremely limited ability to market to other make of vehicle owners; and
- the fast-paced and imminent advances in technology are disrupting the current market for repair and service providers – as more electric and automated cars are introduced into the market, the nature of repairs and services for these vehicles will similarly need to adapt and all providers will need to stay competitive in order to meet consumer needs. For instance, the increasing introduction of electric cars could lead to less demand for repairs generally, which means providers must keep their pricing competitive to continue to attract available business.

E.2 Product and geographic market

As outlined above, AP Eagers and AHG are both active in the supply of servicing and repairs of vehicles. AP Eagers notes that it is unable to profit from consumers in respect of repairs to vehicles which are covered by the manufacturer's warranty as consumers do not pay for such repairs. Instead, AP Eagers is compensated at a set rate by OEMs. Such repairs can often actually cost authorised dealerships money, especially if a lengthy repair is required by a skilled technician, where an OEM has set a standard repair time (**SRT**) where it may only compensate a certain amount of time for each repair.

AP Eagers considers that the market for the supply of servicing and repair services is broadly national or State-based and cannot be confined to narrow population centres.

E.3 Competition analysis

AP Eagers estimates its share of the supply of repairs and servicing to be 2.1%. Assuming AHG has a similarly low market share, AP Eagers estimates that the parties combined will have an estimated share of less than 5%.

Large number of competitors, and access to information by all competitors

Consumers are able to have their cars repaired and serviced at any authorised dealer for that brand of car, or any independent repair or service provider. Looking at the Newcastle and Brisbane regions in particular, searches for authorised dealers and independent repair and service providers in the White Pages found 214 results in the Newcastle region, and 819 results in the Brisbane region. These providers are listed for each region at **Annex 10.6**.

(a) Competition from all authorised dealerships, regardless of ownership

For consumers who wish to have their car serviced by the authorised dealer for the brand of car that they own, post-Transaction there will remain considerable choice for consumers of overlapping brands. That is, owners of overlapping OEM cars will still be able to have their cars serviced and repaired at alternative authorised dealers that will remain independent post-Transaction.

Furthermore, as described above in relation to new car sales, despite the fact that the AP Eagers and AHG dealers will be under common ownership, the prevailing terms of the applicable dealer agreements will continue to provide incentives for AP Eagers and AHG dealers to compete with one another.

(b) Strong competition from independent repair and service providers due to significantly lower operating costs

While some consumers use authorised dealers for repair work and servicing, they also have available to them independent repairs and service providers, such as Kmart Tyre & Auto Service, Midas Australia, Ultra Tune, Lube Mobile. Accordingly, the post-merged entity will still be constrained by a number of existing competitors in the region, including independent service providers.

Authorised dealers find that the proportion of new vehicle owners which attend authorised dealers for repairs and servicing 'decays' over time, to roughly 70% of consumers not seeking repairs and servicing from an authorised dealer by the fifth year of ownership. Even in the first and second years after purchasing a vehicle, a relatively high proportion of customers (for some dealers roughly 30%) do not return to the authorised selling dealer for servicing.

Moreover, the high capital costs and investment required for OEM dealerships create high fixed costs that apply to dealerships, but not to independent repair and service providers. Authorised dealers are generally contractually required to make other capital investments in their dealerships in the supply of repair and servicing that independent repair and service providers do not, which means independent businesses necessarily have a competitive edge against authorised dealerships. Such costs include:

- investing in loan cars so that they are available to consumers while having their vehicles serviced;
- high cost facilities that must comply with global OEM corporate identity standards, for example, a customer lounge with a range of facilities available; a minimum number of workshop bays required; minimum size requirements for customer parking etc;

- a customer lounge for consumers to wait for their vehicles to be repaired or serviced, which requires higher property costs (leasing or upfront capital investment as well as building out the lounge to meet OEM branding requirements); and
- minimum levels of training for staff, including in respect of repairs and servicing.

OEMs are able to impose such constraints not only through specific terms of dealership agreements but by also making certain bonus payments conditional on customer satisfaction surveys. Such operational costs cannot be neatly allocated to each business division. As such, the price for repairs and servicing covers the operational costs of the dealership as a whole, reflecting the significant levels of discounting offered by authorised dealers when selling cars.

(c) Strong competition from independent repair and service providers especially in light of mandatory information sharing scheme

The constraint imposed by independent repair and service providers will also be strengthened within this year by the government's proposed '*Mandatory scheme for the sharing of motor vehicle service and repair information*' (the **Code**).

The Code has been introduced by the Federal Government, to be implemented in 2019, and will reduce any perceived barriers to entry or limits to competition with respect to independent service and repair providers. On 12 February 2019, the government released the draft Code for consultation following the ACCC's recommendation in its *New Car Retailing Industry Report*.⁷⁵ The Code is intended to supersede the current *Agreement on Access to Service and Repair Information for Motor Vehicles (Heads of Agreement)* which was signed by peak industry associations representing manufacturers and independent repairers in 2014. The Heads of Agreement sets out several principles designed to ensure fair access to repair information and safe and professional repair of vehicles.

The Code will apply to new passenger and light goods vehicles, and will require manufacturers to make the diagnostic, repair and servicing information and tools that it makes available to its authorised dealers also available for purchase by 'suitable purchasers'. Such purchasers would not be limited to businesses (eg, repairers and data aggregators), but would also include individuals and vehicle owners. There are also several industry association groups which have already commented on the Code, and will ensure that the Code addresses any residual concerns about access to technical information.

The imminent implementation of the Code means that there will be ongoing competitive constraints on the merged entity. The AADA has expressed their support for the Code and welcomed the opportunity to participate in the consultation process, noting the importance of a strong independent repairer network to address the difficulties associated with maintaining an entire vehicle fleet.⁷⁶

Influence of OEMs on pricing and quality of servicing and repairs provided to consumers

The price of repairs and servicing is capped by a number of OEMs, which means that dealers are substantially limited in their ability to raise prices, including following the Proposed Transaction. The way in which servicing costs are capped varies between OEMs, but in general OEMs will provide a capped cost for scheduled services of vehicles on their websites which consumers can look up and quote to authorised dealers.⁷⁷

⁷⁵ Treasury, *Mandatory scheme for the sharing of motor vehicle service and repair information* (Consultation Paper, February 2019) <<https://treasury.gov.au/sites/default/files/2019-03/c2019-t358022-consultation-paper-2.pdf>>.

⁷⁶ Australian Automotive Dealer Association, *AADA Welcomes Consultation on Sharing of Repair Information* (12 February 2019). Available at <<https://www.aada.asn.au/media-releases/2019/02/12/aada-welcomes-consultation-on-sharing-of-repair-information/>>.

⁷⁷ See, for example, Honda's Service Price Guide website <<https://www.honda.com.au/owners/servicing/service-price-guide.html>> and Mazda's Service Calculator website <<https://www.mazda.com.au/owners/servicing/owners-service-calculator/>> which each show capped prices for servicing.

The effect of these measures means that authorised dealers can discount their prices but are not able to charge more than the price provided by the relevant OEMs.

OEMs have implemented such measures to combat the widespread perception among consumers that the cost of servicing and repairs at authorised dealerships are more expensive than at independent servicers. That is, the competition from independent repair and servicing providers is so strong that OEMs have implemented capped cost pricing and servicing to convince customers that authorised dealers can and do provide just as competitive services as independent repairers.

The 2017 Glenn Mercer report provides that in the US and in Europe, independent repair and service providers will grow their dominance, particularly in the ever-expanding fleet of out-of-warranty cars, so that in a few years they will hold two thirds of the market (versus one third now). AP Eagers estimates that there is a similar share of service and repairs services in Australia.

Capped price servicing offers are not only limited to new vehicles, but can also be applied to used vehicles purchased at an authorised dealership. For instance, AP Eagers' used car business, Carzoos, offers some fixed price servicing packages in the various warranty packages available to purchase when a customer purchases a new car (see the terms and conditions provided at **Annex 10.7**).

The likelihood of entry and expansion

AP Eagers submits that there are low barriers to entry for independent repair and service providers given that such independent business will not be linked to any specific OEMs. As discussed above, independent providers would not be required to invest the same amount of capital required of an authorised dealership to provide a certain level of customer experience.

AP Eagers further submits that any perceived barriers to entry that currently exist will be reduced by the introduction of the Code later this year, increasing the potential for new entrants to participate in this market.

Disruptive technology forces

As discussed above, continuing innovations in relation to electric and autonomous cars will impact on and disrupt the automotive industry over the next decade, and the nature of repairs and services for vehicles will similarly need to adapt. That is, the increasing introduction of electric and semi-automated cars could lead to less demand for repairs generally, which means providers must keep their pricing competitive to continue to attract available business.

For instance, the ACCC noted in its *New Car Retailing Industry Report* that fully autonomous (driverless) cars are expected to be commonly available within a few years.⁷⁸ While the ACCC referenced the potential impact of autonomous cars being lower collision rates and therefore disruptive to crash repairs, the 2017 report by Glenn Mercer suggests that there will also be impacts felt in servicing work generally. In Europe, there has been a trend of service work declining due to the number of stable units in operation, greater vehicle reliability, longer service intervals, and lower annual driving distances. The report expects the trend to be intensified through the 2020s due to the reduced service work required for EVs and hybrids, in addition to lower crash repair as autonomous technologies are introduced.⁷⁹ These trends are similarly applicable in an Australian context.

Indeed, there is significant uncertainty about the role dealers will play in servicing AVs, due to the highly computerised nature of AVs. Until one of the current AV developers (eg, Alphabet/Google's

⁷⁸ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 33.

⁷⁹ Glenn Mercer, *The Dealership of Tomorrow: 2025 – Retail automotive trends for the next decade, An independent study by Glenn Mercer, GM Automotive LLC prepared for the National Automotive Dealers Association* (January 2017), page 25.

Waymo) fully commercialises its AV products, it is unclear how dealers will even access information about the software used by AVs in order to service them. The possibilities range from dealers being completely pushed out of servicing AVs (because eg, they are outsourced to specialist workshops or the manufacturer through software upgrades) to dealers playing an integral role, and training specialist technicians, in the servicing of AVs. There is likely to be a large scope for servicing AVs because they are expected to be used more frequently than ICE vehicles (because it is easier to use an AV). If dealers are able to capture some of the servicing work for AVs, it may generate higher revenues (as compared to existing servicing revenues from ICE vehicles), due to the advanced technology in an AV.

Also as discussed above, the sale of EVs is expected to rise over the next few years, with the Labor Party indicating that if it is elected to government it will be considering how to increase such sales as part of its energy policy (as outlined above). While increased sales of EVs are unlikely to fundamentally change dealership sales volumes over the next ten years, dealers will increasingly need to adjust the way they manage and operate their businesses to address the disruption caused by EVs. In particular, dealers will simultaneously have to grapple with a:

- decline in motor vehicle servicing operations due to the lower maintenance and servicing requirements with servicing EVs; and
- need for more specialised and technical training and qualification requirements for technicians servicing of EVs.

It is likely that the effects of new and emerging technological advances in the automotive space will be particularly felt by authorised dealers. As AADA highlighted in its submission to the Select Committee on Electric Vehicles, and as discussed above, authorised dealers provide servicing and repairs in a high cost environment given significant pressures from OEMs to make substantial investments not only in ensuring customer satisfaction but also in properly training their staff:

'the emergence of EVs will necessitate significant changes in skills and training requirements which will be needed to service and maintain an increasingly electrified fleet ... New car Dealers are contractually obliged to have appropriately trained workshop staff working on state-of-the-art vehicles. They commit significant investment to training of their staff and are a major employer of apprentices.

This is despite an absence of any licensing or qualification requirements in five of the seven States and Territories, which means that independent service and repair providers are not subject to the same costs.

F. Competition assessment of the supply of financial products

F.1 Product and geographic market

Vehicle financing products sold by the parties form part of the broader finance industry where there are multiple products available for private and commercial customers to access secured and unsecured finance to purchase a vehicle, including products such as personal loans, unsecured credit, credit secured against other assets, leasing etc The parties supply such products through two distribution channels, namely:

- the point-of-sale (**POS**) finance channel, where dealerships act as agent for the financier in arranging the finance contract between the finance provider and the customer; and
- the financial brokerage channel, where the parties operate financial brokerage businesses which have recourse to a larger range of financial products to offer consumers.

In relation to POS finance in particular, car financing has recently undergone a great deal of change, since ASIC banned 'flex commissions' and dealerships are now paid set commissions for selling financial products to customers. Rates are set by the financier on the basis of a customer's particular circumstances. The dealership only has discretion to reduce the rate (as opposed to increasing the rate). Finance providers may also sell vehicle financing products directly to consumers and businesses.

AP Eagers considers that the market for finance loans is national. This is because:

- financing does not involve the customer receiving a physical item and therefore buyers can transact with effectively all vendors regardless of proximity;
- the financial products provided to consumers through AP Eagers and AHG are substantially the same as any other loan regardless of distribution channel, ie, whether offered by a dealership, other participants in the motor vehicle industry (eg, NRMA), sourced by a finance broker, or obtained directly through a general financial institution, such as banks and specialist lenders and third party finance brokers; and
- as such, customers are able to research and purchase financial products over the internet from many different providers, rather than being limited to any particular geographical area. The reach that customers are afforded in particular by the ability to purchase products over the internet or over the phone means that the market for financial products extends across Australia.

This is consistent with previous consideration by the ACCC of the supply of financial products in the context of Commonwealth Bank of Australia's proposed acquisition of a 33% share in AHL Investments Pty Ltd. The ACCC relevantly considered that the transaction involved a national market for the supply of personal loans.⁸⁰

F.2 Competition analysis

AP Eagers submits that the proposed transaction will not have the effect or likely effect of substantially lessening competition with respect to car financing given the breadth of competitors in the market and the lack of geographical limitation in the vehicle financing area. In particular:

- **Low market shares:** The parties each have relatively low shares of supply, and AP Eagers has calculated its market share as 2.5% and estimated that AHG's market share is 3.5%.
- **Large number of competitors providing effective constraints:** The market for financing products is very broad and involves many significant competitors that are not involved in the motor vehicle industry. As discussed above, the financial products provided to consumers through AP Eagers and AHG are substantially the same as any other loan regardless of distribution channel, ie, whether offered by a dealership, other participants in the motor vehicle industry (eg, NRMA), sourced by a finance broker, or obtained directly through a general financial institution, such as banks and specialist lenders. This means that any financial products offered by AP Eagers or AHG are subject to strong competition from products supplied by other providers, where financial products are their primary business focus (as opposed to AP Eagers and AHG where financial products are supplied as an addition to the primary sale of vehicles). Furthermore, while AHG and AP Eagers both have small financial broking services available to customers,

⁸⁰ ACCC, *Commonwealth Bank of Australia – proposed acquisition of a 33 per cent share in AHL Investments Pty Ltd* <<https://www.accc.gov.au/public-registers/mergers-registers/public-informal-merger-reviews/commonwealth-bank-of-australia-proposed-acquisition-of-a-33-per-cent-share-in-ahl-investments-pty-ltd>>; ACCC, *Proposed merger between Bendigo Bank Limited and Adelaide Bank Limited* <<https://www.accc.gov.au/public-registers/mergers-registers/public-informal-merger-reviews/proposed-merger-between-bendigo-bank-limited-and-adelaide-bank-limited>>.

the market is dominated by companies specialising in vehicle finance broking.⁸¹ Given the insignificant presence of both AHG and AP Eagers (AHG only operates one finance broking business in Brisbane, while AP Eagers has in total four employed brokers under two brands) and the existence of specialist companies, the merged entity will continue to be constrained by its competitors.

- **Manufacturers have an interest in ensuring financing products remain competitive:**

In the ACCC's informal review of Macquarie Bank's proposed acquisition of Esanda Dealer Finance the following observation was made:

'the ACCC noted that vehicle manufacturers (OEMs) without their own finance arms (such as GM Holden, Ford and Mazda) have a strong incentive to ensure that their dealers remain competitive with other OEMs' dealers, and may intervene if they perceived that increased finance costs were affecting sales of their vehicles.'

The implication of this view is that car manufacturers have an interest in ensuring that vehicle financing is competitive. Accordingly, the manufacturers and their interests represent an additional competitive constraint on vehicle financing.

- **Parties only acting as agents in POS finance:** The parties only act as agents in providing point-of-sale financial products to consumers from third parties, and do not currently offer any of their own branded financial products through any dealerships. While AP Eagers and AHG are confined to selling POS financial products to customers who buy vehicles at their dealerships, customers are not similarly constrained in their ability to look for financing alternatives outside of the dealership context. As discussed throughout this section, this gives consumers a wide range of choice that will not be reduced by any change in ownership by AHG dealerships.
- **Ban on flex commissions in POS finance:** On 1 November 2018 ASIC banned flex commissions, removing commissions earned by dealerships for selling finance products at a higher interest rate than the base rate set by the financier.⁸² The ban on flex commissions means that dealerships are now paid set commission by the financier for sales of the financial product. Prior to the ban, dealerships would be paid commission on the amount by which they could flex the rate up from a base rate set by the financier. Now the rate is entirely set by the financier and the dealership only has a constrained scope to flex down. The impact of the reform to ban flex commissions has moved the distribution of vehicle finance at the point of sale from a high margin area of the business to a service of convenience that a customer can choose to take up in the dealership. Broadly, these changes have led to all dealerships, regardless of ownership, offering customers similar rates set by the financier.
- **Large range of financial products easily accessible:** As described above, customers are able to research and purchase financial products over the internet from many different providers and can then make direct contact with those providers. There are also a number of aggregators and comparison websites which make it simple for consumers to compare a large number of suppliers at one time, eg:
 - RateCity;⁸³
 - Canstar;⁸⁴ and

⁸¹ For example: Stratton Finance, Private Fleet, Auto Car Finance and Carbroker.com.au.

⁸² ASIC Credit (Flexible Credit Cost Arrangements) Instrument 2017/780; Australian Securities and Investments Commission, ASIC ban to improve car finance practices begins (Media Release 18-329MR, 30 October 2018) <<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2018-releases/18-329mr-asic-ban-to-improve-car-finance-practices-begins/>>.

⁸³ RateCity, All Car Loan Companies <<http://www.ratecity.com.au/car-loans/companies>>.

⁸⁴ Canstar, Compare Car Loans <<https://www.canstar.com.au/car-loans>>.

- Finder.⁸⁵

Examples of aggregator and comparison websites for financial products are provided at **Figure 29** to **Figure 31** below.

As such, a consumer's ability to purchase financial products is not geographically limited as they are able to engage with financiers providing vehicle financing across Australia.

Figure 29: Example of financial product comparison available on RateCity website

Company	Product	Advertised Rate	Comparison Rate	Monthly Repayment	Upfront Fee	Loan amount	Total Repayments	Go To Site
Latitude Finance	Car Loan	From 6.99% fixed	8.10%	\$594	\$295	From \$5k	\$35,640	Go to site Compare
Credit Concierge	Car Loan	From 4.99% fixed	6.23%	\$566	\$375	\$10k to \$150k	\$33,960	Go to site Compare
imb	New Car Loan	5.89% fixed	6.24%	\$578	\$250	\$2k to \$75k	\$34,680	Go to site Compare
Stratton Finance	Car Loan	From 5.34% fixed	6.60%	\$571	\$457	\$7.5k to \$150k	\$34,260	Go to site Compare
SCU	New Car Loan	6.45% variable	6.45%	\$586	\$100	\$10k to \$100k	\$35,160	Go to site Compare
Westpac	Car Loan	8.49% fixed	9.67%	\$615	\$250	\$10k to \$100k	\$36,900	Go to site Compare

⁸⁵ Finder, *Car Loan Finder* <<https://finder.com.au/car-loans>>.

Figure 30: Example of financial product comparison available on Canstar website

Comparing Car Loans for New cars [See disclosure & notes](#)

Your search Change

Loan amount: \$20,000
 Loan duration: 3 years
 Age of the car: New
 State: NSW

Search providers

Only show results which link to a lender's website

Yes, only show results with links

Loan Type

Fixed Rate
 Variable Rate

Loan Features

\$0 exit fee
 Pre-Approval available

Star Rating

★★★★★

Company	Star Rating	Advertised rate	Comparison rate *	Monthly repayment	Compare
Sponsored loans.com.au					
Car Loan (New) <ul style="list-style-type: none"> Approval within 24 hours Borrow from \$5K to \$100K, no monthly/on-going fees 3, 4 or 5 year loan term available 	★★★★★	5.44%	6.00%	\$603.38	<input type="checkbox"/>
Queensland Country Credit Union New Car Loan <ul style="list-style-type: none"> 5 star rated by CANSTAR No early repayment fees 1 - 7 year loan term available 	★★★★★	5.99%	6.51%	\$608.35	<input type="checkbox"/>
NRMA Fast Loan - Low Rate - New Car <ul style="list-style-type: none"> Get a loan from a name you can trust No monthly fees & flexible repayment options Fast & easy online application process 	★★★★★	5.99%	6.55%	\$608.35	<input type="checkbox"/>
loans.com.au	★★★★★	5.44%	6.00%	\$603.38	<input type="checkbox"/>
imb BANK Car Loan (up to 2 years old)	★★★★★	5.89%	6.24%	\$607.44	<input type="checkbox"/>
Queensland Country Credit Union New Car Loan	★★★★★	5.99%	6.51%	\$608.35	<input type="checkbox"/>
NRMA Fast Loan - Low Rate - New Car	★★★★★	5.99%	6.55%	\$608.35	<input type="checkbox"/>
Personal Loan Secured	★★★★★	4.00%	7.00%	\$414.00	<input type="checkbox"/>

filtered by: Yes, only show results with links [clear all](#) Sort: Star Rating - Co...

Overview **Features**

Figure 31: Example of financial product comparison available on Finder website

Car loans comparison Updated April 14th, 2019

Loan amount: 30,000 | Loan term: 3 years | Calculate

Name	Interest Rate (p.a.)	Comparison Rate (p.a.)	Min Loan Amount	Loan Term	Application Fee	Monthly Service Fee	Monthly Repayment
Latitude New and Used Car Loan	From 6.99% (fixed)	8.1%	\$5,000	1 to 7 years	\$295	\$10	\$945.28
<p>You'll receive a fixed rate between 6.99% p.a. and 14.99% p.a. based on your risk profile Apply for a loan from \$5,000 to finance a new or used car. Flexible repayments and options to finance a classic car.</p>							
IMB New Car Loan	5.89% (fixed)	6.24%	\$2,000	1 to 7 years	\$250	\$0	\$918.76
<p>You'll receive a fixed rate of 5.89% p.a. A low minimum borrowing amount of \$2,000 that you can use to purchase a new car or one up to two years old.</p>							
Beyond Bank Low Rate Car Loan "Special Offer"	From 5.69% (fixed)	5.97%	\$25,000	1 to 7 years	\$175	\$0	\$913.75
<p>You'll receive a fixed rate of 5.69% p.a. Take advantage of a competitive rate, pre-approval and no early repayment fees when you finance a car under two years old.</p>							
Loans.com.au - New Car Loan							

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G. Competition assessment of the supply of insurance products

G.1 Product and geographic market

AP Eagers considers that the relevant product market is the sale of vehicle insurance products, such as comprehensive vehicle insurance, third party insurance, loan protection insurance and gap insurance. Although the ACCC has previously considered the supply of vehicle insurance products on a State and Territory basis, AP Eagers considers that this is a national market. The key factors in support of the characterisation of the market as national are:

- the customer does not receive a physical item and therefore the product can effectively be sold over the phone or online; a
- the insurers are typically sophisticated entities with a national presence and systems capabilities and are active throughout Australia;⁸⁶ and
- customers are able to research prices available across Australia and purchase products either online or over the phone from anywhere in Australia.

Even on a more narrow view of the relevant product and geographic markets, AP Eagers considers that there are no issues for the reasons outlined below which are equally applicable to all forms of vehicle insurance and in all geographic areas.

⁸⁶ For example: Allianz, Youi, AAMI.

G.2 Competition analysis

AP Eagers submits that the proposed transaction will not have the effect or likely effect of substantially lessening competition with respect to the supply of vehicle insurance products. The reasons in support of this view are as follows:

- **Large number of competitors providing effective constraints:** Customers are able to purchase car insurance products either through dealership distribution channels or directly from insurers. Similar to vehicle financing, insurance products are sold by a large number of competitors which do not only operate within the motor vehicle industry, and instead focus on insurance products generally, eg, NRMA, AAMI, GIO, QBE. Consumers are also able to easily compare a large range of car insurance products through various aggregators, eg, comparethemarket.com.au, iselect.com.au. Accordingly, the competitive landscape is hugely diverse and involves a significant number of participants.
- **Purchase of insurance products not geographically limited:** As with financial products, consumers are able to purchase vehicle insurance from a large range of insurers and distributors over the internet or over the phone – physical proximity is not a limiting factor. As such, consumers are not constrained to a particular geographic location when looking to purchase vehicle insurance.
- **Dealerships are one of a number of distribution channels:** As is the case with vehicle finance products, car dealerships are one of a number of distribution channels used by insurers to sell vehicle insurance. Other distribution channels include online, aggregators and brokers. A dealership providing insurance products at the point of sale is constrained by:
 - other insurers providing comparable products; and
 - the insurer's other distribution channels which sell identical insurance products.

Therefore, a multilayered competitive environment will continue to act as an effective constraint in the area of the supply of vehicle insurance.

AP Eagers therefore does not consider that the proposed transaction will have the effect or likely effect of substantially lessening competition.

H. Competition assessment of the supply of vehicle brokerage services

H.1 Product and geographic market

The relevant market is the supply of vehicle brokerage services to customers, which involves connecting consumers to various sellers of new and used cars.

H.2 Competition analysis

The Proposed Transaction would not have the effect or likely effect of substantially lessening competition because:

- currently, only AP Eagers operates a vehicle brokerage service and it is only a small part of AP Eagers' overall business, having brokered only 718 new cars in 2018. This also means it has a limited impact in the market in general;
- given the availability of information on the internet and how competitive dealerships are generally, the business model of vehicle brokers means that brokers are incentivised to get the best price for their customers otherwise they would not attract any customers. Brokers are incentivised to ask around to ensure that AP dealers also continue to provide the best price possible; and

- AP Eagers' does not provide its own employed vehicle brokers with any additional incentives such as payments or other remuneration if vehicle brokers connect customers to AP Eagers' dealers to purchase a vehicle.

I. Competition assessment of the supply of OEM replacement parts

I.1 Product and geographic market

AP Eagers does not consider it appropriate to segment the market. In the ACCC's review of the proposed acquisition by GPC Asia Pacific Pty Ltd of Covs Parts from AHG in 2015, the ACCC did not segment any further and looked at the supply of automotive parts generally and included both aftermarket and OEM parts.

There are two areas of supply of OEM parts.

- **Wholesale distribution:** Wholesale parts distribution is parts distribution to dealerships within a particular OEM network. OEMs only ever supply replacement parts to dealerships and do not sell directly to retail customers. There are a number of models OEMs use to supply parts to dealerships within their network, these being:
 - the OEM will appoint a particular dealership or dealerships as distributors for a particular region and will not supply parts directly to other dealerships;
 - the OEM will appoint dealerships to distribute parts in a particular region, but all dealerships in the network are also able to purchase parts directly from the OEM; and
 - the OEM will supply parts directly to dealerships itself and will not appoint dealerships as wholesale parts distributors in most regions (this is only the case for Toyota).
- **Retail distribution:** Retail parts distribution is the distribution of OEM parts to customers outside of the dealer network by dealerships. OEMs do not distribute to non-dealer customers. This includes over the counter sales and sales to trade customers.

The supply of parts is national in scope, although for logistical reasons – namely to facilitate the speedy supply of spare parts on an as need basis when they are required by trade customers repairing cars – some suppliers have regional warehousing and distribution facilities. As described below, pricing is generally transparent and competitive.

I.2 Competition analysis

Supply of replacement parts to wholesale customers

AP Eagers submits that the proposed transaction will not have the effect or likely effect of substantially lessening competition with respect to the supply of replacement parts to wholesale customers.

The primary reason that AP Eagers will continue to be constrained in its supply of replacement parts to wholesale customers is the level of control that OEMs have over parts distribution. The OEMs select a model of distribution that they deem is appropriate for their business. If an OEM has elected to distribute parts to its dealership network through appointed dealerships they will enter into an agreement with dealerships to distribute replacement parts to other dealers within the network. As is the case with dealer agreements more broadly, OEMs set prescriptive terms for a dealership running such distribution operations. The OEM will continue to maintain a high level of control in respect of maximum pricing and required service levels. If other dealers within the network are unhappy with the conduct of an appointed distributor they are able to raise concerns with the OEM. The ability of an OEM to revoke the rights to run a wholesale parts

distribution business acts as a powerful constraint to regulate the behaviour of a distributor dealership.

Supply of replacement parts to retail customers

AP Eagers submits that the proposed transaction will not have the effect or likely effect of substantially lessening competition with respect to the supply of replacement parts to retail customers (trade and consumer). There are a number of reasons why AP Eagers is constrained in relation to its supply of replacement parts:

- **OEM parts available from other dealerships:** A retail customer may purchase manufacturer branded parts over the counter from dealerships and aftermarket replacement parts and recycled, reconditioned or salvaged parts are also available from a range of third party sellers.⁸⁷ All dealerships are required to maintain a stock of replacement parts and have the ability to order replacement parts overnight. The availability of parts from multiple dealerships in a region serves to constrain the merged entity from raising prices as those parts are still available from alternative sources.
- **Downward pressure from OEMs:** OEMs also provide regulation as they have an interest in ensuring that customers have a positive experience in the dealership and generally. There is an expectation from each OEM that customers will be provided with parts if they attend a dealership. Each OEM also has a price guide for parts and if a manufacturer were to start raising prices, the OEM would likely intervene. A new vehicle is the second largest purchase made by the average consumer (after real property). For this reason, OEMs look to ensure that that every interaction the customer has with the brand is positive so that the customer is more likely to consider that OEM for their next new car purchase. OEMs also have an interest in ensuring that customers are properly serviced by third party repairers. Given vehicle purchases are such large investments from customers, an OEM would not benefit if its parts were less available from third party repairers than other brands as that would potentially drive consumers from that OEM's vehicles.
- **Substitutable parts available:** IBISWorld's *Motor Vehicle Parts Retailing in Australia* report, notes the constraining effect of alternative sources for the supply of parts, stating: *'the availability of recycled and factory-reconditioned parts, which are cheaper, is projected to constrain revenue growth over the next five years'*.⁸⁸ Additionally, retail customers are able to source replacement parts from third parties such as SuperCheap Auto, Repco and Kmart Automotive. The availability of substitutable replacement parts means that dealerships experience significant external competitive constraints, as will the merged entity, going forward.
- **Parallel importers:** In addition to dealerships, retail customer may source OEM parts in Australia through parallel importers. Parallel importers are not authorised by the relevant OEMs to distribute their parts in Australia, but purchase genuine OEM parts from potentially cheaper overseas markets (eg, Thailand), import those parts to Australia and supply them as a genuine parts competitor in Australia. This allows parallel importers to bypass the authorised Australian distributor and obtain parts for resale at lower prices, which significantly drives OEM replacement prices down. For example, the following parallel importers sell genuine OEM parts into Newcastle: AAA Radiator Specialists, Arthurs Wreckers, Auto Parts Group, Auto Parts Group (All Crash), SSS Auto Parts, ASV Euro Parts, ACM Parts. While some of these parallel importers are located in Sydney,

⁸⁷ ACCC, *New Car Retailing Industry, A market study by the ACCC* (December 2017), page 136.

⁸⁸ Michael Youren, *Motor Vehicle Parts Retailing in Australia* (IBISWorld Industry Report G3921, March 2019) page 4.

they are considered major suppliers of genuine OEM parts in the Newcastle region. In addition, there are some businesses which do not represent AP Eagers' OEM brands in Newcastle, are located outside Newcastle, but offer genuine OEM parts to Newcastle repairers through delivery into the local area. These businesses include: McCarrols Automotive Group, Heartland Motor Group, Cessnock Motor Group and Thomson Auto Group.

- **Intermediary platforms allow for direct comparison and put downward pressure on pricing:** Trade customers use an online system called 'Parts Check' to obtain the most competitive pricing. The platform allows trade customers to request quotes from various suppliers for their required replacement parts (including parallel importers) in order to be able to compare pricing. Software such as PartsCheck is increasingly being utilised by trade customers nationally. Repairers can list the parts they require in PartsCheck and any supplier (be they a supplier of new, genuine, parallel, aftermarket or wreckers' parts) can submit their lowest price to supply those parts in a given amount of time. When the allotted time frame expires, the repairer will select a supplier and receive the parts from the supplier (who could be located anywhere). As a result of software such as Partscheck, a dealer can lose business to suppliers located outside their region who are seeking to rapidly grow sales volumes in the dealer's area, at the expense of better returns. AP Eagers does not currently use the PartsCheck software, however AP Eagers is aware that the software is popular amongst parts suppliers.

J. Competition assessment of the supply of car care products

J.1 Product and geographic market

The product market is car care products which includes accessories such as window tinting, rust protection and fabric protection. AP Eagers submits that the market should not be segmented further as car care products all provide the means for a car owner to protect, look after and customise their vehicle. Given that car care products are available from specialist third parties, the market is highly competitive.

J.2 Competition analysis

AP Eagers submits that the proposed transaction will not have the effect or likely effect of substantially lessening competition with respect to the supply of car care products. AP Eagers' reasons are set out below.

- **Large number of competitors:** Car care products are also provided by numerous third parties and same-brand dealerships in each region.⁸⁹ Given these products are available from specialist third party providers and other dealerships, the merged entity's dealerships will continue to be constrained by other dealerships and specialist service providers.
- **Transparent pricing:** Car care products are purchased to add on to a vehicle. The customer is therefore able to make a decision as to which car care products are suitable for their needs after the sale and conduct separate research. Prices and ranges are typically available online from third parties. On this basis, the merged entity's dealerships will continue to be constrained as alternative services are widely available and pricing can be determined either online or by contacting third parties directly.

⁸⁹ For instance, in the Newcastle region there are a number of third party window tinting services including, Instant Newcastle, Altapac, Intech and Instint Window Tinting.

Acquisition markets

K. Competition assessment of the acquisition of vehicles from manufacturers for sale by dealerships

K.1 Product and geographic market

The relevant market is the acquisition of new vehicles, including both passenger and commercial vehicles, from OEMs for sale by dealerships, and should be considered on a national basis given manufacturers generally operate on a national basis. Although allocation of new vehicles by OEMs is done on a dealership basis (as outlined above in Section 5.6), wholesale prices are set by OEMs on a national basis and dealers are not able to negotiate those prices. OEMs typically will maintain price lists which set out the cost for all new vehicles. Moreover, the same vehicles are made available by OEMs to all their dealerships across Australia, and OEMs make allocations to dealerships with a holistic view of the OEM's nationwide dealer network.

K.2 Competition analysis

There are no issues in the acquisition of new vehicles from manufacturers for sale by dealerships, and should similarly be considered on a national basis given manufacturers generally operate on a national basis.

AP Eagers' percentage share of all new car retail sales by all OEMs in Australia in 2018 was 4.5%. There is no individual OEM for which AP Eagers' sales exceeded 11% of the OEM's total national new car retail sales in 2018.

In particular, as the ACCC found in its *New Car Retailing Industry Report*, there is a significant imbalance in the bargaining power between manufacturers and dealers in favour of the manufacturer. The ACCC found that many dealers had concerns when entering into or renewing dealership agreements as to the one-sided nature of the agreements, and the lack of negotiation that occurs. The ACCC received submissions that some dealers enter into dealership agreements despite holding strong concerns as to the imbalance in the bargaining power between a manufacturer and dealer.

L. Competition assessment of the acquisition of replacement vehicle parts from manufacturers for sale by dealerships

L.1 Product and geographic market

AP Eagers considers that there is a national market for the acquisition of replacement parts. This is because prices are set by OEMs on a national basis and dealers are not able to negotiate those prices. Again, although allocation of replacement parts is done on a dealership basis as outlined above in Section 5.6, the same parts are made available to all dealerships across Australia and OEMs typically will maintain price lists which set out the cost for all replacement parts which will be the same nationally for all dealerships. Replacement parts can also be ordered by dealerships through an online portal. Genuine parts may be sourced directly from OEMs or from other dealerships wholesaling parts within a region.

L.2 Competition analysis

There are no issues in the acquisition of replacement parts from manufacturers for sale by dealerships. AP Eagers submits the following reasons in support of this proposition.

- **OEMs continue to hold bargaining power:** Consistent with franchise agreements more generally, dealerships are limited in their bargaining power by the operation of the dealer agreement. In the context of the overall dynamic between the OEM and dealerships, dealerships must meet terms set in highly prescriptive dealership agreements.

Accordingly, dealerships are unable to apply pressure in the acquisition market as OEMs control the relationship more broadly. Additionally, OEMs have the ability to revoke permission for a dealership to run a larger parts wholesale distribution business. As such, OEMs have control over a vital part of the relationship when it comes to replacement parts. This level of control will continue to effectively constrain the conduct of the merged entity in the acquisition market.

- **Standardised OEM price lists:** As described above, dealerships typically purchase parts from OEMs through an online portal. Prices for parts are shown as the same for all dealerships regardless of ownership. As such, when ordering parts, there is no scope for negotiation with the OEM. The pricing set by the manufacturer applies to all dealerships within a brand and there is no discrimination based on ownership.
- **Broad demand for OEM replacement parts:** Although trade customers are unable to purchase OEM branded parts directly from manufacturers, they still require these parts and will purchase replacement parts on a wholesale basis from dealerships. Despite the purchase of OEM parts from OEMs only being available to dealerships, the acquisition market is far broader as trade customers create significant additional demand. The acquisition market for OEM replacement parts is therefore much larger than the dealerships selling an OEMs vehicles. Given OEMs control which dealerships may operate large scale wholesale parts businesses, they have the ability to influence the volume of parts required by dealerships. For example, an OEM could appoint another dealership to provide large scale parts wholesale services for a region and minimise the volume of parts required by dealerships owned by the merged entity.

M. Competition assessment of the acquisition of bailment and point-of-sale financing from third party financiers

M.1 Introduction

AP Eagers acquires bailment financing from the following providers:

- Toyota Finance
- St George Auto Finance
- Nissan Financial Services
- Mercedes-Benz Financial Services
- Volkswagen Financial Services
- Macquarie Leasing
- Bank of Queensland
- Case New Holland
- Volvo Finance
- BMW Australia Finance Ltd

AP Eagers has no visibility of AHG's bailment financing providers.

Other providers of bailment financing include:

- GE Commercial Corporation (Australia) Pty Ltd
- Paccar Finance (Kenworth product)
- General Motors Finance, which is a new 2019 entrant
- other large banks

AP Eagers estimates that it has approximately \$569 million in bailment finance credit limits. AP Eagers estimates its acquisition of bailment financing for new and used vehicles is just below its share of new car retailing, ie, less than 5.2%, since it acquires less bailment financing for used cars than it does for new cars.

M.2 Product and geographic market

AP Eagers acquires bailment and point-of-sale finance to facilitate the purchase of new vehicles to sell in dealerships and to on-sell onto consumers respectively. AP Eagers considers that the acquisition of bailment finance is national for the following reasons:

- the purchase of bailment and point-of-sale finance does not involve the exchange of a physical item, accordingly agreements can be entered into effectively regardless of proximity
- most suppliers of bailment finance (both manufacturer aligned and non-aligned) are large and complex corporations with a national presence and national system capabilities
- bailment financing is generally negotiated with financiers at a national level, with facilities being arranged for individual dealerships
- bailment and point-of-sale finance are often bundled together

M.3 Competition analysis

AP Eagers submits that the proposed transaction will not have the effect or likely effect of substantially lessening competition with respect to acquisition markets given the geographic scope and sophistication of bailment and point-of-sale finance providers, as well as the effect of the overall business relationship between manufacturers and dealer groups.

- **Bailment and point-of-sale finance providers supply to a national market:** As described above, the bailment and point-of-sale finance services and products are acquired on a national basis. Suppliers of bailment and point-of-sale finance have the ability to provide products to dealerships across the country. Accordingly, such finance providers are selling into a very broad market and are not restricted in their sale of products to a geographic area. This means that the merged entity will have limited additional countervailing or negotiating power as there are no geographic factors which narrow the number of parties with which a financier can transact and supply bailment and point-of-sale finance products.
- **Sophisticated and diverse corporations supplying bailment and point-of-sale finance provide effective constraints:** Entities which supply products into the market for bailment financing are by and large complex and diverse corporations. This means that such financiers will not be impacted by a relatively small consolidation, regardless of whether the financier is a manufacturer aligned or non-aligned provider:
 - **Non-aligned financiers:** Non-aligned financiers are typically active in financing other businesses, with bailment and point-of-sale finance representing a small segment of revenue. An example of this is St George Auto Finance, which is only one small division of Westpac Banking Corporation which has large scale retail and commercial banking operations – bailment and point-of-sale financing is therefore a relatively small aspect of the organisation's business. It is unlikely that consolidation in the acquisition market would impact such large scale financiers as that they continue to be able to transact with other market participants and deal in other, more significant markets.
 - **OEM aligned financiers:** The overall business relationship between manufacturers and dealer groups provides an effective constraint. Manufacturer

aligned financiers typically provide finance only to dealerships which sell their vehicles and therefore dealer groups have a broader relationship to consider in attempting to negotiate any financing arrangements.

All providers of bailment finance fit into the two categories listed above. Accordingly, all suppliers of bailment finance are sophisticated entities and there are no regional market participants involved in this aspect of the motor vehicle industry.

- **Packaging bailment finance with point-of-sale finance:** If a financier supplies bailment finance to a dealership, there is an expectation from the financier that they will be the first choice provider of retail vehicle finance in that dealership. This packaging of retail and bailment finance provides an incentive for dealerships to use OEM-aligned bailment financiers for the following reasons:
 - dealerships will be in-step with all other dealerships of the same brand in relation to campaigns around financing discounts and programs run by an OEM; and
 - acquiring bailment finance from an OEM-aligned financier generally supports the relationship with the OEM. As outlined previously, this is important given the level of control each OEM has over its dealerships

There are a number of OEM aligned financiers which provide finance to most of that brand's dealerships. To ensure that AP Eagers' dealerships are competitive with other dealerships within the same brand, AP Eagers is, in practical terms, required to acquire bailment finance from the respective OEM-aligned financiers. On this basis, the merged entity will continue to be constrained in the acquisition market as the ability to source bailment finance from other financiers is limited.

- **Acquisition diversity:** Dealer groups source financing from a wide array of financiers and do not tend to have a single bailment financier nationally. Packaging retail finance and bailment finance as described in the above paragraph creates a naturally diverse acquisition market as dealer groups are required, in practical terms, to source bailment finance from a number of different finance providers. This means that any increase in dealer group size will not have any effect on the way financing arrangements are negotiated. The natural diversity within the acquisition market for bailment finance will continue to constrain the merged entity's conduct.
- **Global limits for non-aligned financiers:** a further constraint is that non-aligned financiers have global limits on the amount of financing they can provide an entity. Although AP Eagers is not privy to those limits, it is notable that this is a further barrier to prevent the merged entity from consolidating its bailment financing requirements to a single provider.

The proposed merger will not affect the acquisition markets for bailment finance. The market is naturally diverse and dominated by highly sophisticated commercial entities. On this basis, and for the reasons set out in the above points, the merged entity will continue to be constrained in the acquisition market for bailment finance.

N. Competition assessment of the acquisition of car advertising platform services**N.1 Product and geographic market**

The acquisition of car advertising platform services is national in scope. Such providers of car advertising platform services that AP Eagers and AHG have acquired services from include Carsales, Gumtree, Facebook Marketplace, Facebook Buy/Swap/Sell groups, Carsguide and Autotrader and are not constrained by geography.

N.2 Competition analysis

The Proposed Transaction will not have the effect or the likely effect of substantially lessening competition for the following reasons:

- Given the dominance of Carsales as a car advertising platform, dealerships have found little scope to negotiate as Carsales is considered an essential platform on which its vehicles must be listed in order to reach a wider range of consumers. This is despite Carsales generally obtaining a fee of [REDACTED] from each lead generated, ie, each request for contact with the vendor, rather than any successful sale.
- Although the parties hold equity interests in Cox Automotive Australia, which relevantly controls and operates Cox Australia Media Solutions Pty Ltd (trading as Carsguide), and also owns the Autotrader brand, these interests are minor – AP Eagers and AHG hold equity interests of 7.82% and approximately 4.27% respectively. Therefore, even if AP Eagers' and AHG's respective interests are aggregated, this would not enhance the ability of AP Eagers to influence Cox Automotive Australia or its related companies. AP Eagers has no additional veto or other interests that would give it a greater influence over the operations of Cox Automotive Australia, including any shareholders agreement.

6 Public benefits and detriments

Q11. Describe all benefits and detriments to the public likely to result from the proposed acquisition, including those likely to result from any lessening of competition. In addressing the likely benefits of the proposed acquisition, include details of any significant increase in the real value of exports, any significant substitution of domestic products for imported goods, and any other relevant matters that relate to the international competitiveness of any Australian industry. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits and detriments.

As discussed above in response to Question 10, AP Eagers does not consider that the Proposed Transaction will have the effect or the likely effect of substantially lessening competition in any market. AP Eagers and AHG will remain subject to significant competitive constraints for the reasons outlined in the proceedings sections of this application.

However, AP Eagers considers that the Proposed Transaction will deliver a number of benefits, including public benefits, including:

- Productive efficiencies which will improve the prospects of ensuring the ongoing viability of the AP Eagers and AHG businesses to continue to provide products and services to customers, including through a diversified portfolio of motor vehicles, greater geographical portfolio diversification, more financial scale and a more flexible balance sheet. The Proposed Transaction will allow the merged firm to pursue operational and corporate synergies to deliver cost savings and drive performance of dealership businesses through improved benchmarking, thereby delivering enhanced customer services experiences and better outcomes for customers. This will allow the merged group to be better placed to respond to the rapidly evolving motor vehicle retailing market and to pursue future growth opportunities while continuing to deliver competitive prices for the benefit of customers.
- Providing AHG shareholders with the opportunity to:
 - benefit from exposure to AP Eagers' proven management expertise which has delivered a consistent record of profit, dividend and earnings per share growth over the long term;
 - participate in the potential upside associated with AP Eagers' future growth strategy, The Next100, details of which were released to the ASX on 2 April 2019 (see Investor Presentation at **Annex 11.1**); and
 - participate as shareholders in the merged firm with the potential to benefit from the greater scale and long-term prospects of a larger automotive business, while also retaining exposure to AHG.

7 Contact details of relevant market participants

Q12. For each area of overlap, provide contact details (email addresses and phone numbers) for:

- **actual or potential competitors**
- **each party's top 10 to 30 customers (depending on the total number of customers)**
- **each party's top five to ten suppliers (depending on the total number of suppliers)**
- **trade or industry associations in which one or more of the parties are members.**

To the extent that AP Eagers is aware or the information is publicly available, AP Eagers provides the following contact details in **Annex 12**:

- the top five multi-dealer group competitors other than AP Eagers and AHG;
- all other competing dealerships in the Newcastle/Hunter area and Brisbane. While Annex 12 only includes locations for competing dealerships in the Newcastle/Hunter area, AP Eagers considers that dealerships outside the Newcastle/Hunter area compete with all dealerships in the Newcastle/Hunter area (being AP Eagers dealerships, AHG dealerships and those dealerships those listed in Annex 12), including at least dealerships in the Central Coast and Sydney. Note that where a contact person is unknown, the address of the dealer and/ or name of the group is provided;
- all OEMs which have dealership agreements with AP Eagers and AHG for the supply of new cars and OEM replacement parts;
- OEMs for with which neither AP Eagers nor AHG has a supply relationship;
- AP Eagers' suppliers of bailment finance;
- AP Eagers' finance and insurance providers;
- AP Eagers' fleet customers;
- the following trade or industry associations in which one or more of the parties are members:
 - Australian Automotive Dealer Association;
 - Victorian Automobile Chamber of Commerce;
 - Tasmanian Automobile Chamber of Commerce;
 - Motor Traders' Association of NSW;
 - Motor Traders' Association of South Australia;
 - Motor Traders' Association of ACT; and
 - Motor Traders' Association of Northern Territory.

In relation to the trade and industry associations:

- each of AP Eagers and AHG are members of the AADA. The AADA is the peak industry body representing franchised new car dealers in Australia. Martin Ward (CEO and Managing Director of AP Eagers) and John McConnell (Managing Director of AHG) each currently serve on the board of the AADA. The AADA works with the Australian Motor Dealer Council in representing motor vehicle dealers as a collective, organising industry events and developing policy pertaining to dealers; and

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- AP Eagers dealerships are members of the various state and territory motor trades associations and automobile chambers of commerce forming the Motor Trades Association of Australia Limited (*MTAA*).

8 Additional information

Q13. Provide any other information or documents you consider relevant to the ACCC's assessment of the proposed acquisition. This may include proposed conditions to the authorisation.

As requested by the ACCC in its email dated 26 March 2019, AP Eagers provides a copy of AHG's constitution (dated 14 May 2014) at **Annex 13.1**.

AP Eagers notes that the rights and liabilities attaching to ownership of AHG Shares arise from a combination of AHG's constitution, the Corporations Act, the ASX Listing Rules and general law.

9 Undertaking not to proceed

Q14. Consistent with s 89(1AA) of the Act, the ACCC requires this application to contain an undertaking that the applicant acquirer(s) will not complete the proposed acquisition to which authorisation relates while the ACCC is considering the application.

AP Eagers provides the required section 87B undertaking at **Annex 15**.

10 Identify filings in other jurisdiction (where applicable)

Q15. Provide a list of overseas competition agencies that have or will be notified of the proposed acquisition and the date on which those agencies were or will be notified.

No overseas competition agencies will be notified of the Proposed Transaction.