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Australian Competition & Consumer Commission
Attention Ms Lynette Lymbers

By email: Armaguard-Prosegur-Merger@accc.gov.au

20 January 2023

Dear Ms Lymbers

We refer to your email of 1 May 2023. Our comments on the proposed undertaking are attached.

Please feel free to contact us if you have any queries.

Yours sincerely

[redacted]

[redacted]
Bendigo & Adelaide Bank

Bendigo and Adelaide Bank views on Revised Proposed Undertaking

Bendigo Bank was broadly supportive of the original proposed undertaking if a merger was needed. However, it needed refinement and additions as pointed out in most submissions. The revised undertaking is a significant backward step. It does not include a profit cap, lifts the price rise trajectory, and lasts only for three years.

Bendigo Bank believes that the original undertaking is a much more suitable basis for a possible merger.

There are two overall observations at this point.

First, the case for change has not yet been fully reasoned by the Applicants. Part of the original feedback did criticise the undertaking, but only from the view that it did not go far enough in simulating competitive outcomes. No previous submissions suggested allowing the merger using a different undertaking with <u>fewer</u> protective mechanisms[1]. Simplicity should not be the highest goal. The competition aims of the Act would be better achieved by developing the initial undertaking with reasons.

The proposed change to timeframe shows this. The Applicants' lawyers are correct that an indefinite undertaking needs to allow for a lot of variables. That is not a reason in this case to stop all undertakings at the three-year mark.

Secondly, if there are to be price rises at the new rate, then the merger itself might well be unnecessary. Rises at inflation + 7.5% for three years give a real increase of almost 25%. At some point, reasonable profits would return, with the benefits of a competitive structure still in place.

Collective negotiation by customers could then address efficiency, in partnership with the industry. For example, combining two under-utilised depots in Kalgoorlie into one shared facility. As noted in the final paragraph of CBA's last submission, such efficiencies have proved too difficult to achieve under the current state. At the moment, buyers do not have shared information and a shared approach. If they were permitted to act collectively, they could help focus on the underlying efficiency issues.

The ACCC's original questions to the market included solutions short of merger. One interim solution might be to defer a decision while the ACCC authorises collective negotiations by buyers and the Applicants. This takes NAB's point about additional mechanisms to facilitate contract negotiation, but brings them forward to an unmerged context. Consumers would then have some influence over what part price rises would play in stabilising the industry. This would be a new structural boundary – of the sort that several submissions have said is more reliable than a behavioural undertaking.

[1] One submission suggested rejection, and replacement with a forced asset divestment.