

N10000505

**Caravan Trade & Industries Association
Queensland – Exclusive dealing notification**

Submission to the ACCC by Australian Events

1 November 2019


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1. Executive summary

1.1 Proposed conduct

Commencing 1 January 2020, Caravan Trade & Industries Association Queensland (**CTIAQ**) intends to establish a loyalty program in relation to CTIAQ owned and operated trade shows and events for the sale by exhibitors to the general public of caravans and motor homes.

Specifically, CTIAQ intends to offer a discounted exhibition fee to those of its members who participate exclusively in CTIAQ events.

Members who participate in events operated by alternative suppliers will not be eligible to receive the discount (the **Proposed Conduct**).

CTIAQ have filed an exclusive dealing notification for the purposes of obtaining protection from legal action for the Proposed Conduct (**Notification**).

1.2 Submitter's position

Australian Events Marketing Pty Ltd (**Australian Events**):

- (a) opposes the Proposed Conduct; and
- (b) supports the ACCC issuing of a notice pursuant to s.93(3) of the Competition and Consumer Act 2010 (CCA) revoking the protection afforded by the Notice.

The basis for Australian Event's position is:

- (a) CTIAQ have not provided sufficient base line information to determine the effect or likely effect of competition in a market resulting from the Proposed Conduct;
- (b) The Proposed Conduct is a penalty imposed upon the members of CTIAQ dressed up as a loyalty scheme. There is no reason why CTIAQ can't be offering its members the discounted exhibition fees now irrespective of whether their members exhibit at other events or not. Such conduct would be a proper competitive response to competition;
- (c) The Proposed Conduct will prevent or deter competition and is therefore unlikely to give effect to the stated rationale for the Proposed Conduct;
- (d) There are serious questions to be asked regarding CTIAQ's prior conduct and the true purpose for undertaking the Proposed Conduct;
- (e) If each of the Manufacturers (in conjunction with their appointed Retailers) decide to adopt the conditional discount the subject of the Proposed Conduct, or are otherwise subjected to pressures by CTIAQ

not to deal with other Event Promoters, then the only Trade Shows available to the Public will be those owned and operated by CTIAQ. As such, the Proposed Conduct will result in a significant concentration of market power in the hands of CTIAQ;

- (f) The size of the discount on offer and the method of subsidising same, which is currently unknown, may constitute a significant barrier to entry, especially given CTIAQ's membership base and the influence it has over that membership base;
- (g) The Proposed Conduct is likely to have long term adverse effects on the structure of the Leisure Vehicle Trade Show market and ancillary markets. This would place CTIAQ in a position to charge higher prices for its exhibition fees at a later point in time and to recoup any losses that it has made by reason of its conditional discounting.

1.3 Contact details

Any communications or enquiries in relation to this submission should be directed to:

Simon Tolhurst
Partner
HWL Ebsworth Lawyers
Phone: [REDACTED]
Email: [REDACTED]

1.4 Consent

This submission is not confidential, and is provided to the ACCC knowing that it will be published on the ACCC's Notifications Public Register.

Australian Events consents to the ACCC using this submission in accordance with paragraph 5 of the current version of the ACCC's Exclusive Dealing Notification Guidelines.

2. Information deficiency and admissions

2.1 Lack of base line information

The Notification lacks the requisite level of information needed to enable any informed decision to be made on the effect or likely effect of the Proposed Conduct.

- (a) There is no explanation of the size of the discount. This is relevant when considering the long term effects on competition and the competitive process.¹
- (b) There is no explanation as to how the CTIAQ proposes to fund the discount and in particular whether membership revenue or other sources will be utilised to cross-subsidise the discount. Again, this is relevant when considering the long term effects on competition and the competitive process.²
- (c) There is no explanation of the link between a CTIAQ member exhibiting at fewer Trade Shows will result in an increase in the quality of the events they attend. Firstly, the quality of the Trade Show and its Exhibitors will be a factor in driving demand for Exhibitor spots, which is a function of the competitive process. Intuitively, if there are fewer Trade Shows, as proposed by CTIAQ, then there will be less competition which is likely to dampen the competitive pressure to invest to increase the quality of their exhibits. CTIAQ's rationale for the Proposed Conduct seems counter-intuitive and therefore requires a detailed explanation.
- (d) There is no explanation as to why the burden and cost of attending numerous events throughout the year can't already be avoided without recourse to the Proposed Conduct, by the CTIAQ members electing not to participate in as many events. If the answer to this question is that they cannot afford to miss any of these events for fear of missing out on sales then that:
 - (i) is evidence of the competitive process at work; and
 - (ii) raises serious questions regarding CTIAQ's purpose in lodging the Notification.
- (e) There is no explanation as to how regional members of CTIAQ are to be dealt with. As currently drafted, the Notification would penalise regional Retailers who would have to forgo exhibiting in their local regions to access the discount. Whilst CTIAQ have reserved the rights to extend their events to other regions, they would do so in competition with community shows such as that undertaken by the Rotary Club of Bundaberg and the Retailer would have to decide whether to:
 - (i) participate in the CTIAQ event to access the discount; or
 - (ii) to continue to support the community and attend the community show, in which case they would not be entitled to a discount; or
 - (iii) attend both shows which renders the Retailer ineligible for the discount and which runs contrary to CTIAQ's rationale and would be a public detriment.

¹ ACCC media release 29 July 2013: ACCC concerned about escalating shopper docket discounts

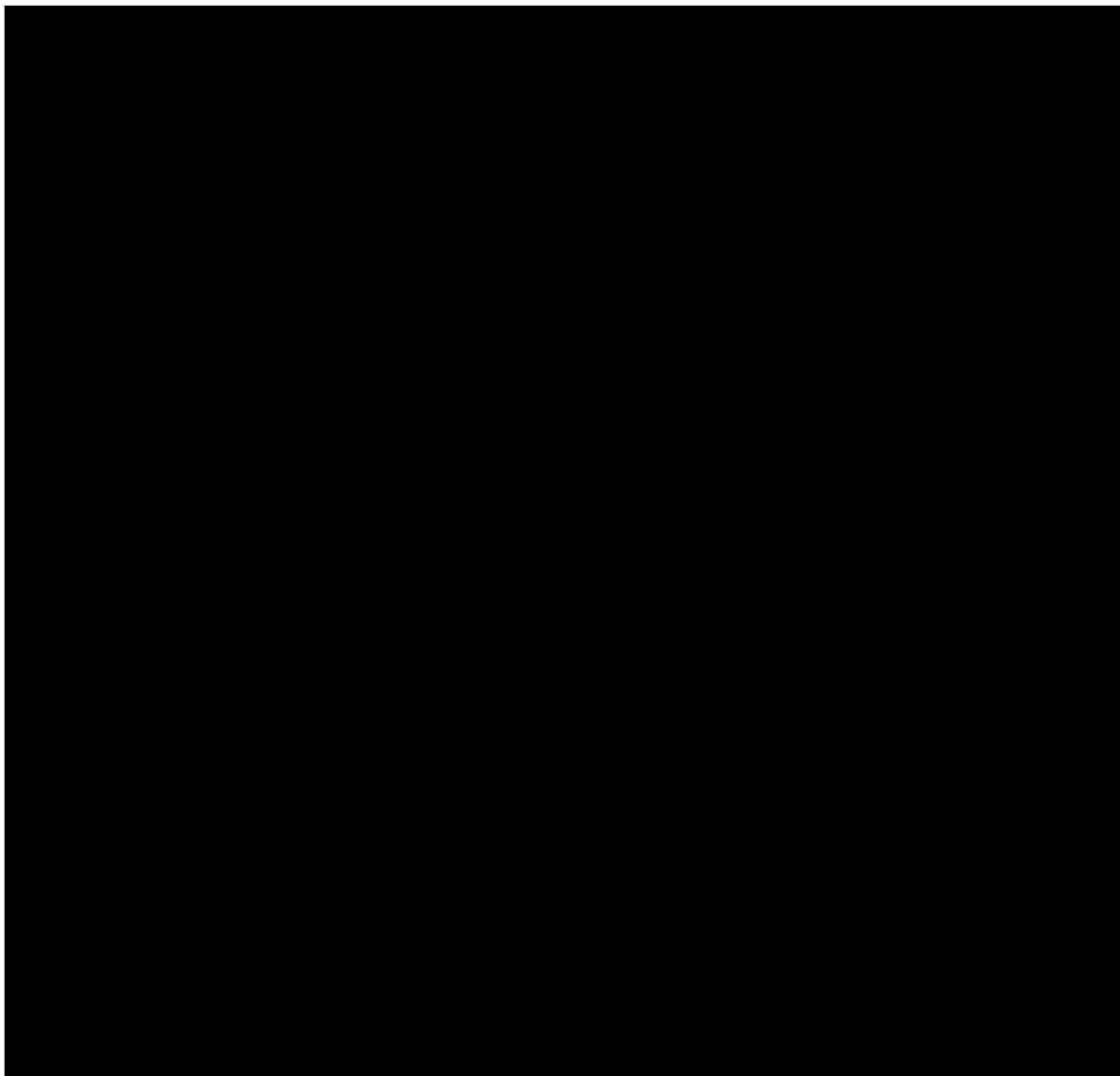
² ACCC media release 6 December 2013: Coles and Woolworths undertake to cease supermarket subsidised fuel discounts

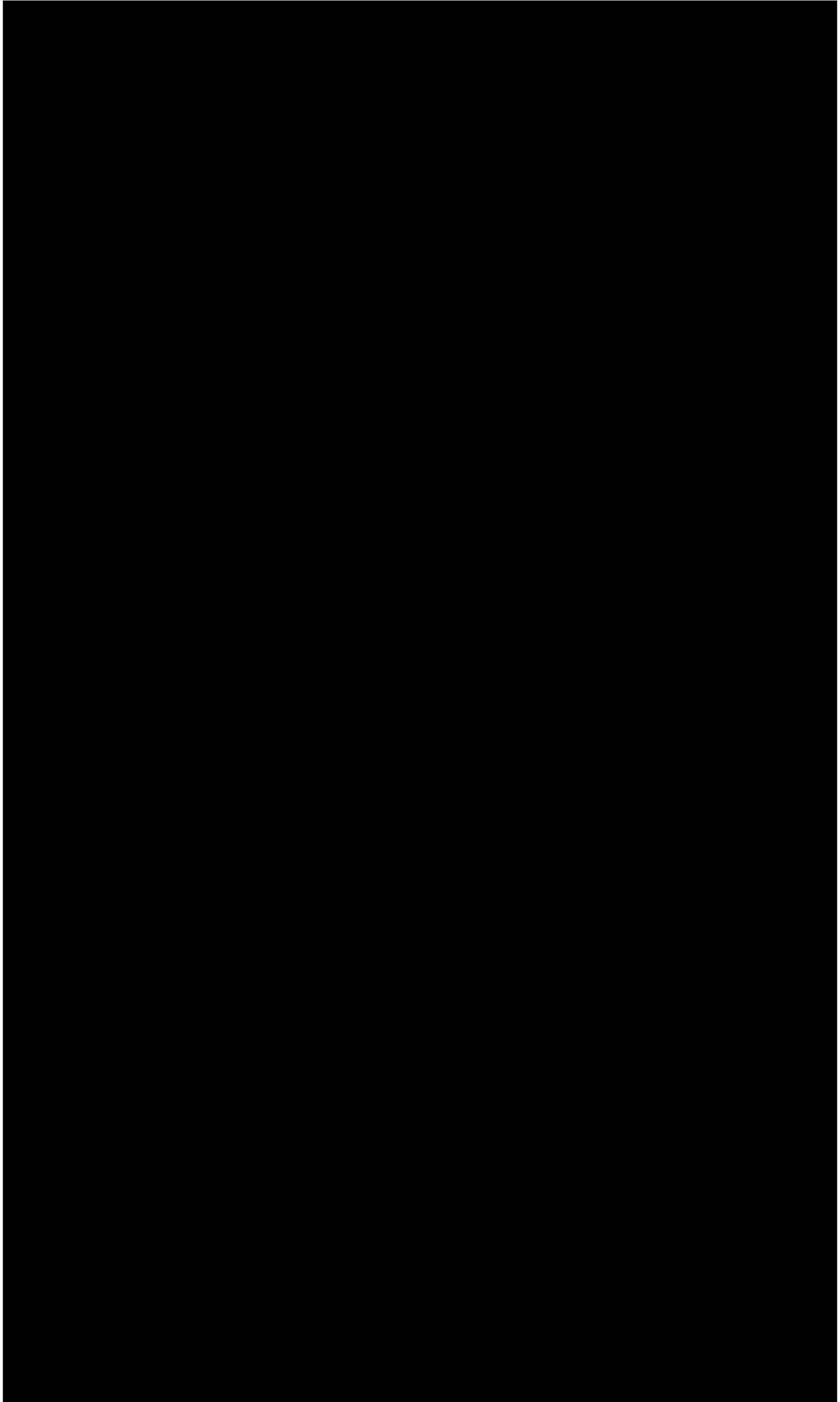
- (f) CTIAQ have made no effort to identify the market shares of the various stakeholders that could be affected by the Proposed Conduct nor what percentage of that market are CTIAQ members. Without this baseline information, there can be no weight given to CTIAQ's statements regarding public benefit or public detriment, especially the statement that the Proposed Conduct will have "*no appreciable effect on competition among providers of recreational vehicle events.*"
- (g) There is no explanation of the causal link between the Proposed Conduct and how that will create the benefits referred to in sections 5(a)(1) and (2) of the Notification. CTIAQ seem to merely state some of their competitive advantages over other Event Promoters as evidence of public benefit. Those benefits are already available without the proposed Conduct.

For the above reasons alone, the Notification should be rejected.

2.2 Admissions

Although CTIAQ have not undertaken any analysis of the market, they have readily admitted that, as a consequence of the Proposed Conduct there will be fewer Exhibitors at non-CTIAQ Trade Shows.





3. Market Participants - Leisure vehicles trade show services

3.1 General structure

There are various 'shows' held in and around Queensland all with their specific focus. Many of these shows are long standing community events, like the Royal Exhibition (Ekka)(**Community Shows**), often including exhibitors selling and promoting various goods and services including camper trailers, caravans, motorhomes and 4WDs (**Leisure Vehicle**) as a part of their exhibitor line up.

Apart from those Community Shows, there are specific commercially operated shows targeting specific markets, referred to generally as 'Trade Shows'. The specific market in which CTIAQ seeks to undertake the Proposed Conduct is in the promotion of Leisure Vehicle Trade Shows.

The following stakeholders are involved in running a Leisure Vehicle Trade Show:

- (a) **Event Promoters:** those commercial operators, such as CTIAQ, who promote shows targeting specific markets, and who secure sites, secure exhibitors and market the relevant Trade Show to the Public;
- (b) **Retailers or Exhibitors:** usually consisting of retailers of Leisure Vehicles and ancillary items such as anything from specialised tow hitches to LED lights, solar panels or batteries, who operate day to day from sales yards or premises and who, from time to time, exhibit their goods and services at Trade Shows such as those promoted by CTIAQ;
- (c) **Manufacturers:** being the manufacturers of the products being exhibited by the Retailers/Exhibitors at a Trade Show;
- (d) **Suppliers:** those who offer services to both the Event Promoters and Exhibitors in the lead up, during and at the conclusion of a Trade Show. These include transport operators, temporary fencing, display boothing, marquees, portable toilet hire, portable electrical grids (generators, power distribution boards, etc.), promotional and marketing materials, rubbish removal, contractors, accommodation houses, entertainers, amusement rides, transportation, security, fuel, human resources (temporary and casual staffing), media. The use of local community

newspapers and local community radio stations as well as a raft of other media supporting that local community;

- (e) **Venue Operators:** consisting of those who operate and manage the venues from which a particular Trade Show takes place; and
- (f) **Public:** the general public who attend the Trade Show for the purposes of identifying the goods and services on offer from the various Retailers/Exhibitors and Manufacturers.

3.2 The Event Promoters

By way of general synopsis, Australian Events understanding of those promoting Leisure Vehicle Trade Shows in South East Queensland are set out below.

(a) Caravan Trade and Industries Association of Queensland (CTIAQ)

As identified in the Notification, CTIAQ describes itself as the peak body and voice for the caravanning and motor home industry in Queensland. Its members include Retailers, Manufacturers, hirers and Suppliers. Of note, many of CTIAQ's members are competitors within their own functional product market.

It provides a number of services to its members including advocacy, Government liaison, industry marketing, training, education and events.

A review of CTIAQ's website reveals that it has scheduled the following events: Let's Go Gold Coast (at Carrara Sporting Complex between 6 - 8 March 2020); Let's Go Queensland (at Brisbane Showgrounds between 3 - 8 June 2020); Sunshine Coast Caravan Show (at Nambour Showgrounds in August 2020) and Let's Go Brisbane (at Brisbane Showgrounds between 31 October and 3 November 2020).

CTIAQ is a member of the National Association and as such, can co-ordinate its activities and share information with other State based Caravan Trade and Industry Associations.

(b) Australian Events

Australian Events describes itself as a leading leisure, home, trade and farming event management company.

Australian Events has been operating since 1987 and promotes Trade Shows throughout Queensland (Gold Coast, Brisbane, Cleveland, Caboolture, Redcliffe, Nambour, Sunshine Coast, Toowoomba, Maryborough, Mackay, Townsville and Cairns) and New South Wales (Newcastle).

The events scheduled by Australian Events in South East Queensland are: Moreton Bay Caravan, Camping, Boating & 4x4 Expo (Redcliffe

Showgrounds between 14 - 16 February 2020); South QLD Caravans, Camping Fishing & 4x4 Expo (Nambour Showgrounds between 17 - 19 April 2020); Farm Fantastic Expo (Caboolture Showgrounds between 3 - 5 July 2020); Gold Coast Expo (Gold Coast Turf Club between 24 - 26 July 2020); QLD Outdoor Adventure & Motoring Expo (Toowoomba Showgrounds between 31 July - 2 August 2020); Fraser Coast Expo (Maryborough Showgrounds and Equestrian Park between 14 - 16 August 2020); Rockhampton Expo (Rockhampton Showgrounds between 21 - 23 August 2020); Cleveland Caravan, Camping, Boating & 4x4 Expo (Norm Price Park, Cleveland between 18 - 20 September 2020) and Sunshine Coast Expo (Sunshine Coast Stadium, Bokarina between 25-27 September 2020).

(c) **Big Boys' Toys**

Big Boys' Toys describes its offering as expos that are dynamic family events, featuring interactive and innovative stands and entertainment.

Events promoted by Big Boys' Toys has a range of Exhibitors showcasing "*cars, fishing gear, caravans, camping gear, motors, bikes, jet-skis, boats, skateboards and sporting gear – all mixed with some major entertainment and displays of cars both new and old, sprinkled with exciting "toys" for the old and young, men and women*".

In 2020, Big boys' Toys have Trade Shows scheduled for Gold Coast, Sunshine Coast, Rockhampton, Mackay, Townsville and Newcastle.

(d) **Exhibition and Trade Fairs (ETF)**

ETF describe themselves as a full service exhibition and conference organiser operating from offices in Sydney and Melbourne but delivering events around the world.

The only event noted on the EFT website for South East Queensland is the National 4x4 Outdoors Show, Fishing & Boating Expo being held at the Brisbane Showgrounds between 27 - 29 March 2020. That Trade Show is described by ETF as being Brisbane's biggest combined 4WD, off-road, touring, towing, fishing and boating expo, attracting over 30,000 members of the Public.

(e) **Australian Deer Hunter's Association – QLD Branch**

This not-for-profit organisation runs expos to showcase all products associated with their sport and are planning to stage an event at Ipswich Showgrounds in 2020. This event attracts campers, off-road caravans, 4WD's, ATV's and all things associated with the sport.

(f) **Ag-Grow Emerald**

Operating for over 30 years, Ag-Grow Emerald is a Trade Show operating from Emerald, Queensland.

Ag-Grow Emerald describes itself as one of the most successful marketing events available to businesses wishing to access the agricultural, mining and associated demographic of Central Western Queensland and beyond. It serves as both one of the largest spending field days on the national circuit as well as a social event for the surrounding regions.

This event provides marketing exposure to over 1500 manufacturers, distributors of agricultural products and services and lifestyle item companies. Ag-Grow Emerald claim to consistently introduce annually, a minimum of 30 – 50 new exhibitors and crowds in excess of 28,000 visitors.

A search of its website identifies a number of Leisure Vehicle and associated Exhibitors for All-terrain vehicles, boats and boating equipment, camper trailers, camping accessories, caravans and motor-homes (and accessories), 4WDs (and accessories).

Of note, Capricorn Caravan Centre (Rockhampton) is an Exhibitor at this event and their website identifies them as authorised dealer for Newlands, Concept and Bailey manufactured caravans and the only licensed installer in Rockhampton for Alko ESC (electronic stability control).

(g) Agrotrend, Rotary Club of Bundaberg

Run and promoted by the Rotary Club of Bundaberg, Agrotrend 2020 is a field day event located at the Bundaberg Recreational Precinct between 10 - 11 May 2020.

Operating since 1978, the field day event offers businesses, organisations and community groups the opportunity to promote products and services to a dedicated agricultural and horticultural audience drawn principally from the Wide Bay Burnett and Bundaberg Regions.

Historically an event designed to showcase the latest innovations for sugar, horticulture, irrigation and water supply, machinery, motor vehicles and trucks, livestock and animal husbandry, aquaculture, agricultural supplies and packaging and transportation, it has now grown to include a lifestyle component including caravans, camper trailers, camping, craft stalls and entertainment for the whole family.

(h) Rural Press t/a Australian Community Media Rural Events

Australian Community Media Rural Events operate CRT FarmFest, a field day event held in Toowoomba between 2 - 4 June 2020. Rural Press also operate other events around the country including AgQuip (Gunnedah NSW) and ProAg (Macksville NSW).

CRT FarmFest provides marketing exposure to over 2,500 companies and organisations primarily focussed on the agricultural market. One

Exhibitor explained that the event provides a rare opportunity for farmers: *"It's a great event not just because of the products available, but it gives farmers and suppliers the opportunity to network and share ideas and spark conversation."*

The exhibitor listing identifies Exhibitors covering campers, caravans, motor homes and 4WDs.

(i) **Beef Australia**

Operated by a Not-for Profit organisation, Australia's national beef expo is described as one of the world's great beef cattle events and is held once every three years in Rockhampton, Queensland.

As a Not-for Profit, Beef Australia relies on the generosity of its many sponsors.

Beef Australia 2021 will be held from 2 - 8 May 2020 as a celebration of all facets of the Australian beef industry. It will facilitate new trade and export opportunities by exposing the local supply chain to the international industry leaders; feature more than 5000 cattle from over 30 breeds; a trade fair promoting more than 500 businesses and social events for the community.

(j) **Mulpha Group**

Mulpha Group operate the "Outdoor X Gold Coast" Trade Show from Sanctuary Cove, Gold Coast between 13 - 15 September 2020.

Outdoor X is described as providing *"the very latest in caravans, motorhomes, 4x4's, trailerboats, campervans, water sport and so much more. A truly interactive and experiential event, OutdoorX will give adventure-seekers the chance to see, touch and interact with the very latest in outdoor lifestyle products – all in the unique setting at Sanctuary Cove on the Gold Coast."*

Exhibitors include boats and boating equipment, camper trailers, camping accessories, caravans and motor-homes (and accessories), 4WDs (and accessories), bikes, fishing and other leisure pursuits.

(k) **Campervan & Motorhome Club of Australia Limited (CMCA)**

CMCA describe themselves as the largest recreational vehicle club in the southern hemisphere with over 70,000 members. CMCA provides ongoing support to its members through a number of exclusive Member Benefits, ensures its members have accurate government representation and brings likeminded individuals together.

CMCA runs the CMCA Rally (venue changes each time), with the next event occurring at the Gympie Showgrounds on 20 October 2020. The event in the past has attracted a number of visitors to support the Rally and those exhibits include the display of the latest trailers, campers and

motorhomes. It is expected that this will happen at the 2020 event.

3.3 The Exhibitors

Details of the various Exhibitors would need to be sourced from each Event Promotor.

Whilst some of the Exhibitors limit their activities to local Trade Shows, usually because of restrictions imposed on them under their various agency agreements (Product Marketing Area (**PMA**)), a number of Exhibitors, will exhibit at more than one Trade Show, in more than one location and show more than one brand of product. The Trade Show circuit is an integral part of their marketing plan.

By way of example, Willow Caravans are marketed in Queensland by Searles RV Centre in Bundaberg. Searles RV Centre take part in the Australian Events Trade Show at Maryborough and showcase Avan, Golf and Willow caravans. Searles RV Centre have an unrestricted PMA with Willow which allows them to showcase Willow caravans at the CTIAQ Trade Show in Brisbane, however they cannot showcase Avan or Golf caravans in Brisbane due to their PMA restrictions.

As is the case with Searles RV Centre, there are a number of Retailers/Exhibitors who carry more than one brand and the PMA restrictions on those caravan brands vary from brand to brand.

We have attempted to set out below an estimate of the number of Exhibitors and the number of those Exhibitors that are CTIAQ members. Please note that there will be a number of Exhibitors at each of these Trade Shows that do not fall within either the Leisure Vehicle category or any broader category that encompasses the membership criteria for CTIAQ. An example of this would be the Farm Fantastic Expo which has a larger proportion of farming equipment and services as Exhibitors. If those Exhibitors are removed from the calculation then the concentration of Exhibitors that are CTIAQ members is significantly higher.

	Exhibitor Numbers	CTIAQ Members
Moreton Bay Caravan, Camping, Boating & 4x4 Expo	170	125
South QLD Caravans, Camping Fishing & 4x4 Expo	150	90
Farm Fantastic Expo	200	30

Gold Coast Expo	160	90
QLD Outdoor Adventure & Motoring Expo	160	120
Fraser Coast Expo	180	100
Rockhampton Expo	170	80
Cleveland Caravan, Camping, Boating & 4x4 Expo	150	90
Sunshine Coast Expo	150	60

In addition to the key brands of Leisure Vehicles on display, Trade Shows will also display a number of suppliers who feed into the Leisure Vehicle industry. This can be anything from specialised tow hitches to LED lights, solar panels or batteries.

3.4 The Manufacturers

Having a broad scope of camper trailers, caravans, motor homes and 4WDs is one of the essential inputs for a Trade Show as it drives attendance numbers. The Public will be attracted to a Trade Show that is above a certain size and which provides a convenient place to compare and contrast the products on offer, and if browsing turns to buying, a quick and efficient way for the Public to negotiate the best terms.

It is not unusual for Manufacturers of Leisure Vehicles to appoint agents or dealers who are responsible for the retail sale of their manufactured product within a particular territory. Those territories will vary from manufacturer to manufacturer and from product to product.

Manufacturers will often work with the Exhibitors to fund, promote and resource a display at a particular Trade Show as a means of jointly promoting the Manufacturer's product within a given territory.

The Caravan Industry Association of Australia research report which drew on data for the year ending 31 January 2014 stated:

Caravans (or towable products) make up 90% of registered RV's in Australia and Motorhomes (or motorised products) make up the remaining 10% (where RV represents all types of recreational vehicles). Over 70% of the RV's purchased in Australia were made in Australia. The wholesale value of Australian manufactured RV's is \$940 million

annually.

Based on anecdotal evidence and discussions with various Retailers, Australian Events' best estimate of the Australian market share held by each of the caravan manufacturers is set out in the table below, together with an indication as to whether those caravan manufacturers are members of QTIAQ:

	Market Share	QTIAQ Member
Jayco	40%	✓
New Age	8%	✓
Supreme	6%	✓
Crusader	6%	✓
Essential	4%	✓
Concept	4%	✓
A Van	4%	✓
JB Caravans	4%	✓
Caravan HQ	4%	✓
Franklin	4%	✓

As can be seen from the table above, the top 10 brands control approximately 85% of the caravan manufacturer market in Australia.

If each of those Manufacturers (in conjunction with their appointed Retailer) decide to adopt the conditional discount the subject of the Proposed Conduct, then the only Trade Shows available to the Public will be those owned and operated by CTIAQ.

3.5 The Suppliers

In the limited time to respond, we have not addressed the market for the supply

of Trade Show services which would, if the Proposed Conduct was to proceed, be adversely affected by there being few and smaller Trade Shows.

3.6 The Venue Operators

An appropriately sized, serviced and geographically positioned venue is also one of the essential inputs for Trade Show as it drives both attendance numbers and Exhibit pricing.

Those facilities also rely heavily on events like the ones run by Australian Events for not only licence fees but are also reliant on the additional income generated through food and beverage sales.

Through its negotiations for venues in Newcastle, Australian Events has been advised that the NSW equivalent of CTIAQ have entered into facilities agreements for venues on condition that those facilities are not to hold a like event 5 months either side of their event. Given that venue availability is an essential input into running a Trade Show, this is a very concerning development for Australian Events.

3.7 The Public

In the limited time to respond, we have not been able to identify the catchment area for each of the various shows. This is something requiring further investigation if the matter proceeds further.

4. Other matters for consideration

4.1 True purpose

There is clear market overlap between the CTIAQ events, both current and future, and events operated by other Event Promoters.

The phrase “detering or preventing” has been judicially considered³ as follows:

The words “detering or preventing” also require attention. To “deter” is to “(r)estrain or discourage (from acting or proceeding) by fear, doubt, dislike of effort or trouble, or consideration of consequences”: see the Shorter Oxford English Dictionary. The same dictionary defines the verb “prevent” as to “[s]top, hinder avoid. Forestall or thwart by previous or precautionary measures ... Frustrate, defeat, make void (an expectation, plan, etc.). ... Stop (something) from happening to oneself, escape or evade by timely action. ... Cause to be unable to do or be something, stop (foll. by from doing, from being)”. The combined effect of the words “detering” and “preventing” includes persuading a person to decide to withdraw from, not to enter or not to compete in a market, as well as making it difficult or impossible for that person to do so.

³ Baxter Healthcare Pty Ltd (No 2) [2008] FCAFC 141; (2008) 170 FCR 16 at [317]

Given the:

- (a) prior conduct referred to in section 2.3; and
- (b) lack of any coherent explanation in CTIAQ's rationale of the link between a CTIAQ member exhibiting at fewer Trade Shows and an increase in the quality of the events they attend,

the Proposed Conduct, in Australian Events' opinion, is designed for no other purpose than to prevent, deter or hinder competition in the Leisure Vehicle Trade Show market and for CTIAQ to own the Leisure Vehicle Trade Show market in Queensland and otherwise foreclose on competition in any relevant market.

Based on discrete enquiries made by Australian Events, this Proposed Conduct by CTIAQ is seen as a test case and if successful, will be rolled out by affiliated associations in other States and Territories of Australia. If this is correct then issues of cartel conduct may arise.

4.2 Counterfactual

- (a) If the Proposed Conduct proceeds then:
 - (i) There will be significant public detriment in the form of limited consumer choice, particularly in areas where CTIAQ do not hold events, by reason of Retailers and Manufacturers who are members of CTIAQ withdrawing from events;
 - (ii) There will likely be short term benefits to some CTIAQ members in the form of reduced exhibition fees;
 - (iii) There will be significant detriment to CTIAQ members who currently show at non-CTIAQ events and who take up the offer, for whatever reason. As indicated in paragraph 2.3(e)(v), Retailers, including those who are members of CTIAQ, rely on Trade Shows to fill the gap of diminishing foot traffic into their sales yards;
 - (iv) There will be significant detriment to Exhibitors at the non-CTIAQ Trade Shows as Retailers and Manufacturers who are members of CTIAQ withdraw from events, rendering the non-CTIAQ Trade Shows they attend being less competitive in scale and scope;
 - (v) With at least 85% of the caravan manufacturers market being members of CTIAQ and caravans constituting 90% of the recreational vehicle market, and given CTIAQ's prior conduct, the Proposed Conduct is likely to have long term adverse effects on the structure of the Leisure Vehicle Trade Show market and ancillary markets.
 - (vi) CTIAQ would have an enhanced ability to increase prices, due

to:

- (A) the lack of any countervailing power by Exhibitors or Manufacturers;
 - (B) its increase in concentration of power in any relevant market; and
 - (C) the removal or subduing of any competitive constraints.
- (vii) This would place CTIAQ in a position to charge higher prices for its exhibition fees at a later point in time and to recoup any losses that it has made by reason of its discounting.
- (viii) CTIAQ would have no incentive to maintain or improve its services for the same reasons as noted in paragraph (vi) above.
- (b) the appropriate counterfactual to the Proposed Conduct is the current operating environment for each of the market participants which has a number of buyers and sellers creating competitive pressure to deliver efficiencies in business and in turn, greater choice for consumers in terms of price, quality and service.