



**Weldclass**  
Be Outstanding

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**REDACTED VERSION**  
**Restriction of Publication Claimed**

**JWL Marketing Pty Ltd**  
**(trading as Weldclass Welding Products)**  
**Notification of Proposed**  
**Resale Price Maintenance**  
**to the**  
**ACCC**

<b>Date of Application:</b>	4 <sup>th</sup> October 2019
-----------------------------	------------------------------



**Everingham**  
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## 1. Notifying Party.

### 1.1

JWL Marketing Pty Ltd (trading as Weldclass Welding Products) ("Weldclass")  
5 Hawker Road, Tamworth NSW 2340  
Phone: 6764 9590  
ACN: 115 109 012  
ABN: 53 115 109 012

### 1.2

Primary Contact Person: Craig Cox – National Sales Manager

Phone: [REDACTED]

Secondary Contact: Darren McDonald – General Manager

Phone: [REDACTED]

Solicitors:

Everingham Solomons

Lvl 2, 201 Marius Street, Tamworth, 2340

Ref: [REDACTED]

Phone: [REDACTED]

### 1.3 Description of Business Activities

Weldclass is an Australian family-owned company that entered the welding market over 35 years ago. Weldclass has grown to be a well-respected independent wholesale supplier to the welding and metal-fabrication market.

Weldclass is a supplier of welding helmets, welding safety products, abrasives, consumables and welding accessories. Weldclass products are used by welders' right across Australia. The products are used predominantly by general trade & non-professional (DIY)



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welders. They are also used by professionals in engineering and metal fabrication workshops, manufacturing, rural maintenance and construction sites.

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Weldclass is a wholesaler with an extensive distributor network (approx. [REDACTED] throughout Australia.

The proposed retail price maintenance (RPM) conduct relates to our range of welding machines and plasma cutters which are new to the Australian market and have high-end specifications and innovative features designed by Weldclass arising from our extensive research and development to suit particular applications. It is also intended to apply RPM to any new models or variations to models, together with any other welders and cutters we may sell from time to time.

Our current range of 10 welding machines and plasma cutters are marketed under the brand name Weldclass, with model name being **WeldForce** for our welders and **CutForce** for our plasma cutters.

The name WeldForce and Cutforce refers specifically to the Weldclass welding and plasma machines as a product group, which is separate from other Weldclass products such as consumables, parts, safety & accessory items.

**Please note that our Notification only relates to our Weldforce and Cutforce machines, See Attachment 6** and also to any new models or variations to models, together with any other welders and cutters we may sell from time to time.



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Weldclass's Vision & Mission Statement is:

## Our VISION

### *a Smile when the helmet goes up*

to provide every welder & metal fabricator with world-class tools & equipment that consistently deliver the satisfaction of a job well done.

## Our MISSION

### *Everyone deserves success*

to passionately contribute to the success of everyone we touch, including; Welders & Fabricators, our Distributors & Partners and our People.

We believe that our Mission & Vision, has been the core secret of Weldclass's success. Our approach is to continuously focus on and refine everything we do, resulting in increased value & benefit for everyone we touch especially end users.

Following are examples that demonstrate this:

- Our product development is driven from extensive market and consumer research and understanding, to ensure that our products are relevant to Australian conditions and meet the needs and demands of our Australian customers;
- Our marketing strategies and resources are designed to make it very easy for our distributors to succeed in providing a full service for our end consumers;
- Extensive face-to-face training of our distributor's staff, enables them to understand & support our product which enables them to match the correct product to suit the consumers' application and requirements;

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- Clear and easy to use point of sale material including catalogues, brochures, fact sheets and website that clearly sets out relevant and useful information (features and specifications) for consumers to identify the appropriate product for their application; and
- Extensive investment in in-house customised systems to provide efficient and effective support for distributors & consumers with everything from identifying the nearest stockist and before & after-sales product training, to technical support and warranty processing.
- Our focus is on providing excellent consumer service and having customers select our product because of the quality of our products and the quality of the before and after sales service and warranties provided which results in 'a smile when the helmet goes up'.
- It will be our submission that price competition will force us to compromise our goals and that price competition in our market will and has resulted in these benefits not being delivered to the consumer.

#### **1.4 Email address for service of documents:**



## **2. Details of Notified Conduct – Competition and Consumer Act 2010 Section.**

### **2.1 Resale Price Maintenance (RPM) (S. 48).**

*"A corporation or other person shall not engage in the practice of resale price maintenance."*

The Notified Conduct relates to RPM for our current and future welders and plasma cutters models only.



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## ***Definitions***

In this document:

**"welder", "new welder(s)", "welding machine(s)" or "welding range", Weldforce welder"** means the Weldclass model range of Weldforce welders as detailed in Attachment 6 and varied from time to time and any new model or variation or other welder sold by Weldclass, from time to time.

**"cutter(s)", "plasma cutter, "plasma cutting machine(s)", "Cutforce cutter" or "new cutter range"** means the Weldclass model range of Cutforce plasma cutters as detailed in Attachment 6 and varied from time to time and any new model or variation or other cutter sold by Weldclass, from time to time.

**"machine"** means all welders and cutters sold by Weldclass from time to time

**"Weldforce range", "Weldforce products", the "range of products"** means Weldclass's Weldforce and Cutforce models set out in Attachment 6 and as varied from time to time and any new model or variation or other welder or cutter sold by Weldclass, from time to time.

### **Current and Future Machines:**

Our intention is to apply RPM to any current & future welders and cutters supplied by Weldclass. They include but are not limited to:- MIG Welders, Stick/MMA Welders, Generator welders, Pulse Welders, Plasma cutters, Plasma cutting systems & tables, Spot welders, TIG welders, Laser welders, Arc welders, Submerged Arc welders, Electroslag Welders, Pipe welders, Orbital welders, Battery Welders, Arc air gouging welders, and any other related or future type of welding power source.

## **3. Details of the Notified Conduct.**



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### **3.1 Description of the notified conduct**

Weldclass proposes to introduce in to its distributor agreements, with selected distributors who wish to sell our new and now released Weldforce welding machines and Cutforce plasma cutting machines, a requirement that they not sell these products below minimum prices nominated by Weldclass. The aim is to allow and incentivise our distributors to offer a full range of both pre and post services (as nominated by us) when marketing Weldclass products to customers (the Proposed Conduct).

Weldclass will market its welders and plasma cutters to a niche market who require quality products with innovative features and who desire premium service. A market we say, is being largely ignored because of the direct effects of price competition.

Weldclass have been supplying its new welders and cutters range to selected distributors located in each Australian State and Territory for approximately 6 Months.

Distribution of the welders and cutters range to distributors will be and is being regulated by means of a comprehensive distributor Agreement (see the "Distributor Agreement" version 1.5 located at Attachment 2).

Under the terms of our Distributor Agreement, Weldclass distributors will not be limited to stocking the Weldclass range.

Virtually all Weldclass distributors will also stock, or have access to, a variety of different branded welders from different manufacturers, whose products compete directly with ours. Hence price competition in the welders and cutter market will continue.

We wish to compete on quality of product, expertise and full pre and post service levels for customers.

Of note, Weldclass researched and gained an understanding of Resale Price Maintenance (RPM) several months prior to launching its new machines and decided early on to pursue this course of





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action as it was well aligned to our strategy to compete on quality of product, expertise and full pre and post service levels for customers.

Weldclass has therefore had the advantage of designing our current distribution procedures and distributor obligations (set out in our Distributor Agreement), around behaviours and service levels which we think will ultimately enable our distributors to possess high skill levels and become full service providers and willing to service the needs of the customer.

We have had excellent feedback from distributors and customers (Refer Attachment 17) to our quality, expertise and service focus, which is currently set out in our existing Distributor Agreement (see Attachment 2 version 1.2). That Agreement contains a recommended retail price provision only.

Accordingly, only minimal change is required in our Distributor Agreement and our distributor's behaviour/conduct to implement RPM.

Under our current Distributor Agreement, Weldclass is already providing distributors and our distributors are already providing our end users with the premium service levels which will be required post-RPM.

Some of the requirements currently in place with existing distributors and set out in Distributor Agreement Version 1.2 (Refer Attachment 2) include;

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**We do not wish to divulge Distributor Agreement details to our competitors.**





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Our current Distributor Agreement, Version 1.2 (Attachment 2), is virtually identical with our proposed post-RPM Distributor Agreement, Version 1.5 (Attachment 2). In fact, it is almost identical except for the inclusion of RPM, Clauses 6 & 7.

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Our current Distributor Agreement V1.2 has been very well received by our distributors with more than [REDACTED] distributors signing so far. Notably, more than half of these distributors have now been supplied, trained and are fully operational, according to our current Distributor Agreement.

End user feedback we have received is we believe proof that there is a demand for this higher level of expertise and customer service which generally speaking cannot be provided because of price competition. (Refer Attachment 17 and Section 11 of this submission).

There is however high cost to Weldclass and its distributors in continuing to provide high expertise and extended service levels. Hence RPM is being applied for to ensure this is sustainable for us and our distributors.

### **3.2 Relevant documents detailing the terms of notified conduct**

Please refer Attachment 2 – the Distributors Agreement version 1.5.

Weldclass wishes to appoint bricks and mortar Distributors throughout Australia, who are willing to become full service specialist welding product suppliers and who are willing to comply with the terms of the Distributor Agreement.

The essential obligations imposed on the distributor contained in the Distributor Agreement are :



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- a. Stock a comprehensive range of WeldForce products & accessories to ensure ready availability to the customer;
- b. Present WeldForce Products in-store in a professional, logical and customer friendly manner;
- c. Provide expert advice and assistance to customers to ensure that the customer purchases the products best suited for their needs and applications;
- d. Provide a high level of customer care and in particular after sales service and assistance as required;
- e. Attend technical training sessions provided by Weldclass and implement such training in store to acquire and maintain a high level of Products knowledge and know-how;
- f. Appoint an in store Weldforce Champion to train distributors staff and be the "go to" person for enquiries and customer service for our products;
- g. Promote the Weldclass' warranty policy and system;
- h. Utilise Weldclass' extensive Products information brochures and point-of-sale (POS) resources, including videos on product specifications and the "how to use" the product videos to assist customers;
- i. Utilise Weldclass' training and marketing resources for the benefit of Distributors in providing a knowledgeable and comprehensive pre and post-sale service to customers; and
- j. Not sell the WeldForce and CutForce range of products below the minimum resale prices set by Weldclass.

Weldclass will only select Distributors it believes can meet and maintain the above-mentioned requirements and can provide excellence in pre and post customer service and brand experience.

Weldclass will commit to provide to its welders and cutters range distributors, its full resources to assist them to comply with the terms of the Agreement for the benefit of the distributor and ultimately its customers. Our assistance and resources include, but is not limited to:



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- a. Supply the Distributor with up to date sales and marketing resources for WeldForce Products including information, features and specification driven brochures, point of sale material and advertising material as well as videos.
- b. From time to time, send at its own cost a representative to visit each Distributor for the purpose of providing assistance with merchandising, staff training, product knowledge and reviewing the Distributors compliance with the requirements of the Distributor Agreement and seeking to enhance the Distributors service levels and customer satisfaction.
- c. Provide training for the relevant employees and agents of the Distributor with respect to the technical specifications, the products suitability for purpose and point out the features of the WeldForce Range, the provision of proper and focused customer service and after-sales service and training to ensure that a customer is matched with a Product(s) suitable for their proposed application.
- d. Provide a customer service team, available by telephone and email during Weldclass' business hours to answer questions, discuss issues, concerns, answer technical questions and solve problems regarding WeldForce Products. This includes warranty registration and any warranty issues.
- e. Will grant to the Distributor a non-exclusive, non-transferable and royalty free licence to use that part of Weldclass' website which will be exclusively maintained for the Distributor, which will require a unique password to gain access and which will relate to our Weldforce and Cutforce range.



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- f. Will from time to time launch promotional campaigns targeting end-user customers to support Distributor sales of WeldForce products.

### **3.3 The rationale for the notified conduct**

Weldclass have reviewed the results of its 35 years' experience in dealing directly with welding and cutting operators, together with our extensive market research which has also taken into consideration, convenience, ease-of-use, performance, safety & affordability over the last 36 months, to design a range of welders and cutters that will deliver to our target market, (in our opinion), the best possible combination of functions and features to meet the needs of Australian metal fabricators, welders and cutters.

Weldclass has committed substantial research and development funding and time to the development of its Cutforce and Weldforce products and wishes to protect that investment by providing to the Australian public a premium product which is not currently widely available together with premium service, not also not generally available. Price competition does not permit this level of service on a consistent basis.

The minimum price model will enable our distributors to have the confidence to invest in infrastructure, floor space, additional training and pre-and post-customer service. That is, full customer service is to be provided which is generally not available in the discount tool stores and online welder/cutter market, which encourages and supports less service and low levels of expertise and advice to customers.

Our experience, observing the welding and cutting machine (welders) market has led Weldclass to the realisation that in many cases the public has been sold a machine which is not suitable for the purpose or is over/under specified for the intended purpose.

Weldclass believes this is due to:



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- The “price discounting” culture that is rife in the welder/cutter market segment, due to the abundance of brands and products, ;
- The significant market shift over the last decade of small & large tool stores, hardware stores and other general industrial supply outlets entering the welding space and providing cheap products without having product knowledge.
- The entry of online retailers into the market, providing cheap products without product knowledge, any hands on knowledge or attempt to match a product to a customer
- Prior to this shift the welding market was predominately serviced by bricks and mortar welding specialists (retailers whose core product range and focus was welding and cutting). Refer Attachment 5 – [REDACTED] Interview. The introduction of such non-welding focused retailers to the welding market has meant that staff with little or no welding experience, knowledge or training are providing advice and selling specialised welding machines and cutters to the public.
- The significant growth of the non-professional welding market (the tradesman (builder) and home handy person market) over the last decade or two. A welding machine which once cost thousands of dollars, now only costs a few hundred dollars for the same application. This affordability shift has fostered a significant & growing **non-professional** welding market of end users who are often untrained, in-experienced and who usually have very little welding knowledge. Weldclass products are predominantly used by these non-professional welders.

Consequently, discounting has become the primary focus of many resellers to win the sale to the detriment of the consumer and consequently the consumer:

- May get poor advice;
- May not get a fit-for-purpose product;
- May not receive a product demonstration;

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- May not receive any product training;
- May not receive reliable after-sales support/ trouble shooting; and
- May only receive a limited warranty.

The typical result of pricing pressure/competition on traditional welding specialist retailers is that some:

- Go out of business or struggle financially and consequently limiting the end users opportunity to be properly informed;
- Cut before & after-sales service levels, to the detriment of consumers;
- Reduce their stock levels and product range, to the detriment of consumers;
- Are swamped with free riders who seek their professional advice but buy elsewhere from a discount store or online retailer;
- Provide poor staff training;
- Have little or no point of sale material; and
- Sell products which are not fit for the consumer's intended purpose, because of the pressure to just make a sale.

### **3.3.1 What is the Future for specialist welder/cutter retailers?**

In our view and as a specialist welding company with 35 years of experience, we believe that over the next few years, there is a very real likelihood of many existing full-service specialist welding retailers closing as they get pushed out of the market by persistent free riding and discount retailers. Alternatively, they may be forced to become low-service retailers. The absence of full-service specialist welding retailers is a significant public detriment to the market as customers may not be able to access the information and expertise that these experienced welding specialists provide or could provide to enable them to make fully informed decisions about the products they are wishing to purchase and further how to correctly utilise the product for their chosen application.



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We refer you to comments by [REDACTED] which provides evidence of the market shift alluded to above which threatens the existence of full-service specialist welding retailers (Refer Attachment 5 - [REDACTED] Interview).

### **3.3.2 Research and Development**

As a direct result of price pressures and competition, there has been a lack of investment by major welding machine and cutter suppliers in the development of products and also in the improvement of their distributors in terms of skilling and sales staff training and in-store point of sale material which has been and will continue to be to the overall detriment of the public.

Price competition and discounting potentially rewards manufacturers and distributors of potentially inferior products over better quality products, to the detriment of the some bricks and mortar distributors as well as being a detriment to the consumer's welfare.

### **3.3.3 Review of our Rationale**

The introduction of Resale Price Maintenance (RPM) on our new range of welders and cutters will likely provide our distributors with a reliable profit margin and therefore the distributors will have the confidence to invest in floor space, increased stock levels and training of sales staff to the overall public benefit.

The distributor will be required to do so by our Distributor Agreement.

Our distributors will be regularly audited to ensure compliance and non-compliant distributors, Distribution Agreements will be terminated.

The introduction of RPM should assist our distributors to remain profitable and remain in the specialist welder/cutter supply market segment for the public's benefit.





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A minimum pricing strategy should assist in eliminating intra-distributor “free riding” by Weldclass distributors - that is, RPM prevents discounting between our distributors and forces them to focus on expertise and quality service.

RPM should result in more of our distributors becoming full-service retailers.

### **3.3.4 Free Riding**

The free rider problem is an economic concept and is an example of a market failure that occurs when people/customers are benefiting from resources, goods, or services that they do not pay for and where the customer subsequently purchases the product from a discount tool store or online retailer after using the services of a specialist full-service operator, who has much higher overheads.

The ACCC in paragraphs 40 to 45 described free riding in respect to Tooltechnic (Festool) in its Authorisation A91433 as:

#### **“Resale price maintenance and free riding<sup>1</sup>**

*40. There is consensus in the economic literature that resale price maintenance can, in certain circumstances, remedy a free riding problem and thereby increase competition and enhance consumer welfare. The effects of free riding and how resale price maintenance addresses these effects are described below.*

*41. Retailers provide a range of services for which they do not directly charge customers. Many retailers train their sales staff so they are knowledgeable about the products they sell. Many retailers allocate space to demonstration facilities and invest in arrangements*



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*allowing customers to try the product before they buy. These retail services can be costly. Retailers provide these services to attract customers. They recover the cost of providing these services through the sales margin they add to the wholesale price of the product.*

*42. The incentive for retailers to offer these services depends on the volume of sales they are likely to generate. The more customers who attend a retail establishment for advice and to 'try before they buy' or to seek post-sales services, but purchase the product from retailers who do not offer these services (such as from an online or discount retailer), the less incentive there is for retailers to offer these services. Online or discount retailers who do not provide these services (and do not incur the cost of providing them) can undercut full-service retailers. Over time, persistent free riding by discount or low service online retailers may crowd full service retailers out of the market (or force them to become low-service retailers).*

*43. In the event discount or low-service online retailers crowd out full-service retailers (or force them to change their business model), customers may not be able to access the information necessary to make a fully informed decision about the products they are purchasing. As a consequence:*

- some customers may not purchase the product that best meets their needs (given prices).*
- competition between manufacturers may be distorted by rewarding manufacturers of possibly inferior (but better understood) products over superior (but more complex) products.*



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- *existing customers will not receive the high level of post- sales services which they may expect as a consequence of purchasing a premium product. As a result, this is likely to discredit the reputation of the brand over time, making it more difficult for it to justify its premium position.*

*44. Resale price maintenance may in some circumstances reduce the likelihood that full-service retailers will lose sales to discount retailers. If resale price maintenance is in place, retailers who provide advice and service to a customer are more likely to gain sales. So long as the margin between the minimum retail price and the wholesale price is sufficient, more retailers are likely to become full-service retailers.*

*45. Resale price maintenance may lead to a range of public benefits as well as a range of public detriments.”*

This quote accurately and concisely sums up many of our submissions.

Free riding contributes to the demise of full-service welding and cutting specialist and/or causes them to leave the market. Consequently, customers could suffer from not having the correct or available information to make an informed choice of product and to assist them use the product and provide advice after the purchase.

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Interviewee/  
business  
names  
redacted.

**Free riding is rife in the welding machine market, as evidenced in the comments** [REDACTED]

[REDACTED] Part of that interview is reproduced below.



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*Weldclass: "Have your stores ever experienced free riding, where a prospect comes to your business, your distributor's business, and they provide info or a demonstration on the product, and a price on the product, only for that prospect to purchase the same product online or at an opposition business at a discounted price?"*

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Interviewee/  
business names redacted.

██████████ *"That has been the single biggest threat to any of our members, as mum-and-dad businesses, independents. That is their number one thing to have. That's in power tools, that's in welding, that's in anything. Our guys are used as almost like an encyclopaedia. They get the information to the customer. You can do the demo, and then the first thing they do is shop around the price, and they might go up the road and get it five bucks cheaper than what you've already quoted. But they can afford to do that, because they haven't spent to time with the customer."*

*Weldclass: "Yes, wow. Have you got any examples on welding machines where that's happened, where a store's showing the customer the right fit for product, guided them to the product that they need, explained it to them, and then they've free-rided and gone to another store?"*

██████████ *"Yeah, an example, just a couple weeks ago, when I was contracting back to a ██████████ member, helping do some sales in the shop. Sat down with the ██████████ products (machine brand), took him through, probably spent 45 minutes, actually talking him out of a unit that wouldn't have suited his purpose. It was a bigger unit. We would've made more money out of it, but it wasn't fit for purpose. The customer then took that*



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*information and went and bought it from his local [REDACTED] store."*

*Weldclass: "There you go, and that was yourself personally doing that sale."*

*[REDACTED] "Me personally, yeah."*

*Weldclass: "Wow. Yes, we hear that a lot."*

*[REDACTED] "Then the customer came back and bought some consumables (for his machine) off us because [REDACTED] didn't have the consumables."*

*Weldclass: Wow. "That's a common issue."*

*[REDACTED]: "That's what happens."*

### **3.3.5 Intra-distributor discounting:**

Weldclass is aware that some of its distributors focus predominantly on undercutting other distributors on price rather than providing retail services. This has led to a situation where those distributors who spend time and effort in providing expertise, advice and demonstrations to customers often do not get the sales, as the customers ultimately purchase products at discounted prices from other distributors.

Evidence of this behaviour is included at section 15(2) - Distributor Consultations and at Attachment 5 - Consultation Submissions.



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names  
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Weldclass can say with certainty, after analysing our sales data, that there has been a clear shift in sales volume away from full service reseller to discounters. (Refer Attachment 5 - [REDACTED]).

The RPM Tooltechnic Notification suggests introducing a resale price maintenance strategy provides a clear public benefit (taken from the ACCC media release):

*"In particular, evidence including feedback from distributors suggests that setting a guaranteed minimum price for these products has given a large network of Festool/Fein distributors the certainty they need to invest in facilities and staff to provide better levels of pre- and post-sales retail services. This results in consumers being able to make more informed decisions about the purchase and maintenance of these relatively complex products. The ACCC considers that this is also likely to result in increased service-based competition between Festool/Fein power tool distributors (particularly enabling smaller distributors to better compete with larger distributors) and promote competition between power tool brands.*

*<https://www.accc.gov.au/update/rpm-on-festool-and-fein-power-tools-allowed-to-continue>"*

Weldclass supports this proposition.

### **3.3.6 Other reason for considering a Minimum Pricing Policy**

- Increased specialisation and knowledge;  
Encourages further innovation, research and development from the manufacturer/wholesaler due to the ability to



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produce a premium product and receive a reasonable revenue return;

- A greater range of products will be available for consumers as the Distributor will be required to stock a range of products and display them in an orderly, logical, customer friendly way;
- It will allow each product to have extensive point-of-sale material attached and available to the distributor, setting out the features, specifications and fitness for use/application;
- It will enable Weldclass to provide a much stronger warranty and replacement service for our customers;
- Promotes competition based on expertise and the quality of service both before and after the sale;
- The customer's welfare becomes of paramount importance rather than the level of discounting, having paramount importance;
- It is a real attempt to ensure that the customer purchases a product best suited for their application and needs;
- It is a real attempt to compete on expertise and service;
- Allows distributors to be fully trained and permits the reseller to spend time discussing the customer requirements, assessing the customer's needs, demonstrating the product if required, training the customer, and providing after sales services;
- Price competition can lead to poor advice being provided to consumers who may purchase products that are not suitable for the consumers use. (Refer below distributor comments). Our proposed minimum price policy will assist in providing full-service distributors to overcome this market failure, with respect to our products;
- Our minimum pricing policy is likely to encourage more distributors to become full-service retailers for the benefit of consumers; and



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- Welding machines and cutters are complex and technical machines. There is a vast array of variables depending on the type of welding process and application, with dozens of machine settings, material types, and power supply factors together with the introduction of electronic and digitised machines. Sale of these machines does require specialised advice. The public will be best served with full-service retailers.

Weldclass has conducted significant consultation with current and potential welder and cutter distributors and also end users to support its Minimum Pricing Policy submission. Refer to section 17 and Attachment 17 of this submission.

The distributor comments set out below provide evidence of the above points (Refer Attachment 5 [REDACTED] & Email Survey Responses RPM).

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business  
names  
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**Distributor comments by [REDACTED]**

*Weldclass: "So secondly, do you feel that the investment in staff training will allow the customer to receive specialist advice on the correct machine for their specific needs rather than being sold a unit specifically or simply because of its cheap or discounted price?"*

[REDACTED]: "Definitely."

[REDACTED]: "100%, yes."

[REDACTED] "We pride ourselves on being specialists. We are not necessarily focused towards the do-it-yourself market. We're specialists on the trade and the industry, and it's very important that the investment





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*into training and specifying the product is fit for purpose.”*

*Weldclass: “Yes. We've had other customers, distributors, explain to us that the end customer is coming to their store and said that they've got this product they bought and it doesn't work for the job, because they bought it from an untrained, unknowledgeable salesperson. For example, a recent one, the distributor said he had a customer come in that had bought a TIG welder from one of these companies that hadn't trained their staff on welders. The guy said it'll TIG weld anything, and it was a DC TIG welder. And he was welding aluminium, and he couldn't figure out why it didn't weld on aluminium (a DC TIG Welder will not weld Aluminium). Have you got any stories or anything similar that you've heard along those lines, where they've got the wrong product from an untrained salesperson?”*

*[REDACTED]: “To be honest, in the welding game, happens very, very regularly, very. If they're not trained people and they don't understand the welding game, or the welder that they're selling, it is always going to cause an issue.”*

*[REDACTED]: “And I don't have any specific examples, but it's a real risk. I mean, you're talking safety. People welding platforms and things that aren't necessarily certified or ticketed, you're putting lives in danger with either falling objects or people falling off parts that are just impurely bonded together, structurally together.”*

*Weldclass: “Yes, exactly.”*

*[REDACTED]: “It's a big issue.”*



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**Distributor email comments by [REDACTED]**

*"I am continually having customers come in with products bought online that are either incorrect for the application or with a problem wanting me to help them out or needing parts to actually be able to use the product. Needless to say I find this quite annoying and ultimately the end user pays the price due to our lack of support and interest in stocking a product with zero margin."*

**Distributor email comments by [REDACTED]**

**[REDACTED] regarding the Weldforce RPM proposal:**

*"Having a specialty range of product like this where we can confidently compete with any other distributor will mean we can justify attempting to provide a complete experience for the benefit of the customers. Equal pricing means higher stock turnover, which in turns justifies keeping more stock in store. As part of the experience, the customer needs to be provided with well trained and knowledgeable staff, and a wide range of products and accessories/consumables in store to meet their needs."*

Our model gives the end user customer confidence that they are making the right decisions, that they have local expertise (the distributor) to assist them when using the product, further the product is immediately available for them without having to wait for it to be shipped to them and the accessories are also available all at the one store, with the advice as to which are the correct accessories.

Our model is focused on consumer welfare.



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**Comments by [REDACTED] regarding the complexity of welding:**

*"The answer to that is yes. You asked the question before, have I done any welding? Quite frankly, I'm too scared to be doing any welding because it's a complicated business, and if you haven't got the training, you can end up buying a machine that is totally useless to you, doesn't do the job, and on top of that, you've probably got some pretty serious or potential serious OH&S issues if you're not being trained by somebody to use that machine properly. It's just not as simple as a supermarket cash and carry. You do need the training on that product, in my view."*

### **3.4 Time period relevant to proposed conduct**

Weldclass will not commence RPM conduct until after the ACCC's substantive assessment of this Notification.

### **4. Documents submitted to Weldclass Board and senior management for assessment and decision on proposed conduct**

Please refer to:

[REDACTED]

[REDACTED]

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**We do not wish to disclose Weldclass board matters to our competitors.**



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**5. Persons or class of persons who may be directly impacted by notified conduct and how**

Weldclass believes that the parties that may be directly impacted will be our distributors, our wholesale competitors and the end user customer.

We have already set out what we believe to be the impacts on our distributors and customers. We have also provided evidence from both our distributors and customers and their reaction to our RPM proposal. (Refer Attachment 5 & 17).

Following is a list of the current major wholesale suppliers and their brands names for the products (welding machines and plasma cutters) they supply.

<b>Company</b>	<b>Relevant Product Brands</b>
Esab t/as Cigweld Pty Ltd	Cigweld, Weldskill
BOC	BOC, MagMate
Lincoln Electric	Lincoln
Welding Industries of Australia	WIA
Dynaweld	Bossweld
Welding Guns of Australia	Unimig

These wholesalers may be impacted, because we will be competing on the basis of the quality of our products, full service customer experience involving expert advice to customers, full product range being available over a wide geographic area in Australia, greater before and after sales service and increased warranty conditions.

Accordingly, our competitors may be impacted if they wish to compete on the basis of customer service, product knowledge, expertise, staff training, service and warranty. Weldclass seeks to



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bring to the market a more sophisticated quality product and a different type of competition.

The Weldclass RPM model could result in other competitors adopting a more services based offering rather than focusing on cheapest is best for the customer.

Our current distributors and new distributors will be completely free to sell their current product range or include other wholesale supplier's products at any time.

Our Distributor Agreement does not limit a distributor's product range and leaves it completely open for them to stock any products from any supplier, they wish. Price competition will continue with respect to other wholesaler's goods.

Further our Distributors will not be granted exclusive territories under the minimum price policy and accordingly our distributors can compete on quality of service provided to end users over a wide geographic area.

## **6. Market information and concentration.**

### **6.1 Product and services supplied and geographic areas covered by the notifying party:**

The geographic area to which the RPM will be applied is the whole of Australia and specifically to the distributors who agree to undertake RPM in accordance with our Distributor Agreement.

### **Products and Product Description**

The products concerned in this RPM notification are **all current & future welding machines & plasma cutters** supplied by Weldclass, from time to time, including; MIG Welders, Stick/MMA Welders, Generator welders, Pulse Welders, Plasma cutters, Plasma cutting systems & tables, Spot welders, TIG welders, Laser welders, Arc



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welders, Submerged Arc welders, Electroslag Welders, Pipe welders, Orbital welders, Battery Welders, Arc air gouging welders.

Our current machines product range, we seek to impose RPM on is the Weldforce welders range and the Cutforce plasma cutters range as shown in Attachment 6. These products can be viewed on our website [www.weldclass.com.au](http://www.weldclass.com.au).

As indicated above, our intention is to apply RPM to all current & future Weldclass machines, including improvements to current models.

These welder and cutter machines are to be isolated from our full range of general welding products (i.e. standard consumables, accessories, spare parts and safety apparel which do not have a power cord or provide a power source). This means that the usual price competition will apply with respect to our distribution of those products (consumables, spare parts and safety apparel), to our distributors.

We have elected to **only propose retail price maintenance on welders and cutters** for following reasons:

- Welding machines and plasma cutting machines are significantly more complex and technical than general welding products. The broad range of processes (GMAW, FCAW, MMA, DC TIG, AC/DC TIG, Plasma Cutting, etc.) coupled with the vast array of variables within each process, different applications, dozens of machine settings, material type, consumable options, power supply factors, welding environment conditions, etc. makes understanding each machine difficult for distributors and end-users alike. This has been further amplified in recent years where there has been a significant shift to more electronic and digitized machines that offer an even greater array of options and functions for considerations.



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- Improvements in technology and consequent decreases in manufacturing costs have also enabled, in recent times, the production of low-cost welding and plasma cutting machines to flood the market, particularly from overseas. This has made welding and plasma cutting an attractive solution to a huge market of **non-professionals** who traditionally did not regard these processes as something that was achievable by them.
- In recent times a huge number of hardware, tool & general industrial supply distributors have entered or significantly expanded their offering to the welding machine and plasma cutting machine market. Broadly speaking, these outlets have a poor understanding of welding and plasma cutting processes compared to traditional welding-specialist distributors.

Weldclass sells to many of these hardware, tool & general industrial supply stores. We have continued to assist these retail outlets to improve their display range, knowledge and service on welding products. We see RPM on welding and cutting machines fitting in perfectly with our existing support strategy & retail friendly offerings to this market sector.

- The combination of all the above factors has, in general terms, led to end users being presented with the challenge of coming to terms with a complex product, with a growing number of product alternatives from inexperienced/poorly educated distributors. The net result of this is an increasingly higher risk of the end user being sold a product that is either not fit-for-purpose and/or not the best solution for their application. Unfortunately, often the distributor or end-user may unnecessarily accept a compromised solution because they are simply unaware of the ideal solution or how to match it to the application.
- This contrasts with other **general welding accessories** and products (i.e. standard consumables, accessories, spare



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parts and safety apparel) which are, in the main, easier to understand, meaning it is not as difficult for a distributor or end user to identify the appropriate product. Consequently, we are not applying for RPM for our general welding products range.

- For similar reasons we are not applying for RPM to accessories and **spare parts** for our welding and plasma cutting machine range.

The attached catalogue extracts and fact sheets (see Attachment 6) provide full detail on the above products that we are seeking to impose RPM upon.

Weldclass welding and plasma cutting machines, for which retail price maintenance is sought, are not unique in terms of the **main function** they perform, and accordingly have been retail priced competitively to other brands on the market.

What does set them apart, is the effective combination of so many innovative functions & features, (including features exclusive to Weldclass machines) designed specifically for Australian welders and, designed to accommodate non-professional welders as well as professionals.

Extensive market research and R & D has been invested in our product range to ensure that the combination of features for each model is appropriate and beneficial for typical applications in our market. This has ensured that the Weldclass machine range is amongst the best value-for-money models on the Australian market and it is our aim that they will remain that way if we impose RPM. Please refer to Attachment 12 – Market Comparisons.

Our aim is to provide welders and cutters **at a similar price** to other brands, however with many more features & functions than other





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brands, especially features which are valued by Australian welders and features which make welding easier for non-professionals.

The general impression when someone seeks to fix their prices is that they wish to **over inflate their fixed sale prices** compared to other competitors comparable products.

Attachment 12 shows that our products are often on the cheaper end of the scale when compared to other competitive products however our products have much higher specifications and features than our competitors' comparable products.

Innovation is expensive to create and expensive to maintain on a continuing basis. Consequently, it is important for both the supplier and distributor to be able to maintain reasonable profit margins.

The public benefits of Weldclass innovative R&D are clearly evidenced in the following comments by end users who have recently purchased a Weldclass machine (Refer Attachment 17);

**Comments by [REDACTED]:**

[REDACTED] *"Yeah, I mean, I was looking at the other one, the...had one of them before, [REDACTED] before, but that was a 140 or something, and I was surprised. I thought the 140 would be quite a compact machine, but it was bigger. I asked, like... that was something that appealed to me, the size of it (Weldclass machine). I can stick a small wire in it, and the weight goes down a bit. The small welder, I don't need to have such a heavy machine around."*

*Weldclass: "Excellent!"*

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Interviewee/business names redacted.



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█ *“So, uh... yeah, so the compactness is what pretty much swayed me from the UniMig.”*

*Weldclass: “Okay, and would you say that's fairly unique, the compactness of the 180? You don't normally see compact 180s?”*

█ *“Yeah, that seems to be pretty... yeah, the one I had before, I had a 180 UniMig before and it was quite heavy. I actually got rid of it because it was just too heavy for what I needed”*

Weldclass recognised from market research that the Australian market does a lot of on-site welding and therefore we aimed to innovate our Weldforce machines to become lightweight, compact and portable, which is reflected in our current product range and is, in our opinion a benefit to our end users.

**Comments by █:**

*Weldclass: “Good. And we try to innovate on our machines as much as possible. █ have you noticed anything about the welder that that you like, any particular features?”*

*Michael: “Hot start and arc force. The way that it ramps up when you first go to take off, so that way the stick doesn't actually stick really badly is what I've found really, really good.”*

*Weldclass: “Excellent. That's good. That's very interesting because that is an innovative feature that we added to that machine, which is unique. Most machines in the market at that level don't have adjustable hot start and arc*



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■■■■ So yeah, that's great to see. Those innovations are flowing through and you're finding good benefits from those in the application process."

■■■■: "Yeah, definitely."

**Comments by** ■■■■

■■■■ "It does exactly what I want it to do, because the reason I bought it was because of the arc welder with it as well, MIG and arc. So, I normally carry both around, and this is going to utilize just the one welder. And the reason buying it is the size of it. I like the size of it. Not too big."

Weldclass: "Yes, they're a nice little compact machine, those 180s."

■■■■ "Yes, yes, exactly."

Weldclass: "Yes. We've done a lot of innovation to our machines to suit the Australian market. Things like the portability. We know a lot of Aussie welders are often out on-site. Have you noticed any other innovation with the machine that you like, any of the features?"

■■■■ "Well, yes, that's the other reason I bought it, because of the knob controls instead of the digital ... Well, it's got a digital layout, but I just like the knobs that you can see where they are. I had one prior to that which was a Chinese one from Bunnings, and it had a digital control. And you only had to bump it, and then you didn't know what you were on. This one, at least if you knock it, where you're seeing ... you know what I mean? I'm from the old school."



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*Weldclass: "Absolutely. That's interesting, because our feedback before we designed the machines was that Aussie welders like the standard knobs, rather than the other, which makes it difficult."*

██████████ *"And you bump them, you look over and think, oh no, that's in the wrong spot, you just reach over and flick it back. So yes, it's so much easier, I think, anyway."*

*Weldclass: "Exactly. That's great to see that the R&D and innovation is flowing over to your benefit. That's great."*

Further distinctive innovations include the easy-to-understand instructions & marketing collateral (e.g. fact sheets, operating instruction, User Manuals, machine panel Reference Chart Stickers, and point of sale material provided to distributors (See Attachment 13) which are designed to make it as clear and simple as possible to match the correct model to the appropriate applications, and for the end user to easily understand and effectively use the machine to enjoy its full benefits.

Weldclass has developed the machines to enable a 'plug & play' service to the end user. This means that most likely, everything relating to the machine (excluding consumables & gas) has been provided in the box so that the consumer is more likely to be able to begin welding right away. Many other brands of machines do not offer this and the end user is often frustrated when they set up the machine out of the box and cannot weld because they are missing applicable items such as: drive rollers, Mig tips, plasma air fitting, plug for power cord, etc.

Our customer-centric approach to our products is in the core DNA of Weldclass as a company, as reflected by our:



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We do not wish to disclose parts of our mission statement to our competitors.

- Brand Vision: A smile when the helmet goes up.
- Mission: Everyone deserves success.
- Brand Promise: Be Outstanding

Weldclass's mission is to provide full satisfaction and enjoyment to all welders who come in touch with our products through our innovative, customer-led solutions so that they can 'Be Outstanding' by maximising the value and benefit of our R&D rich products.

The key differentiator in the Weldclass offering compared to other competitors is the combination of resources and training provided to the distributors to ensure that they match the ideal product solution to the end user's application as well as providing machine training and troubleshooting advice.

This is further evidenced as follows:

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We do not wish to disclose parts of our business model to our competitors.

- We have designed and built a fully-customised in-house software application [REDACTED] that is focused on customer-service benefits with the recent release of our new range of welding & plasma cutting machines. We have invested in excess of [REDACTED] plus countless hours of in-house staff time over the past 12 months to engineer this innovative system. It allows our customer-oriented processes to be extremely efficient by:
  - Relaying our end-user requests to our nearest distributor of our machines;
  - Answering end-user and distributor technical queries and problem solving about the machines including providing fast and accurate solutions to technical questions; and
  - Processing warranty claims and repairs.



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## **6.2 Warranty**

Briefly, where a warranty issue involves user error, we will provide additional training & upskilling to the customer or our distributor at no charge. Details of the specific warranty terms for each WeldForce and Cutforce Product is detailed in the Operators Manual for each Product and is set out in Attachment 7.

If RPM proves successful, Weldclass will seriously consider an industry-first 100% Satisfaction Guarantee on our welding machines. We envisage that this significant public benefit would be sustainable under the RPM model and would reflect well the confidence Weldclass has in delivering high quality, fit-for-purpose products to the end user.

## **6.3 Distributor Training**

Our Distributor Agreement (which must be signed by a distributor prior to them having access to our new welder and cutter machine range) will mandate their participation in our distributor training program (refer Schedule 2 of Distributor Agreement version 1.5– Attachment 2) which will ensure that their key sales staff have the required level of knowledge to match relevant product/model to the end-user’s application. In fact, this process is already in place – refer Attachment 8 for working examples of the “Weldclass Stockists Training Register”. So far Weldclass has set up & trained over ■ distributors on our machines (Refer Attachment 10 – WeldForce Machine Stockists).

Please refer Section 11 of this submission and Attachment 17 for comments made by end users who were served in store by trained Weldclass distributors and the positive impact on their purchasing experience.



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Weldclass already has an excellent reputation among welding distributors across Australia for being proactive and investing time in training and assisting them to provide high-level customer service. See the results of our recent Distributor Survey – Attachment 18.

Our face-to-face contact with our distributors exceeds our competitors in both frequency and quality of visits. Our sales team already spends a good deal of time with distributors providing welding product training.

With our new range of machines, we intend to build on this solid base with a more substantial training offering for distributors including both face-to-face training and training collateral & videos.

Weldclass has also now produced and released a comprehensive and innovative series of training videos, which will be made available to our distributors. Each video takes the distributors' staff through individual machines and cutters, explaining operation, features and benefits, and selling points. Please refer to the link below:

<https://www.weldclass.com.au/page/44/welding-machine-intro-videos>

Weldclass is currently building, what we believe will be an industry first, training portal solely dedicated to intensive training of our distributors regarding our products, rather than it being a marketing and sales based video, like our abovementioned video. (see link above).

We can only continue to invest large resources in making these facilities and resources available if we can guarantee a reasonable return on the sale of our products.



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## 6.4 Appropriate Stock Range

Our Distributor Agreement requires our distributors to stock a required and minimum range of machines to ensure that the end user has an appropriate range of options to choose from. Our sales team, will/are regularly visit distributors, will/are monitoring compliance with our Distributor Agreement to ensure distributors comply with this requirements. This procedure is already in place. Please refer to Attachment 9 – “[REDACTED]”.

Commercially sensitive.

We do not wish to disclose parts of our business model to our competitors.

The Weldclass welding and plasma cutting machines are sourced from suppliers who have signed exclusivity agreements with JWL Marketing Pty Ltd not to sell the Weldforce and Cutforce product range to any other party in Australia. Our new range of products is branded and marketed under our own trademarks and significantly, the products have been built to our unique specifications by our overseas manufacturers.

## 6.5 The Australian Market

The market we are seeking to penetrate in Australia, is a niche sector of the market, being customers who need and appreciate a quality machine, value for money, expert advice, quality service both before and after the sale and a quality warranty offering.

Weldclass currently sells its products through a network of [REDACTED] distributors in all States & Territories of Australia. It is proposed that our Weldforce and Cutforce products will be offered to and distributed through the same network of distributors to all States & Territories of Australia (Refer Section 9.4 & 9.5 & Attachment 10). Those products however will only be offered to those distributors who are prepared to enter into our Distributor Agreement (version 1.5) and uphold our levels of expertise and service.





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The supply of welding and cutting machines in Australia is a very large market, perhaps worth approximately \$386,000,000.00<sup>2</sup> (AUD \$386 million). Weldclass engaged [REDACTED] to research the Australian welding machine market for market size evaluation. Please refer Attachment 11.

**Commercially sensitive.**  
**Weldclass has engaged a consultant to provide this data at a considerable cost. We do not wish to disclose this data to our competitors.**

[REDACTED]

The current consumables, spare parts and apparel market in Australia & NZ is estimated at \$1,010,000,000 (AUD \$1.010 Billion). Of that, the Australian Market is 90%, an estimated \$909,000,000 (AUD \$901 million). Refer Attachment 11.

[REDACTED]

[REDACTED]

Weldclass estimates there are approximately 22 major welding machine brands being sold in Australia today. There are a number of minor brands and models we are unable to account for at present. Each brand has many differing products within each of their welder and cutter ranges and we conservatively estimate that there are 465 plus welding and cutting machine products freely available in the Australian market at present. Refer table 1 below:



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**Table 1.**

<b>Machine Brand</b>	<b>Estimated Number of Welding Machine Models</b>
Lincoln	50
BOC	13
WIA	20
Miller	13
Hypertherm	25
Michigan	10
Unimig	30
ESAB	17
Cigweld	60
Thermal Dynamics	12
Magmate	3
Bossweld	23
EWM	16
Cebora	30
Duralloy	12
Fronius	20
Kemppi	18
Renegade	10
Token tools	9
Lorch	15
Weldtronic	19
WeldForce	10
Misc/Others	30
<b>22+ welding brands</b>	<b>465+ welding machine models</b>

Most of these welders and cutters are manufactured overseas and imported.

The welder and cutting market has many players and is extremely competitive, with no one supplier dominating the market.



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We propose to supply our new product range Australia wide to our existing distributors and to implement of our minimum price policy by incorporating a variation to the existing Distributor Agreement Version 1.2 (Attachment 2), by confirming the RPM obligation. See version 1.5 at Attachment 2.

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sensitive.**

We currently have approximately [REDACTED] active distributors and hope that we would be able to attract many of these distributors to sell our new product range with a minimum price, in each State and Territory of Australia.

Our goal is to develop our distributors/resellers to become full-service specialty welding retailers.

## **6.6 Market Price Analysis**

Prior to launching its Weldforce welders and Cutforce plasma cutters range, Weldclass conducted many hours of market price analysis to determine its positioning in the market. We did this to provide the end user with a “value for money” product (our product being highly featured) compared to our competitors comparable products.

We also made this decision with the prospect of introducing resale price maintenance front of mind whilst being competitive and ensuring our distributors a guaranteed profit margin and longevity in the welding market with our machine range.

Attachment 12 demonstrates our current pricing, market pricing and a detailed product description. Significantly we note that our pricing is middle of the range, compared to our competitors and in our opinion our products have more features than our competitors.



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**7. Relevant industry or industries, sales process, supply chains of product or services involved and manufacturing process.**

**7.1 Industries**

Our products are used by three main market segments that include:

1. Trade (trades people that are not “professional” welders):
  - a. Farmers/rural maintenance
  - b. Domestic construction
  - c. Fencing contractors
  - d. Maintenance contractors
  - e. Builders, carpenters
2. Non-Professional (non-commercial use):
  - a. Home handyman
  - b. Hobbyist
3. Professional welders:
  - a. Manufacturing
  - b. General metal fabrication
  - c. Heavy maintenance
  - d. Commercial construction

Industries that cover the three segments are:

- Engineering workshops
- Mine sites
- Manufacturing plants
- Heavy machinery repairs
- Marine building
- Farm sheds and building sites
- The do-it-yourself (DIY) market
- Repair stockyards, build pipelines, repair machinery and construction infrastructure
- Metal fabrication
- Steel manufacturing



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The products are used predominantly by general trade & non-professional (DIY) welders.

## **7.2 Sales process:**

Weldclass wholesales its products to the market through an extensive network of distributors throughout each State and Territory in Australia. Weldclass have wholesale distribution centres located in Sydney NSW and Perth WA, with its head office located in Tamworth NSW, 2340.

## **7.3 Supply chain:**

Weldclass imports welding machines, cutters and other products from a number of manufacturers located throughout the world.

The Supply chain is described as:

- The supply chain begins with our overseas supplier manufacturing the products. Our new range of welders and cutters will have features designed specifically for our product range.
- We then purchase and import the product into our Australian warehouses.
- We then sell the product to our distributors/retailers, Australia wide.
- The distributor/retailer will then on-sell the product to the end user/consumer.

The supply chain is shown graphically in the attached diagram – Figure 1.1



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## WELDCLASS SUPPLY CHAIN

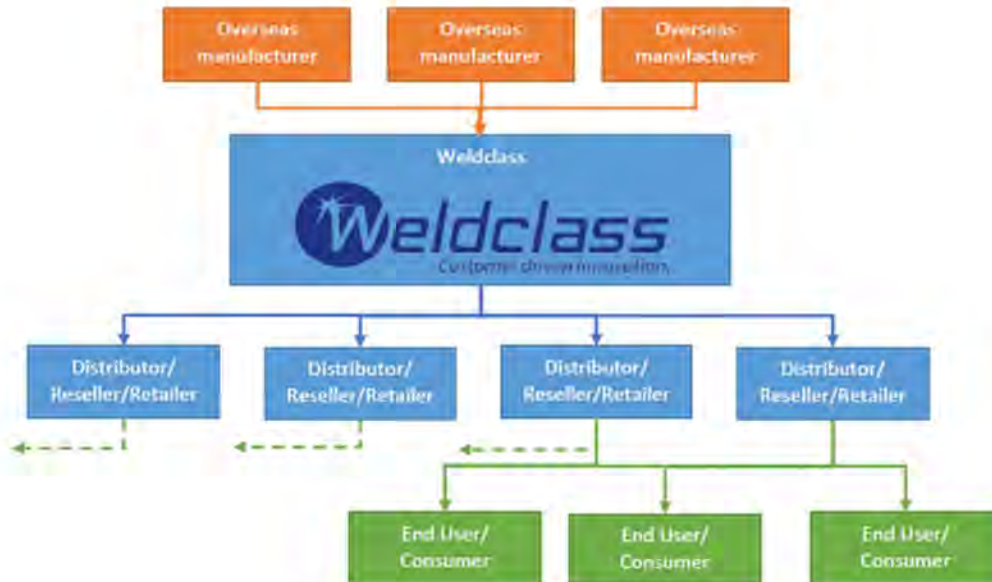


Figure 1.1

### 7.4 Manufacturing process:

Weldclass is not privy to the detail of the manufacturing process per se', as we are not the manufacturer of these products. Weldclass are the **exclusive** importer to Australia of these products from the Manufactures. We may be able to research the detail of the manufacturing process of these products upon request by the ACCC if this was deemed relevant and necessary. It is important to us that the products we import are of the highest quality.

Our manufacturers listen to our research and incorporate new features and specifications into the products that they produce exclusively for Weldclass.

Significantly, we do require our manufacturers to Test every machine before it leaves the factory. That is every machine is weld tested



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before being packed in the box. This is part of our 'plug & play' service goal outlined above to ensure the highest possible probability of the end user being able to use the machine successfully out of the box with less chance of manufacturing fault, not being detected.

**8. Estimated market share of overlapping products and/or services identified.**

See our comments in section 6.5 above.

Market size is perhaps 386 million AUD. The market share of Weldclass' competitors are not readily available.

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[Redacted content]

As to whether this is achievable remains to be seen. A large part of that success will be dependent upon implementing a minimum price maintenance policy and being able to value add services to our distributors and end users.

Without RPM, we will be forced to restrict the number of distributors who have access to our machines which will significantly limit sales and choice for end consumers. Refer Section 9.6. This is principally because of the very high cost of our service based strategy, which is designed to be customer focused.

The current consumables market in Australia & NZ is estimated at \$1,010,000,000 (AUD \$1.010 Billion). Of that, the Australian Market is 90%, an estimated \$909,000,000 (AUD \$901 million). Refer Attachment 11.



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[Redacted]

[Redacted]

[Redacted]

## 9. Sales Strategy Options available to Weldclass – Entering the Welding Machine Market

### 9.1 Direct selling to end user

Weldclass could introduce its range of welding machines and plasma cutters into the Australian market by selling **direct** to end users. This proposal in our view is not favoured because:

- The Weldclass business model is established as a well-respected independent wholesale supplier to the welding and metal-fabrication market;
- Weldclass network of distributors has grown over the years to be in excess of [Redacted] Australia-wide;
- Selling in opposition to our loyal distributors would be counterproductive and would not provide the public with an Australia-wide coverage for Weldclass welders and cutters;
- Weldclass, because of our market size, is unable to provide the personnel, the level of service particularly face to face service, customer demonstrations, availability of local stock, after sales service and customer satisfaction, that is available from an Australia wide reseller/distribution network;

Direct selling would undermine Weldclass's goal of equipping distributors to provide a full service, welding specialist reseller, who is able to provide expert knowledge and advice, the ability to invest in floor space, increased

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- stock and range and training of sales staff to the customer; and
- Direct selling would undermine speciality retail welding sector, which may ultimately lead to their decline, to the detriment of end-users/customers.

## 9.2 Online Selling to end users

Weldclass could consider introducing its range of welding machines and plasma cutters into the Australian market by selling direct to end users **on-line**. This action is not favoured by us because:

- Refer the rationale discussed above section 9.1.
- RPM will however allow our distributors to advertise our new product range online without fear of price competition from other distributors.

## 9.3 Distributors with and without RPM (restricted number)

Weldclass could consider but does not favour introducing its range of welding machines and plasma cutters in to the Australian market by appointing a select number of distributors who **would be** required to comply with our minimum price strategy and other distributors who **would not** be required to comply with our minimum price strategy for our range of welding and plasma cutting machines.

In our view, this will result in very few (if any) distributors wishing to accept a Distribution Agreement which requires them to apply a minimum pricing policy when other distributors are not bound to this policy, due to the ability of the non-RPM distributors being able to “free ride” from the RPM bound distributors and also the ability of the non-bound RPM distributors to discount their products without providing customer services both before and after the sale.

Unless all distributors of our products are bound by the minimum price strategy, distributors will not have the confidence or incentive to invest in additional infrastructure, floor space, product



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demonstrations, staff training, after sales service et cetera, that we will require. It would force our product range to compete on price rather than quality of product, quality of service and expertise and therefore is not an option which is being considered.

#### **9.4 All Distributors with RPM (unrestricted number)**

For all the reasons outlined in this document, Weldclass favours the introducing of its range of welding machines and plasma cutters into the Australian market through its established and growing network of about [REDACTED] distributors with RPM being a requirement of supply.

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This strategy will afford the greatest public choice and consumer benefit. It will support welding retailers and give them the confidence to invest in additional infrastructure, floor space, product demonstrations, staff training, after sales service et cetera, creating a significant public benefit.

RPM will force distributors to compete on quality of product, expertise, advice, availability of product, and quality of service both before and after the sale. Without RPM there would otherwise be an under-investment in these key areas to the detriment of the public.

The significant benefits Weldclass is already providing to a restricted number of distributors and their end users (as outlined below in Section 9.5), is only a micro-cosm of what can be achieved if Weldclass is permitted to supply all distributors under RPM (unrestricted number). Approval of RPM will enable our new product range to be supplied to all our distributors across Australia and to be available to most consumers.

This will provide considerable public benefit through increased public choice, informed choice and the opportunity for all end users to access a range of high-specification, innovative welding machines with expert advice, premium service pre and post-sale, excellent backup service, problem solving and warranty management.



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Our RPM proposal has been strongly supported by our distributor network as shown in many consultations, with examples such as this comment from:

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Interviewee/  
business names  
redacted.

[REDACTED]

*Weldclass: "Yep. Exactly. Last of all, our current situation with how we're rolling out these welding machines right now where we don't have immunity to conduct RPM, what is your thoughts on the banning of online or the restriction of online presentation and the way that we're being selective about our distributors? Do you see a benefit in us being awarded RPM so that we can be less restrictive?"*

[REDACTED] *"I believe that would be very much good for the whole industry, not just for yourself but the whole industry."*

## 9.5 Distributors without RPM (Restricted)

This is our current mode of operation. We only allow our welding and plasma machines to be sold to a selected and limited number of distributors who cannot sell on-line. This option, in our opinion considerably restricts public availability and choice, however it is our only reasonable option, unless RPM is approved.

Further we currently have a recommended price policy only. Weldclass will not conduct RPM behaviour until granted permission by the ACCC.

As Weldclass does not currently have RPM, we cannot control minimum market pricing. It is inevitable that without RPM, the behaviours that are rife in the welding/cutting machine market will also negatively affect Weldclass machines such as:

- Free riding;
- Intra-brand discounting;



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- Reduced distributor margins;
- Reduced investment by distributors on pre & post sale service levels;
- Under investment in distributor staff training;
- Other public detriments & behaviours mentioned in Section 3.3;
- Damage to Weldclass brand due to the above negative experiences by the distributors and customers; and
- Threaten the viability of future research, development and innovation by Weldclass on machines.

Therefore, the next best alternative option available to Weldclass was to significantly restrict the number of distributors who have access to Weldclass machines and restrict online advertising, so that;

- Intra brand discounting is potentially lessened;
- The selected distributors who choose to stock Weldclass machines have less competition in their local area and are more likely to be able to maintain a sustainable margin;
- The selected distributors are more likely to stock Weldclass machines because they can see that Weldclass has a protection strategy of some sort to enable them to hopefully lessen the discounting & free riding that they are currently experiencing on other machines they stock.

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sensitive.

Weldclass is currently operating under this Restricted Distributors and Restricted Online advertising policy for the above reasons. We currently have ■ or so distributors who have signed our distribution agreement – version 1.2 see Attachment 2.

The volume of sales that can be generated from ■ or so distributors cannot justify Weldclass continuing to provide the additional services, training and resources etc to the distributor and customer in the long-term.

## **9.6 Restricted Distributors Policy without RPM-Our Existing Model**



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Weldclass has strategically identified Distributors in some towns, suburbs & cities of Australia who we will supply our machines. Most towns we have chosen to supply machines to will have only one or two distributors, larger towns or suburbs may be more.

Refer Attachment 10 – Restricted Distributors by Town. (Note the list of Restricted Distributors may be subject to changes based on new information learned as we roll out our new machine range).

Commercially sensitive.

Data is confidential

Weldclass has short listed only [REDACTED] Restricted Distributors to present our new machines and our existing Distribution Agreement to, from more than 800 distributors.

The remaining [REDACTED] distributors would not be given access to machines which means that we are not using approx. 70% of our current distributor network. This results in a significant detriment in terms of the volume of Weldclass sales and is a significant public detriment as availability and public choice of our product will be considerably lessened & restricted. Some areas of Australia will not be supplied with our product or our services.

Whilst we might offer [REDACTED] distributors the restricted choice option, it is very unlikely that all of them will take up the opportunity to stock our machines. On current success rates we estimate about half of the [REDACTED] selected distributors would take on the range, [REDACTED] distributors. This represents an outlook of approx. [REDACTED] of our [REDACTED] distributors becoming Weldclass Machine stockists under our current mode of operation.

Distributor business name is confidential.

For example [REDACTED] being one of the largest and respected tool stores in Brisbane, is very keen to stock and sell our machines, however they have declined due to our Restricted Online Advertising policy (below).

That result is to the detriment of many end users in the Brisbane area who would benefit from our product range being stocked and the specialised service that [REDACTED] could have provided. [REDACTED] are now awaiting RPM outcome so they can reconsider stocking our machines.



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Our current Restricted Distributors policy, with a recommended pricing policy has many downsides including:

- There is a significant reduction in availability of our product Australia wide;
- There is a significant restriction to public choice;
- Whilst restricting the number of distributors who sell our machines may lessen the likelihood of intra-brand discounting to some extent, it is by no means a complete solution and discounting and margin squeeze will still happen;
- Those distributors who do have access to our machines will face less service competition (due to low number of other Weldclass machine distributors) which could lead to lower service levels offered to the end user;
- It restricts Weldclass's opportunity to grow and expand;
- Distributors who are refused access to Weldclass machines under our Restricted Distributors Policy may take offence and cease stocking Weldclass consumables leading to further restriction in public choice; and
- Weldclass has never previously had restrictions on supplying distributors who wished to retail our products.
- The Restricted Distributors policy has added a difficult complication to our business model and our distributor network.

Should Weldclass be successful in its RPM submission, we would lift the Restricted Distributor policy and allow access to all of our distributors to our machines who are willing to operate under RPM guidelines and Weldclass Distributor Agreement (version 1.5) terms.

### **9.7 Restricted Online Advertising Policy- Our Existing Policy**

For the same reasons outlined above, Weldclass considers it necessary to also restrict the online advertising of our Machines.



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Our current WeldForce Distributor Agreement states:

#### 9) Duties of the Distributor

*The Distributor must:*

*j) not to advertise any WeldForce Products via any website or Internet sale site including the Distributor's website without the express written permission of Weldclass.*

Our current Restricted Online advertising policy has many downsides including those listed above regarding Restricted Distributors, as well as:

- Many end-users use our distributors websites as part of their buying process and this is restricting customers' ability to be informed that our products are available from the distributor;
- End users are unable to obtain information on all products stocked by their preferred distributor on the distributors Web site, which limits their choice and restricts their ability to make an informed decision on product availability and suitability;
- Distributors are restricted in their ability to market the Weldclass range and advise customers of the features of all products that they stock; and
- Restricting online advertising restricts the customer's choice and is likely to be a public detriment.

We would lift the Restricted Online advertising policy and allow distributors to advertise our entire machine range with MRP Pricing, should Weldclass be successful in this RPM submission.

### **9.8 High Cost of Maintaining Pre-RPM Service Levels**

Weldclass considers the cost of maintaining current premium training, service levels, etc without RPM to be financially unsustainable due to our very small distributor base. We know this is correct as we are



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currently providing premium service levels, training, distributorship audits etc. as would apply if RPM is approved and the cost is significant. For us to continue using the restricted distributor model, we would need to increase our retail prices due to the high service cost on a low sales base. Market forces however are likely to prevent us from doing this.

We have been prepared to absorb this cost to ensure that our distributors and our systems are able to provide the premium service levels we are proposing and a net public benefit.

The costs of providing premium service levels, training, pre-and post sales services, includes but is not limited to:

- Staff time investment to maintain detailed systems to service, support and police the premium service level commitments per the current Distributor Agreement;
- Weldclass Business Development Managers travelling to all states of Australia including the Northern Territory to ensure Distributor Agreement compliance;
- Weldclass Business Development Managers travelling to all states of Australia including the Northern Territory to provide machine training to our newly appointed, but limited, distributor network; and
- Weldclass Business Development Managers travelling to all states of Australia including the Northern Territory to conduct in-store audits to ensure compliance with distributor agreements.

The overall cost of building & maintaining the processes, procedures and framework to ensure our vision (competition based on service and expertise), can be achieved is substantial and can only be achieved, we believe if we are permitted to engage in RPM so that our machines can be made available to all of our distributors.





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For Weldclass there is huge “opportunity costs” of our *Restricted Distributors Policy* and *Restricted Online Advertising Policy*, which is currently in place. It is financially unsustainable in the long term.

Should Weldclass not be permitted to operate an RPM policy, we may be forced to cease providing our premium service levels, training and after sales advice, which is likely to be a detriment to our distributors and the public.

## 10. Competitive constraints on the parties to proposed conduct.

### 10.1 Existing or potential competitors:

Market share figures are not readily available however we believe the market leaders in the Australian market for welding machines and plasma cutters is as follows:

- BOC has the largest share
- Esab/Cigweld second
- Other manufacturers/suppliers such as WIA, Lincoln, Dynaweld and Unimig make up the majority of the balance of the Australian market.

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We do not wish to disclose market share data to our competitors.

Weldclass aim is to achieve around [REDACTED] of the Australian welder and cutter market in the [REDACTED] of introducing its welders and cutters.

Weldclass, will be competing with a broad range of wholesale suppliers to distribute welders and cutters, all of whom provide similar product offerings.

Whilst the Weldclass products are specialised and have a number of unique innovative features, they are not per se' unique and a customer considering purchasing any Weldclass welder and/or cutter will also have a large number of other manufacturers' offerings available to them as well.



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Interviewee/  
business names redacted.

This is highlighted by comment made by [REDACTED] who purchased a Weldclass Machine) when we were conducting end user interviews. Refer Attachment 17:

[REDACTED] *“Not really. You know, you can always go somewhere else and get something else, from a consumer’s point of view. But the price is pretty competitive anyway (on Weldclass machine).”*

*Weldclass: “Yes that’s exactly right, we have to maintain our retail pricing competitiveness anyway, because you’ve got a choice of so many different brands of welders in the market that you could pick another one if we weren’t competitive.”*

[REDACTED] *“Yeah, yep. That’s right.”*

It is considered that the most significant effect on a competitor will be service competition that is the high level of distributor expertise and service available to a customer for our product range, which may not be available or able to be supplied by competing brands.

Overall, Weldclass considers the competitive constraints on its competitors to be negligible due to our extremely small market share and the large number of competitors, and large number of comparable and competitive products on the market.

## 10.2 The likelihood of entry by new competitors

Weldclass’s proposed minimum price strategy, we believe, will not prevent the entry of new competitors to the market for the supply of welders and cutters in any way.

## 11. Likely Public Benefit from adopting a Minimum Price Policy

- (a) The minimum price policy will, with respect to Weldclass's product range, eliminate price discounting which has



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resulted in the public in many cases being sold a machine which is not suitable for their proposed purpose or is under or over specified for the intended purpose (Refer (p) and (y).

- (b)** The minimum price strategy in combination with the Distributor Agreement will require distributors of Weldclass products to invest significantly in providing a large product range, providing shop space, product demonstrations, user training, staff training, after sale support and additional warranty benefits.
- (c)** It will eliminate "free riding" between the distributors of our range of products.
- (d)** It will promote and enhance the viability of specialised bricks and mortar retail welding retailers who provide full service offerings to customers.
- (e)** There will be greater reseller expertise and knowledge regarding our product range arising from product training (already implemented) provided by Weldclass to its distributors, resulting in increased product knowledge being made available and greater service levels for the customer.
- (f)** Consumers should be more informed resulting in the likelihood of the customer purchasing a product suitable for their application.
- (g)** There will be service based competition for our products as opposed to price competition, our products being priced competitively compared to comparable competitors' products.



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- (h) A minimum and fixed profit margin will permit distributors/resellers financially to invest in infrastructure, floor space, staff training, customer demonstrations, user training and pre and post sales service.
- (i) A greater range of our products will be available from our distributors for consumers to choose from, as the Distributor will be required, via the Distributor Agreement to stock a range of products.
- (j) A greater range of our products will be available Australia wide for consumers to choose from.
- (k) Will promote competition based on the quality of service and available expertise between our distributors rather than based on price (which has proven to result in lower levels of service and potentially inferior and unsuitable products being sold), which will ultimately benefit the consumer.
- (l) Should ensure that the customer has a much greater chance of purchasing a product best suited for their application and needs.
- (m) Will provide Weldclass the confidence to continue to carryout research and development and to provide specialised products with unique features which may not otherwise be available in the Australian market due to the ability to receive a reasonable financial return.
- (n) Will permit Weldclass to introduce to over [REDACTED] distributors all over Australia, its new range of welders and cutters that will deliver a greater array of functions and features including convenience, ease of use and operation, performance and safety to meet the needs of Australian welding and cutting operators. Minimum price policy allows Weldclass to justify

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the research, innovation and development costs associated with developing and introducing a new high feature product range.

- (o) Will allow distributors' staff to be fully trained by Weldclass and will permit the reseller to spend time discussing the customer requirements, assessing the customer's needs, demonstrating the product, training the customer and providing after sales services.
- (p) Price competition can lead to poor advice or no advice if the product is bought on line, resulting in consumers potentially purchasing cheaply and poorly produced products that are not suitable for the consumers use. The proposed minimum price policy will assist in providing full-service specialist distributors to overcome this market failure.
- (q) The minimum pricing policy is likely to encourage more distributors to become full-service retailers for the benefit of consumers as opposed to low service discounting retailers found in large hardware stores and online stores.
- (r) Welding machines and cutters are quite complex and technical. There is a vast array of variables depending on the type of welding process with dozens of machine settings, material types, and power supply factors together with the introduction of electronic and digitised machines. Sale of these machines does require specialised advice. The minimum price policy and our requirements that distributors' staff must be fully trained in our products, our ongoing contact with distributors, our software support system [REDACTED] our point of sale product disclosure and information documents, will provide much needed expertise and advice to the public.



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- (s) Will enable quality pre & post sale customer service to be provided which is not currently or commonly available because of price competition and "free riding".
- (t) Will allow Weldclass to market its product to a customer who wants a quality product with innovative features and with premium before and after sales service accompanied by a quality warranty.
- (u) RPM will permit Weldclass's new range of products, with specialised and unique features to be added to the Australian market, thereby increasing consumer choice of products available.
- (v) Will allow Weldclass to confidently continue to invest in terms of providing schooling and training to its distributors' staff, which is contrary to current trends from online retailers and large hardware and tool stores.
- (w) Will provide our distributors with reliable profit margins and therefore the confidence and ability to invest in floor space, stock and training of sales staff for the overall public benefit.
- (x) Reliable profit margins will allow specialised welding equipment distributors to remain profitable (eliminating intra-distributor competition) and assist them to remain in the market segment for the public's benefit.
- (y) Distributors will not be restricted from selling other brands of welders and cutters thereby maintaining price competition whilst increasing the consumer's choice and consumer knowledge;
- (z) Will result in a more informed consumer whether choosing a welder or cutter from our range or not;



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**(aa)** It is possible that RPM will result in increased service based competition between different brands of welders and cutters and the possible provision of additional services to end users from other competitors;

**(bb)** Will result in an increased number of Weldclass machine distributors throughout Australia, leading to increased public choice by enabling Weldclass to lift the Restricted Distributors policy & Restricted Online advertising policy currently in place by Weldclass (refer 9.6).

**(cc)** Weldclass will be required by the terms of the Distribution Contract, to have systems in place to ensure distributors are supported and monitored to ensure quality levels of service are provided for the end user, much of which is currently already in place under the restricted distributor model. This includes supporting distributors with respect to product knowledge and training, supplying a full range of inventory, provision of machines to allow in-store training events, assisting with in-store displays and handy point of sale materials, provide after sales support particularly with its new computer software [REDACTED] and enhanced warranty terms (refer Attachment 7).

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**(dd)** Will enable our smaller distributors to better compete with our larger distributors.

**(ee)** Will allow Weldclass to maintain policies and systems to support and monitor distributors to ensure they meet their service obligations as the expenses of such a system can be spread over approximate [REDACTED] distributors who will hopefully be making sales of our product.



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Many of these benefits are demonstrated in comments from end users (Refer Attachment 17) and distributors (Refer Attachment 5) when asked if they see RPM on Weldclass machines as a benefit or a detriment.

Comments from [REDACTED]

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Interviewee/  
business  
names  
redacted.

Weldclass: *"Do you see that as a benefit, or a detriment?"*

[REDACTED] *"Yeah, I think that probably I'd call it pros and cons I'd say, because you get some stores that might undercut everybody else, but they've got lack of knowledge with the use of that machine, you know, with the application of it, I guess. So then there's a trade-off isn't it? You're paying for the machine but then you might get sold the wrong one."*

Weldclass: *"Exactly. Is that your experience in the past? You've got a cheap machine, but..."*

[REDACTED] *"Well, it depends where you shop. I mean, I...the other machine, I just went to Bunnings and none of them would have a clue, you know, but... well, I knew it was right for what I needed it for, but if you get someone that is not savvy to that, you know, they might just go and buy something that's totally wrong for what they need, so I guess it's better to... yeah, have them set margins so then you know you're not going to pay too much for it in one store, go in another one and see it a hundred dollars cheaper somewhere. You know, which is a bit of a bummer when that happens."*

Weldclass: *"Yes, excellent. So, you'd rather be guaranteed that the salesperson is knowledgeable. They sell you the right*





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*product. Even though there's no discount, you at least get the right product for application and it doesn't cost you, anyway."*

██████████ *"Yeah, that's probably more important."*

**Comments from** ██████████

*Weldclass: "Do you see that process as a benefit or a detriment?"*

██████████ *"Oh my word, my word, yes, especially with the second salesman. I mean it's not his fault, he probably never knew much about it. But the way he approached me was as if he knew anything about it, and then I started asking questions, and he knew nothing. He had to back off, then. But yes definitely, we will benefit out of that, for sure."*

*Weldclass: Excellent. So, from an end-user point-of-view, the overall process, even though you can't get a discount, because the price is the price, but the overall experience will lead to benefits for you."*

██████████ *"Yes, for sure."*

*Weldclass: "Yes, that's very good. Do you see any detriment to that process?"*

██████████ *"Sorry?"*

*Weldclass: "Do you see any detriments?"*

██████████ *"No, not really."*

**Comments from** ██████████

*Weldclass: "Do you see that that process (RPM) would be a benefit or a detriment from your perspective?"*



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■■■■■ *"In one way, it's kind of good being able to go into a shop and have the set price and know that that's the price, that's how much they're making off it, you can't do any better or anything like that, you can't go down the road and try to haggle them to get any better, basically. But in saying that it is a way, also too as a consumer. If you can go from one to the other and basically try to get a better price, you're kind of a little bit better in your pocket. But as far as the store holders (distributors), I think there's a lot, lot better."*

Weldclass: *"Sorry, just say that again. As far as the..."*

■■■■■: *"As far as like for ■■■■■ I think it would be a lot better, just so that way they definitely know that the margins are a lot better. For me, I think it's 50/50. It is always good to save money and try to bargain and stuff like that. But if I can walk into a shop and I definitely know that's the price, well, that's it basically, and I'm happy with that."*

Weldclass: *"Yeah. Good. And what about the other benefits that go alongside our application, which is the more knowledgeable staff, they've got the products in stock, they've got a better display range."*

■■■■■ *"Yeah, definitely. Definitely. The fact that you can walk into a store and they've got most of your (Weldclass) products on display is probably the most beneficial thing. Because to be serious, I never thought about buying a welder until I walked into the store, and I saw one and then I thought to myself, I'm like, "Oh, tax time is coming up. I probably should spend some of tool allowance money." So then I decided "Oh well," and then ■■■■■*



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*stepped me through it, basically. So to have the product on the shelf was probably the best thing and it made me buy it."*

**Weldclass:** *"Yes, that's excellent. So it was quite an advantage and a benefit to you to have that array of machines that we've put into [REDACTED], with all those models that you are able to walk up and down and select one that works for you. That was a good advantage for you?"*

[REDACTED] *"Yeah, yeah it was. And it's just a whole lot easier than going online and trying to buy it online and then not knowing what you got, basically."*

#### **Comments from [REDACTED]**

**Weldclass:** *"Do you see that process as a benefit, or is there any detriment that you would see from that?"*

[REDACTED] *"I don't really see any detriment to it other than to your competitors. So... what's the ACCC thing about again? With pricing... or?"*

**Weldclass:** *"It would be fixed (minimum) retail pricing, so the reason for it is that you fix the retail price, so you can't discount, if it's \$700 then that is the price and our distributors aren't allowed to give you a discount, but they're making a guaranteed margin and in return for that they make sure they carry stock, they invest in training, they invest in instore support, display etc., etc. I guess the question is do you see that all those benefits you've experienced would outweigh any detriment?"*



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█ *"It's not very often you walk into a welding shop and you see that kind of display! Like most of them have brochures and maybe one machine you know, one or two, and they might not have any stock either, so yeah, it's good."*

Weldclass: *"Excellent, and do you see any detriment with fixed pricing?"*

█ *"Not really. You know, you can always go somewhere else and get something else, from a consumer's point of view. But the price is pretty competitive anyway."*

Weldclass: *"Yeah that's exactly right, we have to maintain our retail pricing competitive anyway, because you've got a choice of so many different brands of welders in the market that you could pick another one if we weren't competitive."*

█ *"Yeah, yep. That's right."*

**Distributor comments b** █

Weldclass: *"Excellent. The final most important question is looking at it from the other side. Do you foresee any public detriment from this practice of resale price maintenance on Weldclass welding machines?"*

█ *"No."*

█: *"No. I think that the general public has seen it quite regularly. They see it with the Apple-type*



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*products. A lot of the tradies used to see it with tools, with the Festool products and a few other brands. So, I think they've grown accustomed to it."*

██████████ *"We only see benefits. One of them that we haven't discussed, and why we're partnering with you, is the consumers got choice of another brand now. So that's another thing that's really important for us, is to give the consumer choice. And by having this brand enter into the market with these pricing disciplines, and that alignment, it's a good fit. And we want to convert that customer in store, obviously, but they're going to get the best price up front, first and foremost, the best price they can get. So you've got more choice, and best price up front, and our stores get the benefit of being able to reinvest and provide a product that's fit for purpose."*

██████████ *"Less buyer remorse, also."*

**Distributor email comments from ██████████  
██████████ (Refer Attachment 5 – Email survey responses to our proposed introduction of RPM):**

- If we could make a guaranteed reasonable margin, we would be keen to stock a good range of machines and happy to spend time with the consumer knowing that when he compares pricing there will be little difference between us and the competition.
- This initiative will allow the customer to choose whether he buys based on service and extra value added instead of purely price and because distributors like ourselves can earn a sustainable margin we will invest in training and inventory so that the end user has the best experience possible and leaves our store feeling good about his purchase. It will also allow us to be a little flexible if there is



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- a warranty issue with a possible loan machine which if we are competing purely on price we would be unable to do.  
• At one point we stocked [REDACTED] welding machines but have cut them from our range due to the extremely low margins other distributors sell them for. This means that the customer no longer has this choice that they really deserve

### 11.1 Benefits of Trained, Knowledgeable Staff

As outlined in this submission, there are considerable public benefits from Weldclass requirement that our distributor's staff must be fully trained on our welding machines.

The following end user comments (Refer Attachment 17) provide evidence of the public benefits from distributor staff training and the value that end users place on being supported by a trained, knowledgeable salesperson. Some of these comments also highlight the disadvantages and frustrations that some end user have, when experiencing an un-trained salesperson;

#### Comments by [REDACTED]:

[REDACTED] *"Yeah, awesome mate, awesome. Well, they've got quite a large display there, and it's all set out quite nicely. All the prices all set there, all the products are shown really, really well. They had all the accessories, all the machines, and everything like that. And as far as the service goes, fantastic. I dealt with [REDACTED] there, and [REDACTED] explained everything, gave me the pamphlets and stuff like that, and stepped me through all of them, basically."*

*Weldclass: "Excellent. No, that's great. We've done staff training for all the guys in there. So did you notice that they were fairly well knowledgeable on the machines and able to assist you to pick the right one?"*

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██████: "Yes, they stepped me through everything. They showed me through the catalogue. Showed me the difference between the different ones. I wasn't sure where to go the 180 or go that step down to the 140. And for price and value for money, it was easy just to step up to the higher one and try and ██████ stepped me through that basically."

Weldclass: "Excellent, good. And you're comfortable that you've got the right machine, fit for purpose?"

██████ "Yes definitely, definitely."

**Comments by ██████**

Weldclass: "What about your experience in-store, when you're in ██████ buying the product? And did you notice the retail table setup?"

██████ "Yes, it was good. When I first went in there, one of the guys was very helpful, he knew what he was talking about if that's what your asking, he was very knowledgeable. The next one said, "Yes, all right, do this, do that," but then he had no idea. But yes, in the long run it all turned out well, yes. It was good, yes, it was all right, yes."

Weldclass: "Excellent. So, the guy that was knowledgeable seemed to have a good level of training on machines, and was able to guide you towards the right product?"

██████ "Yes, yes. Exactly. Yes, dead right. Yep."



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*Weldclass: "That's great. And it sounds like you're confident that you've got the right product for the purpose that you bought it for?"*

█ *"Yes. Touch wood, yes."*

*Weldclass: "Do you see that process as a benefit or a detriment?"*

█ *"Oh my word, my word, yes, especially with the second salesman. I mean it's not his fault, he probably never knew much about it. But the way he approached me was as if he knew everything about it, and then I started asking questions, and he knew nothing. He had to back off, then. But yes definitely, we will benefit out of that, for sure."*

**Comments by** █

█ *"Yeah, I think that probably I'd call it pros and cons I'd say, because you get some stores that might undercut everybody else, but they've got lack of knowledge with the use of that machine, you know, with the application of it, I guess. So then there's a trade-off isn't it? You're paying for the machine but then you might get sold the wrong one."*

*Weldclass: "Exactly. Is that your experience in the past? You've got a cheap machine, but..."*

█ *"Well, it depends where you shop. I mean, I...the other machine, I just went to Bunnings and none of them would have a clue, you know, but... well, I knew it was right for what I needed it for, but if you get someone that is not*





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*savvy to that, you know, they might just go and buy something that's totally wrong for what they need"*

## 11.2 Benefits of Well-presented Machine Range

As outlined above, there are considerable public benefits arising from Weldclass' requirement that distributors stock a well-presented range of machines which are to be displayed professionally. Also our further requirements that point of sale materials be always displayed and our requirement that all machines must be displayed out of the box, in a logical order (as per our current Distributor Agreement V1.2. and V1.5).

The following end user comments (Refer Attachment 17) provide evidence of these public benefits.

### Comments by [REDACTED]

*Weldclass: "Did you have any comments about how you found the overall experience in buying the machine from the display in store?"*

*[REDACTED] "Yeah, awesome mate, awesome. Well, they've got quite a large display there, and it's all set out quite nicely. All the prices all set there, all the products are shown really, really well. They had all the accessories, all the machines, and everything like that. And as far as the service goes, fantastic. I dealt with [REDACTED] there, and [REDACTED] explained everything, gave me the pamphlets and stuff like that, and stepped me through all of them."*

*[REDACTED] "Yeah, definitely. Definitely. The fact that you can walk into a store and they've got most of your (Weldclass) products on display is probably the most beneficial thing. Because to be serious, I never thought about buying a welder until I walked into the store, and I saw one and then I thought to myself, I'm like, Oh, tax time is coming*

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business  
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*up. I probably should spend some of tool allowance money. So then I decided, Oh well, and then [REDACTED] stepped me through it, basically. So to have the product on the shelf was probably the best thing and it made me buy it."*

*Weldclass: Yes, that's excellent. So it was quite an advantage and a benefit to you to have that array of machines that we've put into M&D, with all those models that you are able to walk up and down and select one that works for you. That was a good advantage for you?*

*[REDACTED] Yeah, yeah it was. And it's just a whole lot easier than going online and trying to buy it online and then not knowing what you got, basically.*

**Comments by [REDACTED]**

*Weldclass: "Can you comment on how you found the Weldforce machine range when you went into the store?"*

*[REDACTED] "Yeah it was pretty well presented, it was all laid out there, yeah it was good. I was there for another reason, but I ended up buying one, so the display must've been pretty good!"*

*[REDACTED] "It's not very often you walk into a welding shop and you see that kind of display! Like most of them have brochures and maybe one machine you know, one or two, and they might not have any stock either, so yeah, it's good."*

Weldclass is of the opinion that if a RPM policy is implemented, it is likely to lead to similar public benefits as noted by the ACCC in its Statement of Reasons in favour of Tooltechnic Systems (Australia)



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Pty Ltd, dated 25 July 2018 – notification number RPM20181 page 5  
point 24: which states:

*“While much of this data and information is confidential, in general terms, it supports Tooltechnic’s submissions that since the authorised Festool RPM conduct was introduced:*

- *There has been an increase in Festool dealer numbers, floor space for displaying tools and Festool sales;*
- *Tooltechnic has not used RPM conduct to significantly raise its wholesale margins on sales of Festool power tools;*
- *Increases in Festool retail prices have not been significant, although distributors are no longer able to offer discounts; and*
- *Some Festool distributors have introduced new or better services. Tooltechnic has also implemented or improved policies and systems to support and monitor distributors to meet their service obligations.”*

### **11.3 In-Store Welding Champion**

Weldclass believes that, RPM can result in significant public benefits, including promoting intra brand service based competition and more generally. For example, where complex goods are to be sold, RPM can give the reseller the confidence to invest in pre-and post-sales services such as in-store product demonstrations and staff training to allow them to provide advice about our products, which is valued by consumers.

In particular, customers benefit from the support of knowledgeable sales staff in-store, including prior to purchase, being shown the most suitable welder or cutter, how to use them and understanding the product. After the purchase, access to ongoing advice about the products use and features and any innovations, trouble-shooting and timely repairs.

Our planning for premium distributor service levels, has resulted in Weldclass implementing its **“In-Store Welding Champion”** strategy.



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Each welding machine and plasma cutter Distributor is required to nominate their “in-store welding champion” (refer Distributor Agreement V1.2 – Attachment 2 page 2 and Section 7(g) on page 7) whose responsibility it is:

- To train and assist other distributor sales staff learn the features and use of the WeldForce products;
- To assist with customer enquiries, both pre sale and post sale;
- To become the key point of contact for user issues, troubleshooting and warranty claims; and
- To become a key point of contact regarding WeldForce products in store.

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Interviewee/  
business  
names  
redacted.

This is evidently working well as shown in comments from end user [REDACTED] (Refer Attachment 17) regarding purchasing a Weldclass machine from [REDACTED] who is the “In-Store Welding Champion” for Weldclass distributor [REDACTED]

*“And as far as the service goes, fantastic. I dealt with [REDACTED] there, and [REDACTED] explained everything, gave me the pamphlets and stuff like that, and stepped me through all of them, basically...Showed me the difference between the different ones. I wasn't sure whether to go the 180 or go that step down to the 140. And for price and value for money, it was easy just to step up to the higher one and try and [REDACTED] stepped me through that basically.”*

Weldclass also believes that its RPM conduct will lead to similar public benefits as noted by the ACCC in its Statement of Reason in favour of Tooltechnic Systems (Australia) Pty Ltd dated 25 July 2018 – notification number RPM20181 page 8 points 43, 44 and 45:

*“43. The ACCC considers that the RPM conduct is likely to limit ‘free riding’ by eliminating discounting and so encouraging retailers to offer better services (rather than lower prices) to*



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*attract customers. This can increase service-based competition between distributors. The ACCC notes the submissions of current Festool distributors that the authorised Festool RPM conduct has helped address the 'free-rider' problem and has enabled distributors to focus on offering quality service, including smaller distributors. For example, in addition to the increase in the number of Festool distributors, floor space and staff training, there is evidence of new Festool services such as better displays, test centres, a wider product range, larger stock levels, in-store training and demonstrations and 'try before you buy' schemes. Importantly, the ACCC also considers that Tooltechnic appears to have effective systems in place to ensure distributors are supported and monitored to ensure quality service.*

*44. The ACCC is of the view that improved pre- and post-sales services are likely to result in public benefits, including:*

- power tool customers continuing to be offered the choice of a premium trade quality power tool product which is accompanied by a high level of post-sales service and*
- some customers making more informed decisions in purchasing and using trade quality power tools.*

*45. The RPM conduct may also assist Festool and Fein compete with other brands of power tools, resulting in increased inter-brand competition in the power tool industry. It is also likely to result in increased service-based competition between Festool/Fein distributors, including enabling smaller distributors to better compete with larger distributors."*

## **12. Likely Public Detriment including any competition effects.**

Weldclass recognises that RPM will prevent its appointed distributors from competing on price across its range of products.



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This may result in a price payable for our product range which may be slightly higher than if price competition was permitted. Whilst this is a potential detriment, that needs to be offset against the many advantages previously set out in section 11 and particularly the higher levels of staff training, expert advice, user training and service, user guidance and warranty benefits which will be available to the consumer to allow them to make an informed choice as to the appropriate product for their application and avoid buying the wrong product which can be much more costly in the end.

Whilst we believe our machine prices are very competitive and often similar or lower in price than equivalent competitor's machines, there will be some instances where our price is higher than that of our competitors' products.

We would say however, that some value must be attributed to the expertise being offered, levels of service, both before and after the sale, from a consumer's point of view. From a value point of view, we could be the cheapest on the market.

Our conduct will not, however restrict or inhibit any distributor from selling or any customer from buying **another** suppliers product and accordingly there should be no effect on choice or price competition as both distributors and consumers will be free to make their own choice based on the features of a product being provided, service being provided and the price of a product available at a reseller.

Our distributors are completely free to stock any other competitor's product and sell them at whatever price they wish.

There will be no loss of inter-brand competition across the market and consumer choice will not be inhibited, however hopefully the customer will be better informed and supported.

This is evidenced in the following comments from end user [REDACTED] [REDACTED] (Refer Attachment 17);

Commercially  
Interviewee/  
business  
names  
redacted.  
sensitive.



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Interviewee/business names redacted.

██████████ *"Not really. You know, you can always go somewhere else and get something else, from a consumer's point of view. But the price is pretty competitive anyway (on Weldclass machines)."*

*Weldclass: "Yes that's exactly right, we have to maintain our retail pricing competitiveness anyway, because you've got a choice of so many different brands of welders in the market that you could pick another one if we weren't competitive."*

██████████ *Yeah, yep. That's right*

Commercially sensitive.

We do not wish to disclose parts of our business model to our competitors.

Further as our range of products currently has negligible market share and our best case scenario is that at some stage in the long term future we may attain approximately ██████████ of the market share, there is unlikely to be any significant effect on competition and the ability of consumers to choose products based on product features, service and price will remain unaffected.

Weldclass does not have a strong brand recognition for its welder and cutter products in the Australian welding machine and plasma cutter market, as its product range was only recently (March 2019) launched.

This is in contrast to several long-standing brands (BOC 100+ years, CIG/Cigweld 70+ years) with large market shares in the Australian welding machine and plasma cutter market.

Due to the number of large wholesale suppliers and the large range of machines available for sale, we expect price competition will remain fierce.

Weldclass will be concentrating its efforts on a market segment which values a quality product and appreciates resellers who are service oriented and who demonstrate expertise in the products they sell.



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It is hoped that our RPM proposal could potentially increase service-based competition in our market.

Our appointed distributors, under RPM obligations, will be restricted to charging minimum prices for our range of machines. Our appointed distributors will however have the ability to stock all other competing brands of welders and cutters and can continue to compete on price with respect to those other brands in the same market.

Our distributors will not be locked into long-term distributor contracts and can exit the Distributor Agreement pursuant to clause 3(b) of the Distributor Agreement by giving a 30 days' notice (Refer Attachment 2), if they are not satisfied with the result that minimum retail pricing has delivered to them.

Weldclass acknowledges that a minimum retail price has the potential to facilitate collusion or coordination at the wholesale and/or retail level of a market, which could ultimately give rise to higher prices or other anticompetitive effects.

We believe that neither the wholesale supply of welders and cutters marketed to professional, trade and DIY users nor the retail supply of such products exhibit characteristics that would facilitate such behaviour, particularly given the high number of market players (competitors) and low barriers to entry. While this is possible, there is no evidence that this is likely to occur particularly given the fierce rivalry and price competition that already exists within the market.

Weldclass is an extremely small player in the market with virtually no market share at this point and accordingly we believe manipulation of the wholesale market is therefore highly unlikely.

Weldclass believes that the only identifiable public detriment resulting from the proposed RPM conduct, is that customers may pay slightly more for Weldclass welders and cutters across Australia than perhaps they might if the distributor were able to discount.

This potential detriment will be minimal for the following reasons:





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- Weldclass will set reasonable retail prices (refer section 6.5 – Market Price Analysis). They cannot be set too high as that will reduce the volume of our sales and profitability. Market forces will ensure this does not happen; and
- Weldclass will not seek to inflate prices above competitive levels due to:
- Significant inter-brand competition selling similar featured products;
- Our distributors generally sell a range of other welders and cutter brands besides Weldclass and will remain free to sell such products. Accordingly, we need to remain relatively competitive with the prices those other products are being sold for;
- Further our distributors can if they believe our pricing is too high, exit from our distributor agreement with minimal notice and/or sell a competitor's brand product; and
- Our desire to increase sales volumes.

Our perhaps slightly higher retail prices due to not being able to discount, needs to be offset against the significant increase in distributor expertise and service levels that will be provided to the end customer.

Interestingly, we have also experienced feedback that end users like the fact that there is one price across the whole market because:

- It allows them to feel comfortable that they are not missing out on a better price elsewhere;
- They can choose their preferred distributor without having to spend time considering shopping other distributors on price; and
- They are more likely to choose a distributor who offers best service levels which ultimately provides the biggest benefit.



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This is evidenced in comments by the following end users (Refer Attachment 17) and also distributors (Refer Attachment 5 - [REDACTED]):

**Comments by [REDACTED]**

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Interviewee/  
business  
names  
redacted.

[REDACTED]: *"Well, it depends where you shop. I mean, I...the other machine, I just went to Bunnings and none of them would have a clue, you know, but... well, I knew it was right for what I needed it for, but if you get someone that is not savvy to that, you know, they might just go and buy something that's totally wrong for what they need, so I guess it's better to... yeah, have them set margins so then you know you're not going to pay too much for it in one store, go in another one and see it a hundred dollars cheaper somewhere. You know, which is a bit of a bummer when that happens."*

**Comments by [REDACTED]**

[REDACTED]: *"In one way, it's kind of good being able to go into a shop and have the set price and know that that's the price, that's how much they're making off it, you can't do any better or anything like that, you can't go down the road and try to haggle them to get any better, basically...But if I can walk into a shop and I definitely know that's the price, well, that's it basically, and I'm happy with that."*

**Distributor comments by [REDACTED]**

*Weldclass: "Excellent. The final most important question is looking at it from the other side. Do you foresee any*



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business  
names  
redacted.

*public detriment from this practice of resale price maintenance on Weldclass welding machines?"*

██████████ *"No."*

██████████ *"No. I think that the general public has seen it quite regularly. They see it with the Apple-type products. A lot of the tradies used to see it with tools, with the Festool products and a few other brands. So, I think they've grown accustomed to it."*

██████████ *"We only see benefits. One of them that we haven't discussed, and why we're partnering with you, is the consumers got choice of another brand now. So that's another thing that's really important for us, is to give the consumer choice. And by having this brand enter into the market with these pricing disciplines, and that alignment, it's a good fit. And we want to convert that customer in store, obviously, but they're going to get the best price up front, first and foremost, the best price they can get. So you've got more choice, and best price up front, and our stores get the benefit of being able to reinvest and provide a product that's fit for purpose."*

██████████ *"Less buyer remorse, also."*

## **13. Weldclass Distributor Agreement and Support**

### **13.1 Distributor Agreement**

Our proposed distributor contract, version 1.5, incorporating retail price maintenance provisions at clauses 6 and 7 is attached at Attachment 2.



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A summary of our distributor agreement terms and conditions relevant to this application are summarised below. It should be noted that the following points marked with the symbol “\*” have been implemented already with our current distributors, following the launch of our Weldforce welding and cutting machines in March 2019.

This was done in anticipation of implementing a RPM policy, so that firstly we could ensure that distributors were willing to implement the premium level of services and secondly so that we could put in place systems and procedures to ensure that training and premium service levels can be provided and maintained. Further it also ensures that there would be minimal change in behaviours required by our existing distributors if/when we implement RPM:

#### Weldclass's Obligations under the Distributor Agreement:

- \*The supply of high-quality products;
- \*To provide a high level of services and unmatched customer support;
- \*To ensure distributors have a high level of product knowledge and ability to advise and solve customer challenges;
- \*Distributors to stock an extensive range of our product and ensure the customer has a wide choice for their application;
- Products to be sold at a minimum price established by Weldclass;
- \*We will make available a customer service team during business hours for all technical support for identifying the appropriate product and or troubleshooting;
- \*We will provide specialist product and application training to the distributors' staff;
- \*We will maintain an interactive web site containing product information, brochures, videos and warranty registration;
- We will from time to time conduct national promotional programs and marketing; and



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- \*We will assist with merchandising solutions for distributors and provide supporting resources to enable our products to be professionally presented for the maximum benefit to the end user.
- \*The supply of extensive point of sale material to distributors regarding each product in our range and the requirement for that information to be always available on display.
- \*We will audit our distributors to ensure compliance with our service goals.

### **13.2 Distributor Support and Compliance**

Weldclass's submission is based on our Distributors providing high levels of service from the point of view of staff training, providing expert advice to customers, in-house demonstrations, user training, after sales service, warranties and dealing with user errors and breakdowns.

Weldclass has already implemented several initiatives to ensure there is an overall public benefit for its proposed conduct under Resale Price Maintenance (RPM). These initiatives are summarised as follows:

#### *A. Mandatory distributor staff training*

Distributors are currently required to undertake staff training upon signing of the Distributor Agreement. Weldclass have implemented a "stockist training register" (refer Attachment 8) to ensure compliance.

Comments from end users (refer Attachment 17 & Section 11 of this submission) show evidence of the positive benefit provided by Weldclass training.

#### *B. In-store Welding Champion*

Each welding machine and plasma cutter Distributor is required to nominate and sign off on their in store welding champion (Distributor



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Agreement – Attachment 2, page 2 and Section 9(g)) It is the in-store welding champions responsibility to:

- To train and assist other sales staff in WeldForce products;
- To assist with customer enquiries, both pre and post sale;
- To become a key point of contact regarding WeldForce products in store; and
- To become the key point of contact for user issues, troubleshooting and warranty claims

*C. Point Of Sale (POS) and packaging material*

Weldclass has introduced a comprehensive range of POS material that not only assists the salesperson but also assists potential in-store buyers. Please refer to Attachment 13.

For comments from end user customers (Refer Attachment 17 & Section 11) showing evidence of the positive benefit provided by a well-presented retail friendly machine display.

The purpose of our POS material is:

- Getting the products to speak to the customer from the shelf;
- Making the salespersons job easier to share knowledge with the customer;
- Eliminating the distributors frustrations; and
- Making sure the end user gets the right product for their application (job);
- Ensuring the customer can easily ascertain the product specifications, features and uses; and
- To minimise misinformation being provided to the customer.

Weldclass POS material consists of the following, all designed with the end user in mind:



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- a) Fully printed carton artwork – all the product information the customer needs is on the box;
- b) Pre-fitted wobblers tags – an industry first, with basic information needed for machines displayed out-of-the-box; and
- c) Full product range brochure with selection guide – clear simple guide to the entire range of machines including a machine selection guide to help the end-user choose the right machine for their application. (Refer Attachment 6)

#### *D. Distributor In-store Compliance*

Weldclass has already implemented a “Stockist In-Store Audit” process, for our existing distributors whereby our Business Development Managers perform a quarterly in-store audit of our distributors (refer Attachment 9) seeking to ensure compliance with our distributor agreement conditions. These conditions include:

1. Minimum machine models in stock.
2. Weldforce display tables in use.
3. A range of Weldclass accessories and consumables in-store including helmets and gasless wire.
4. Machines on display out of the box and on display tables provided by Weldclass.
5. Machines and tables are clean (e.g. free from dust).
6. Machines are displaying retail pricing.
7. Machine POS cards are displayed on machines.
8. Wobbler cards are attached to each machine on display.
9. No Non-Weldclass or non-Weldforce brand of products of any description are on the display tables.
10. Display table is fully stocked.

The Distributors representative will sign off on the audit and agrees to any corrective actions required.



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*E. Quickserv Customer Service Program*

Weldclass has designed and built a fully-customised in-house software application called Quickserv that is entirely focused on customer-service benefits and is focused on the recent release of our new range of welding & plasma cutting machines.

*F. QuickServ Overview -(Customised Customer Service Platform)*

*a) Purpose*

To systematise and unify customer service actions and tasks. This system is designed specifically to make it very easy and fast for customers to get support and service on any question that they may have. Quickserv is a highly integrated system that increases service to distributors and end users.

*b) Customer Benefits:*

- Fast and accurate customer service.
- No getting passed around people in a team to get the answer.
- Helps our distributors serve their customers to a higher level due to increased knowledge and service from Weldclass.
- Ensures better tracking and timeliness of user queries and warranty jobs.

*c) Staff Benefits:*

- All information in one place.
- Efficient workflows.
- Allows Customer Service staff to focus more on the customer rather than remembering workflows and processes.

*d) Future Planned Developments*





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- Interactive Distributor portal for assisting Customers with Technical questions on WeldForce Machines and other Weldclass products.
- Interactive Public/customer portal to do basic troubleshooting in the field (this provides 24/7 access to help).
- Virtual Reality additions to the Distributor and Public portals.
- Service schedules and maintenance plans.

We believe Quickserv to be unique to the welding industry. Subject to RPM being approved, we are planning for future developments over the next 2-3 years as Weldclass consolidates and grows its existing machines and consumables markets.

#### *G. Trello Distributor Control System – Weldforce and Cutforce*

This is another system Weldclass have developed and implemented to provide benefits to both distributors and consumers.

##### a) Purpose

To systematise the roll out of WeldForce and CutForce Machines and maintain a high level of training and accountability from our distributors in terms of compliance with the terms of our Distributor Agreement.

##### b) Customer Benefits

- Fast and Accurate customer service;
- Streamlined rollout ensuring nothing is missed;
- Ensure the distributor gets everything they need to get set up and assist the buying public; and
- Professional on-boarding throughout the entire process end-to-end.



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c) Weldclass Staff Benefits

- All information in one location;
- Efficient workflows; and
- Ensure no oversights and nothing is missed.

An example of the Trello Distribution Control System is set out below.

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**Trello pages redacted as contain confidential distributor names and information.**





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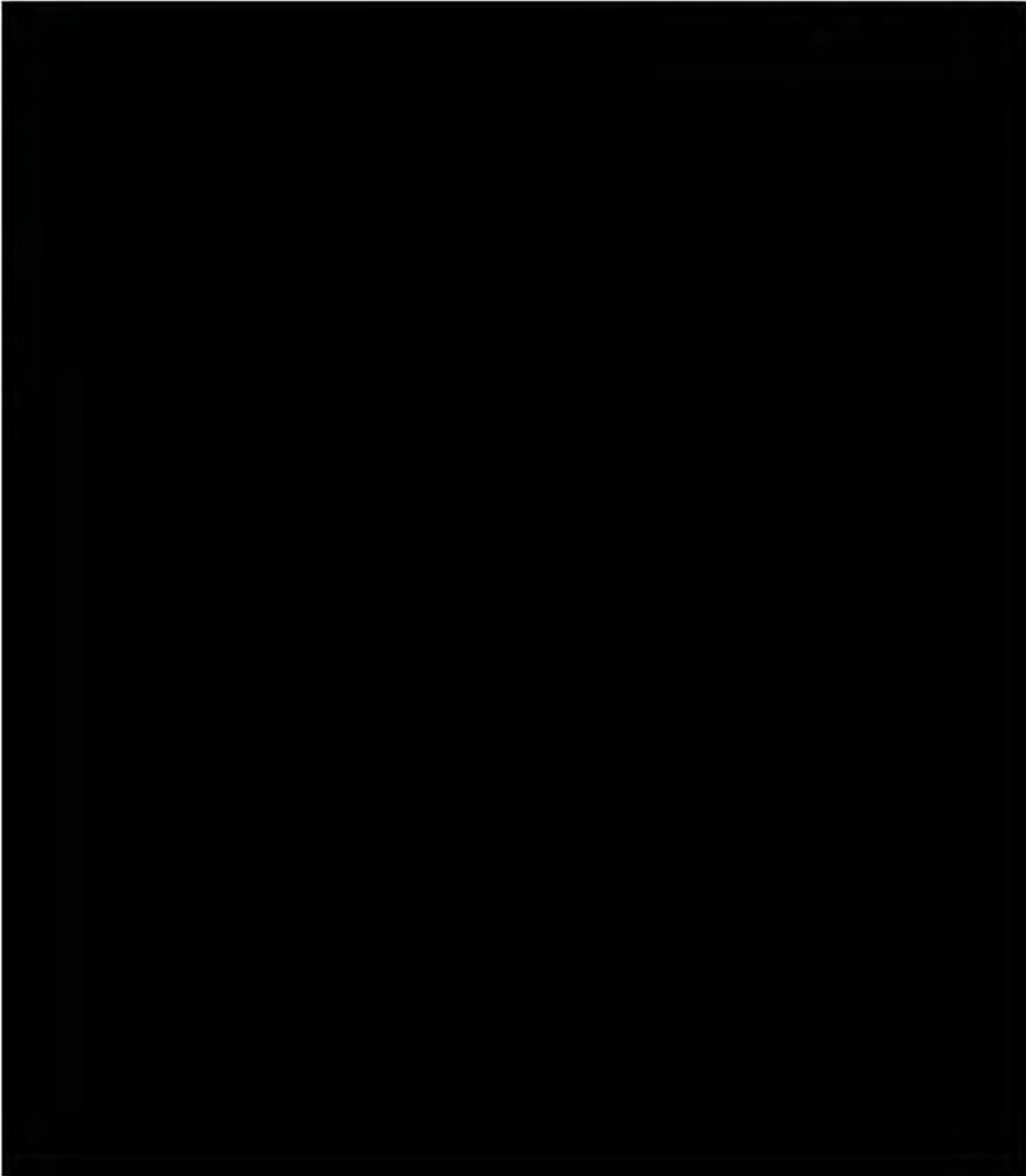
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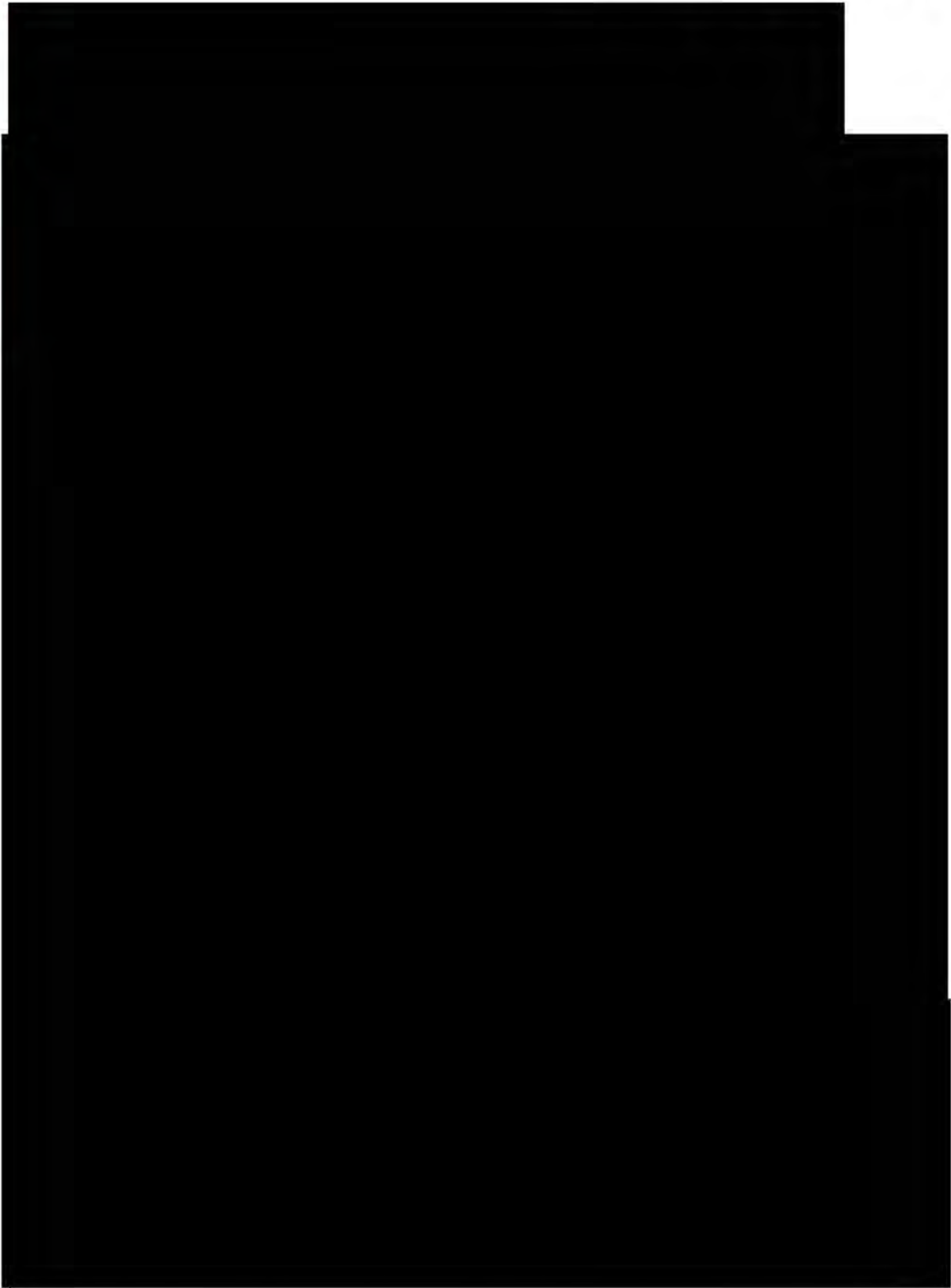
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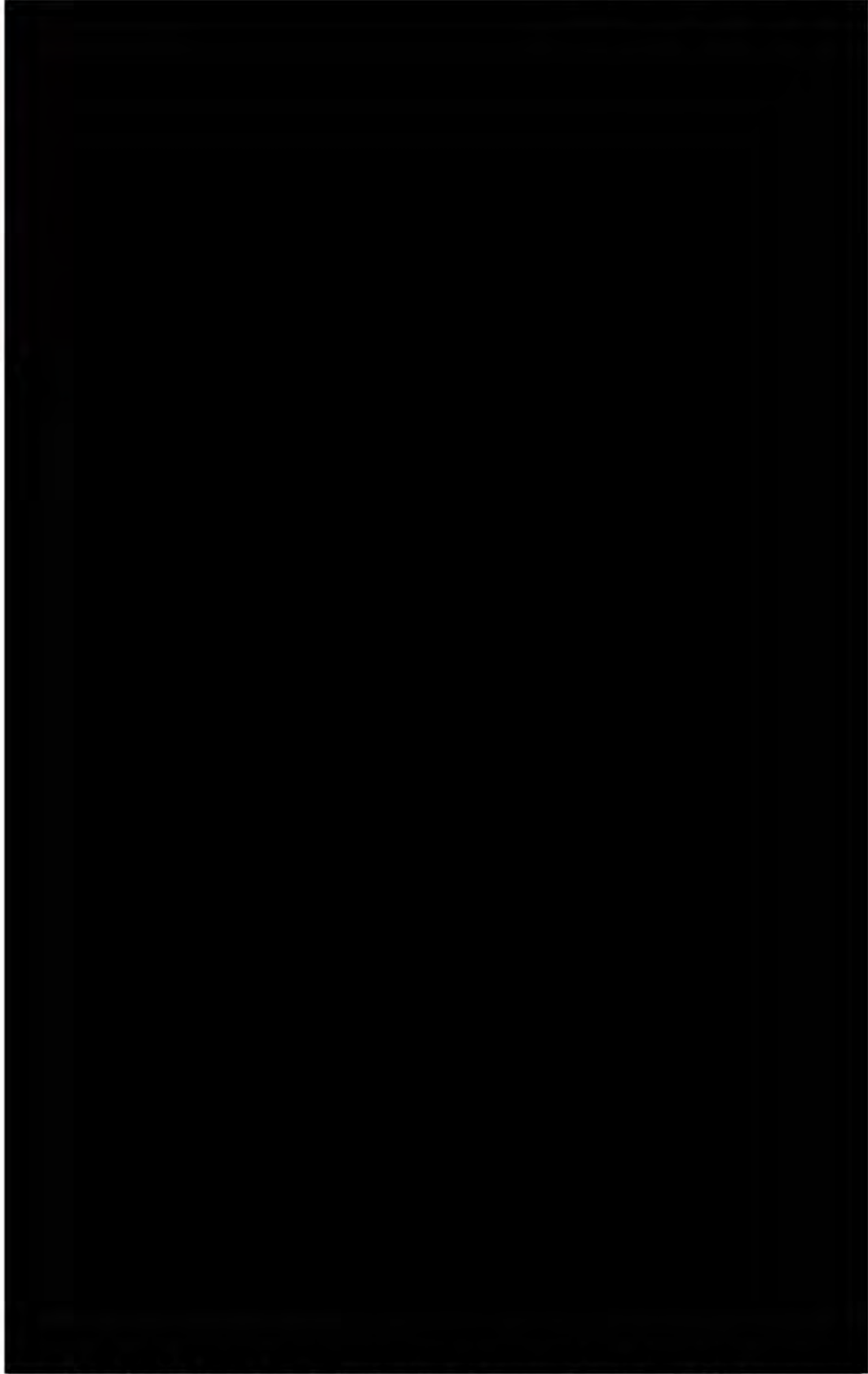
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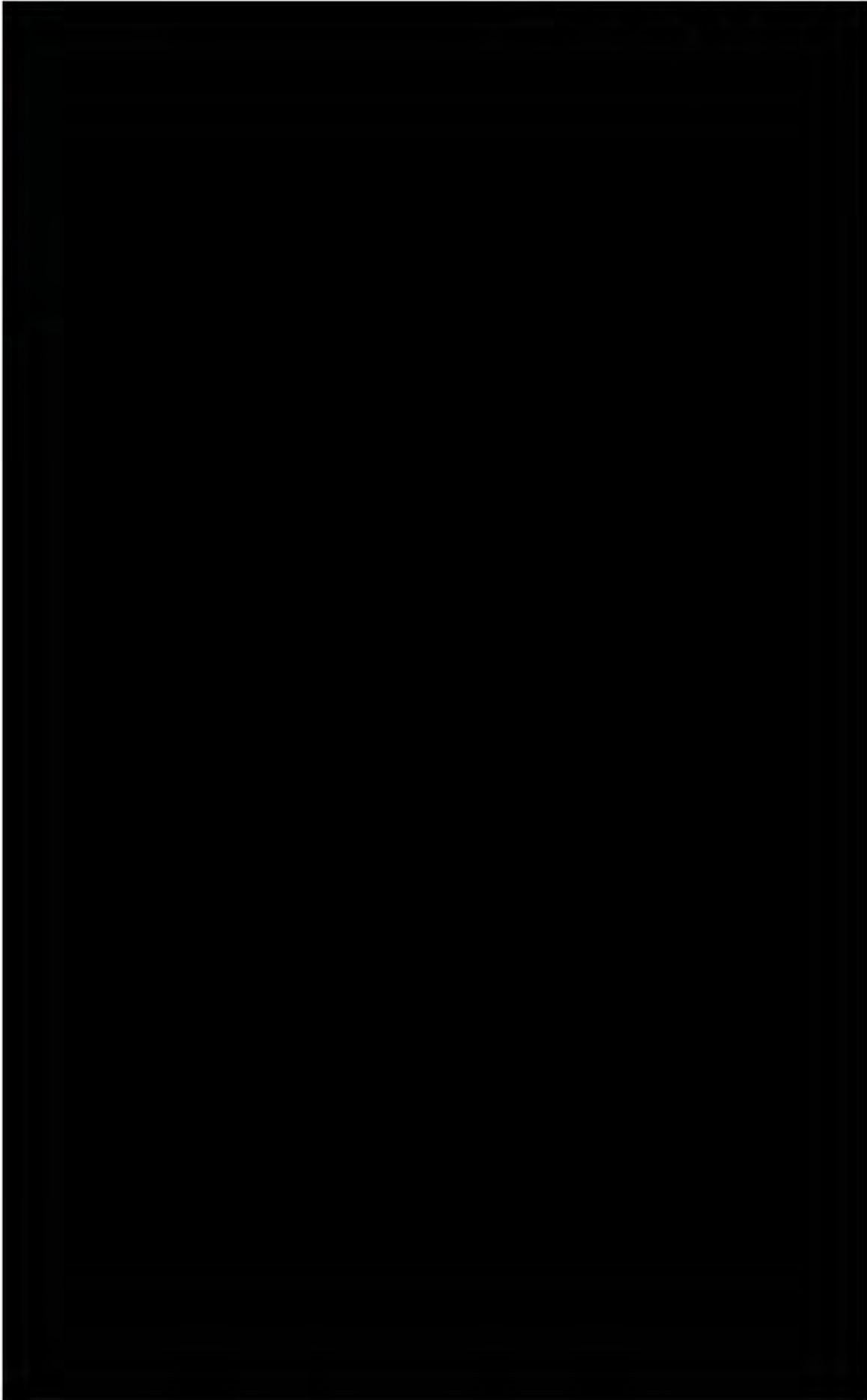
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## 14. Contact details of relevant market participants.

### 14.1 Interested Parties

#### a) Potential Distributors

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Details of our potential distributors are contained in Attachment 10. These are distributors to whom we currently supply products. Approximate [REDACTED] or so of which we are currently supplying our new range of welders and cutters with a recommended retail policy.

#### b) Details of Our Competitors

Details of our major competitors are as follows.

Company Name	Phone Number	Email
Esab t/as Cigweld Pty Ltd	1300 654 674	enquiries@cigweld.com.au
BOC	131262	
Dynaweld	(02) 8761 6500	sales@dynaweld.com.au
Lincoln Electric	(02) 9772 7222	
Welding Industries of Australia	1300 300 884	[REDACTED] welding.com.au
Welding Guns of Australia t/as Unimig	(02) 9780 4200	sales@unimig.com.au



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## 15. Distributor Consultation – evidence supporting RPM

In the process of compiling this submission Weldclass conducted more than 40 consultations with existing (consumables) distributors, some of whom have been approached to become welding machine and plasma cutter distributors. These consultations centred on Weldclass's proposed plans to notify the ACCC that is wished to conduct Resale Price Maintenance behaviour with respect to our welders and cutters.

We also surveyed industry "buying groups" head officers, (CEOs, general managers, operations managers) whose role it is to represent its members through accessing buying deals with suppliers and providing the benefits of a powerful buying group whilst the members remain independent businesses. The buying groups also provide advice, product information and supplier assistance as well as group advertising (typically catalogues) and annual conferencing to its members.

These industry buying groups have provided to us invaluable advice and opinion on our proposed RPM conduct because they are in a position of understanding how many suppliers interact with hundreds of distributors and the behaviours that work and don't work in the market. These buying groups often spend time in their member stores interacting with staff & end users.

### 15.1 Industry Buying Groups

Weldclass consulted with the following Buying Groups whose members are geographically spread Australia wide:

- [REDACTED] – 30 members (37 stores).
- [REDACTED] – 149 members (more than 180 stores).

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Buying group information is confidential.





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These major industry Buying Groups alone represent and speak for 179 independent industrial supply businesses throughout Australia.

We are pleased to inform that each such body is supportive of the Weldclass proposed RPM strategy. They informed us that they believe our RPM proposal based on service based competition, will be successful both for their distributors and the end user.

Video and transcripts evidence are attached. Refer to Attachment 5.

### **15.2 Distributor Consultations**

Most distributor consultations were conducted prior to the launch of our welding and plasma cutting machines in March this year and the appointment of machine distributors Australia wide.

Our consultations were conducted face to face, by phone and by email correspondence or a combination of all three. Our method was to put several questions to our distributors and allow them to answer unsolicited. Our questions focused on several key areas related to RPM and the benefits and or detriments to the public and the distributor.

We were particularly interested in discovering from our existing distributors, the majority of which already sell various brands of welding and plasma cutting machines, their thoughts on RPM and whether they would be prepared to become a Weldclass distributor for our machines under RPM conditions. We were very keen to explore any benefits they perceived would arise under a RPM policy.

Our findings provided us with overwhelming support for us to engage in RPM and gave us the confidence to proceed with this ACCC submission to gain authorisation for RPM conduct.

### **15.3 RPM Research Rationale**

RPM research questions were put to our existing distributors and were based on the premise they had no prior understanding of RPM.



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We discovered a number of them were in fact Festool and Fein Power Tools Dealers and had an intimate knowledge and understanding of RPM behaviour.

Our research of distributor views, was very much in favour of RPM, with distributors strongly believing that benefits would be delivered to their customers and to them as a business. Some were aware of the Festool model and some were not aware.

Interestingly, many distributors commented that Welding machines are like Power Tools in the way the market has become heavily discounted accompanied by a decline in the level of expertise and service available. (Refer Attachment 5 [REDACTED])

Weldclass distributor consultations can be found in Attachment 5.

Our research focused on a number of core questions and clarification was given to the respondent where the subject matter was not fully understood e.g. the meaning of RPM, free riding, intra-distributor discounting. The following are a sample of the questions posed:

**Commercially sensitive.**  
**We do not wish to disclose some parts of our RPM research strategy to our competitors.**

[REDACTED]

[REDACTED]

[REDACTED]



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We do not wish to disclose some parts of our RPM strategy to our competitors.

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



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Some examples of responses we received from distributors is set out at Attachment 5 – Email Survey Responses:

Commercially sensitive.

Interviewee/  
business  
names  
redacted.

[REDACTED]

*“We believe that selling and supporting a product that has a guaranteed reliable margin will increase our desire to take the extra step to ensure our customers get the best value for their money, i.e. more understanding of the product, better training, optimising a machines capabilities etc.*

*Investment in staff training will definitely allow our staff to have more confidence and skills in selling a machine, and that they know they will get the retained profits for spending the extra time to ensure the end-user is competent in operating the machine. As opposed to giving advice and training and always having the thought in the back of your mind that the customer can look online and find a cheaper unit elsewhere.”*

[REDACTED]

*“I believe this policy will encourage all Weldclass partners to:*

- 1. Stock a wider range of products*
- 2. Carry stock of all consumables related to the product they are selling.*
- 3. Offer accurate advice and knowledge about the products and their applications.*

*If price is the only driver for sales, I believe the range offered to customers will greatly diminish through premium dealers as they struggle to compete with the low prices being offered by low price sites that have no*



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*interest in investing in retail floor space, stock or staff training.”*

Commercially  
sensitive.

Interviewee/  
business  
names  
redacted.

[REDACTED]

*I believe a minimum advertised price will reduce the effects of this problem and also benefit the wholesaler ,retailer and consumer in a number of ways:*

*\*Guaranteed margins will encourage higher stock holdings by distributors.*

*\*More options, increased range and better supply (greater stock holdings) to the end user with local support.*

*\*As most customers have no idea as to which product is best suited to their particular need the advice provided by local distributors and their staff is an invaluable resource that will not be available if margins are not maintained for local businesses.*

*I am continually having customers come in with products bought online that are either incorrect for the application or with a problem wanting me to help them out or needing parts to actually be able to use the product. Needless to say I find this quite annoying and ultimately the end user pays the price due to our lack of support and interest in stocking a product with zero margin.”*

#### **15.4 Machine Displays – Photographic Evidence**

Weldclass has conducted extensive research amongst existing welding machine and plasma cutter wholesale suppliers and has concluded that generally speaking retail merchandising displays are poorly set up, confused and add very little to the consumer experience.



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The machine displays from competitors products, that we witnessed from a cross section around Australia were, overall, found to have:

- No point of sale material attached;
- No wobblers tags;
- No logical order of display;
- Generally, a confused display;
- Often unpriced;
- Some in cartons and some out of cartons;
- Display areas dusty or unclean;
- No minimum or maximum number of machines on display;
- Mixed brands in the same display;
- Some not on manufactures stands for easy brand identification; and
- Some displays containing non-welding products

The resulting impact on the end user may include:

- Confusion, resulting in the purchase of wrong machine for application or which is under or over specified for the job;
- Confusion, resulting in a customer who needs a welder deciding not to purchase because the choice is too difficult and unclear;
- Time and monetary cost of a customer purchasing the wrong machine;
- Time, frustration & monetary cost of indecision;
- The right product not being in stock or being in stock but not being on display; and
- Disappointed and frustrated customer.

Please refer Attachment 14 – which it sets out photographic evidence of the poor displays of welders and cutters implemented by competitors in the market .

In contrast, the machine displays already set up and in operation by Weldclass and their appointed distributors contain a number of public



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benefits allowing the customer to navigate the welding machines display and choose the right machine for their application. Our displays contain:

- Pre-fitted wobblers cards – no more turning machines upside down to find out the duty cycle for example;
- Printed boxes – clear and simple with easy to read product information;
- Professional display stands for each machine on display;
- POS cards & material is a “silent salesperson” speaking to the customer from the shelf with useful, relevant information;
- Machines are clearly retail priced;
- Machines displayed in a logical order from small to large applications;
- Multiple machines on display for customer choice;
- WeldForce machine selection guide brochures on display; and
- A neat, organised display that assists the salesperson and the end user to choose the right machine for the customer’s application.

Please refer to Attachment 15 – which shows the Weldclass Product display table and the distributors obligations regarding display of the Weldclass Machines.

In our opinion, our detailed and innovative approach adopted with respect to the retail machines market for welders and cutters is providing a much better purchasing experience for the end user and enables them to receive first-class service and advice and choose the right product for their application.

This is highlighted by comments made by [REDACTED] (Refer Attachment 17):

[REDACTED] *“It’s not very often you walk into a welding shop and you see that kind of display! Like most of them have brochures and maybe one machine you know, one or two, and they might not have any stock either, so yeah, it’s good”.*

Commercially sensitive.

Interviewee/  
business names



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## 16. Pricing

Commercially sensitive.

We do not wish to disclose our pricing strategy to our competitors.

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]





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**Table 2.**

Commercially sensitive.

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## 17. End-User Interviews

Weldclass conducted interviews with end-users who had recently purchased a WeldForce machine. We wished to discover evidence of end-user's experience with WeldForce distributors now that our appointed distributors have installed machine displays and have been trained by Weldclass. We also surveyed the end-users on their thoughts regarding RPM and any public benefit/ or detriment that they might perceive.

At the time of writing Weldclass only had a small number of end-users who had purchased from our distributors and registered their Machine warranty. We were able to interview 4 randomly selected end-users who provided spontaneous, off-the-cuff feedback.

We are delighted to say the WeldForce end-users we interviewed, were appreciative of the levels of expertise, service and supported the prospect of our RPM strategy.

Please refer to Attachment 17 which sets out in full the text of the interviews we conducted with end-user customers.



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## 18. Attachments

Attachment 1 – Not Used

Attachment 2 – Existing Weldclass Distributor Agreement, Version 1.2 and proposed Distributor Agreement with RPM Version 1.5.

Attachment 3 – Weldclass Resale Price Maintenance Strategy (RPM) Welding Machines and Plasma Cutters Discussion Paper.

Attachment 3a - Agenda and minutes of Board meeting 25 October 2019.

Attachment 4 – Board advice (email) following consultation with ACCC representative David Hatfield 25 October 2018.

Attachment 5 – Distributor Consultation responses to RPM.

Attachment 6 – Welder & Cutter Product catalogue & Pricelist.

Attachment 7 – WeldForce warranty terms for each product.

Attachment 8 - Weldclass Distributor Training Register forms.

Attachment 9 - Weldclass In-Store Audit Form.

Attachment 10 - Weldclass active distributor list.

Attachment 11 - Market Analysis: EPRAKT Consulting.

Persistence Market Research "Welding Consumables Market: Global Industry Analysis and Forecast, 2016 – 2026". Date August 2016.

Attachment 12 – Market Price comparison between Weldclass products & comparable competitor products.

Attachment 13 – Point Of Sale Material.

Attachment 14 – Competitors retail machine displays.

Attachment 15 – Weldclass's retail machine displays.

Attachment 16 - Case study: Intra-brand discounting.

Attachment 17 - End-user/customer interviews.

Attachment 18 – Weldclass Performance Survey.

**NOTE:**  
**RESTRICTION OF PUBLICATION CLAIMED FOR ALL ATTACHMENTS.**

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We do not wish to disclose the source of our research data to our competitors.

<sup>1</sup> **Source:** ACCC Determination Tooltechnic Systems (Aust) Pty Ltd in respect of resale price maintenance Page 7. Date: 5 December 2014. Authorisation number: A91433

<sup>2</sup> **Source:** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



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## 19. Declaration by Notifying Party

Declaration by Applicant(s)

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).

Signature of authorised person

Office held

DIRECTOR

(Print) Name of authorised person

JASON McDONALD

This [insert day] day of [insert month] [insert year] 12th SEPTEMBER 2019

*Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.*