



NCR Australia Group

Proposed merger of Armaguard and Prosegur

Submission to the Australian Competition and
Consumer Commission

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1. EXECUTIVE SUMMARY

- 1.1 NCR Australia Group (described in paragraph 2.7) welcomes the opportunity to provide a submission to the Australian Competition and Consumer Commission (**Commission**) in relation to the proposal by Linfox Armaguard Pty Ltd (**Armaguard**) and Prosegur Australia Holdings Pty Ltd (**Prosegur**) (together, the **Applicants**) to combine their cash distribution and management, device monitoring and maintenance, and ATM businesses in Australia (the **Proposed Transaction**).
- 1.2 This submission is accompanied by an independent expert report of Greg Houston of HoustonKemp (**HoustonKemp Report**).
- 1.3 NCR Australia Group has significant concerns about the Proposed Transaction. The NCR Australia Group has operated in Australia since 1907 and has continuously delivered innovation in consumer payment transaction technologies, including cash, to Australian businesses and consumers for over 100 years. Our core business, which at its heart involves making cash available to consumers across Australia, relies on cash-in-transit (**CIT**) services. If the Proposed Transaction proceeds, the Applicants acknowledge that the prices of CIT services "*would be higher than those currently prevailing*".¹ As a result of the Proposed Transaction, prices of CIT services will increase (by an unknown, potentially substantial amount), sooner than in the counterfactual, even if the Applicants' claimed counterfactual is accepted.
- 1.4 NCR Australia Group has observed intense competition between the Applicants, and its business and the services it is able to offer to customers and consumers have benefitted from this competition. The Proposed Transaction would extinguish the intense competition that currently exists between the merger parties and would likely continue for a period of at least 2 years (and potentially longer), creating effectively a monopoly in CIT services. The merged entity will not face any meaningful constraints, and will have the ability and incentive to increase prices of CIT services, decrease service quality, and exploit vertical foreclosure strategies.
- 1.5 Increased costs of CIT services, reduced service levels, and / or the inability to source CIT services on competitive terms would have a detrimental impact on businesses that rely on CIT for their core business, like NCR Australia Group, and their customers and, in turn, Australian consumers. Although the use of cash for transactions continues to decline, it is vital that cash remains accessible to, and affordable for, Australians, whether they live in metropolitan, regional or remote areas. The Regional Banking Taskforce found, in its September 2022 report, that cash remains a vital means of payment, particularly for older members of the community and those on lower incomes.² The Taskforce also found that reduced availability of cash, particularly in remote locations, is a challenge.³

¹ The Applicants and the report from their economist, RBB, state that a future state of competition in which there is only one provider of CIT services will lead to a likely increase in the prices charged for those services, and claim that the merged firm will be prevented from increasing prices above that level by a number of constraints. The Applicants also state that "current low / below cost pricing" has contributed to the Applicants' businesses not being financially viable, describe CIT prices as being "uneconomic low prices" and "unsustainable". See for example, Prosegur and Armaguard, Application to the Australian Competition and Consumer Commission for merger authorisation (26 September 2022) (**Application**), page 16-18, [372] and [373]; and RBB Economics, Armaguard and Prosegur – Competitive effects and public benefits (26 September 2022) (**RBB Report**), [27]-[30].

² Regional Banking Taskforce, Final Report, September 2022, p15, available at: <https://treasury.gov.au/sites/default/files/2022-09/p2022-260600-final-report.pdf>

³ Regional Banking Taskforce, Final Report, September 2022, p15, available at: <https://treasury.gov.au/sites/default/files/2022-09/p2022-260600-final-report.pdf>



- 1.6 NCR Australia Group considers that the Proposed Transaction is likely to exacerbate the challenges identified by the Regional Banking Taskforce, and may make it more difficult for vulnerable members of the community to have affordable access to cash.
- 1.7 NCR Australia Group considers that the significant competitive detriments which are certain to arise from the Proposed Transaction are not outweighed by the claimed, and much more speculative, public benefits.

NCR Australia Group is a CIT services customer and competes with the Applicants in downstream and adjacent markets

- 1.8 NCR Australia Group's activities in Australia include a range of payment technology solutions and services but for the purposes of this submission can be divided into business divisions known as NCR Payments and NCR Banking, described in detail section 3 below. NCR Australia Group's activities involve:
- (a) supplying ATM deployment services to merchants (including major national retailers) via NCR Payments as described in more detail in paragraphs 3.4(a) to 3.4(b);
 - (b) supplying "ATM as a service" (**ATMaaS**) solutions through both divisions as described in more detail in paragraph 3.4(c);
 - (c) operating the Allpoint network of ATMs which are surcharge-free for cardholders of participating financial institutions as described in more detail in paragraph 3.4(d);
 - (d) supplying specialist ATM maintenance services through NCR Banking as described in more detail in paragraphs 3.15 to 3.18; and
 - (e) supplying ATM hardware and software through NCR Banking as described in more detail in paragraphs 3.10 to 3.14.

- 1.9 NCR Australia Group is a customer or potential customer of the Applicants for CIT services, which are a key input into its business and the largest proportion of the operating costs of its NCR Payments division. NCR Australia Group also competes with the Applicants in the supply of ATM deployment services, ATM access arrangements, ATMaaS and specialist ATM maintenance. As described below, NCR Banking is also a supplier or potential supplier of ATM maintenance services and ATM hardware and software to the Applicants.

- 1.10 NCR Australia Group is concerned that the Proposed Transaction is likely to substantially lessen competition in several markets, causing long-term consumer detriment. The public benefits of the Proposed Transaction are substantially outweighed by these significant detriments.

Effect on CIT markets

- 1.11 Most directly, the Proposed Transaction will create a near-monopoly in the national market for the supply of CIT services to retail customers who require a full service solution (ie both cash transportation and processing services).⁴ NCR Australia Group does not consider that there will be meaningful constraints on the merged entity after the Proposed Transaction:
- (a) **Smaller CIT providers:** NCR Australia Group requires national coverage from its CIT services provider and is not realistically able to procure these services nationally

⁴In the time available, NCR Australia Group has not conducted its own market definition exercise. As explained in section 5.3, NCR Australia Group considers that this market definition may obscure an important segment of the market made up of national firms who require CIT services on a national basis, and cannot efficiently obtain national coverage through coordination of multiple local providers.

by contracting with a multitude of regional providers. NCR Australia Group considers that local CIT providers may be constrained by competition from the Applicants, but does not consider that local providers constrain the Applicants in respect of NCR Australia Group or other customers of CIT services that require national coverage.

- (b) **Self-sourcing:** NCR Australia Group is not able to self-source CIT services to cover its national network of ATMs. This theoretical constraint on the merged entity is not credible in respect of NCR Australia Group or other national operators.
- (c) **New entry:** Following the Proposed Transaction, NCR Australia Group does not consider there to be a credible threat of new entry in the CIT market other than on a local scale. The suggestion that the merged entity would be constrained by the threat of new entry is not consistent with the Applicants' submission that, due to declining demand for cash, only one national CIT provider is capable of operating sustainably and profitably.
- (d) **Digital payments:** The Applicants claim that the merged entity will be constrained by the possibility of CIT customers threatening to encourage their own customers to switch from cash towards digital payment methods. This option is not available to customers whose businesses are reliant on cash. As an ATM deployer (and provider of other ATM-related products and services), NCR Australia Group has no ability to switch to digital payments (or threaten to do so).
- (e) **Regulation:** The threat of possible regulation by the Reserve Bank of Australia (**RBA**) is a weak constraint in circumstances where the timing, speed of implementation, scope and nature of such regulation are unknown.

1.12 The Applicants have suggested that, in this CIT market, the relevant counterfactual is the "altered state of competition" involving one of the Applicants exiting the market within 2 years. NCR Australia Group urges the Commission to rigorously test this proposition. NCR Australia Group does not consider it likely that either Armaguard or Prosegur will cease operating in Australia within this time period or exit in a disorderly manner. As explained in the HoustonKemp Report, it is doubtful whether the statements made in the RBB Report support the conclusion that either Applicant is likely to exit the market within this timeframe.⁵

1.13 However, even if the "altered state of competition" is the appropriate counterfactual, NCR Australia Group disagrees with the Applicants' submission that the Proposed Transaction will not substantially lessen competition in any market in Australia. Curtailing the expected period of "intense" price competition⁶ prevents the considerable benefits flowing from that competition. Competition between the Applicants for the renewal of existing CIT contracts puts downward pressure on prices for a longer period into the future than under the Proposed Transaction, under which the merged entity would have greater ability and incentive to raise prices upon the expiry of current contractual terms. It also increases the Applicants' incentive to materially compromise on service quality under their existing contracts to the detriment of customers, as they would not face the risk of losing the contract to a competing provider upon expiry of the contract. Perhaps most importantly, allowing competition to continue increases the opportunity for the Applicants to identify alternative strategic opportunities short of a full merger. The Proposed Transaction prevents these opportunities from arising.

⁵ HoustonKemp Report, section 3.1.1.

⁶ RBB Report, [511].

- 1.14 These reasons underlie the Commission's approach to assessing the competitive effects of mergers in the context of a "failing firm" argument, which requires (among other things) that the relevant firm be in "imminent danger" of failure. This is very different from the present scenario in which neither Applicant is in "imminent danger" of failure. Rather, the Applicants seek, via merger, to bring an end to competition between them that has the possibility of leading to one of them exiting at an uncertain time in future.

Effect on non-CIT markets

- 1.15 When discussing the effects of the Proposed Transaction on non-CIT markets, the Applicants' submission and accompanying economic report do not address or refer to the implications of the vertical integration of the merged entity.
- 1.16 NCR Australia Group competes with the Applicants in respect of ATM deployment services to merchants, ATM access arrangements to financial institutions, ATMaaS and ATM maintenance services.
- 1.17 NCR Australia Group considers that the Proposed Transaction would enable and incentivise the merged entity to leverage its monopoly power in the provision of CIT services into these downstream and adjacent markets. We consider that the merged entity is likely to be able to, and have the incentive to, foreclose NCR Australia Group and its other competitors. A price increase for CIT services would have a considerable impact on NCR Australia Group's ability to compete in these markets. The merged entity is also likely to have increased ability to engage in profitable bundling and tying strategies.

Public benefits do not outweigh detriments

- 1.18 NCR Australia Group considers that the Proposed Transaction will lead to limited public benefits, and that any public benefits will be outweighed by the significant detriments that will result from the loss of competition between the Applicants. If the Proposed Transaction proceeds, the merged entity would be effectively insulated from competition. Very significant public benefits would need to be identified in order to be satisfied that public benefits outweigh these clear detriments.
- 1.19 Public benefits should only be taken into account to the extent they are merger-specific and could not be achieved in any other way.
- 1.20 The main public benefits identified by the Applicants fall into five main types:
- (a) ensuring the continued operation of sustainable, reliable and safe cash distribution;
 - (b) benefits arising from avoiding a disorderly exit of one of the Applicants;
 - (c) increased investment to maximise customer access and lower the cost of supply;
 - (d) increased efficiency from reducing unnecessary duplication of fixed costs; and
 - (e) avoiding the cost, delay and uncertainty resulting from the RBA moving to any new regulatory model for cash distribution.
- 1.21 A full merger is not necessary to realise the public benefits claimed by the Applicants. These benefits could be realised by a commercial arrangement short of a full merger, such as a partial merger or joint venture arrangement, which would result in much less risk of competitive detriment. NCR Australia Group also questions the extent of some of these benefits.

- 1.22 The first two benefits are only attributable to the Proposed Transaction if it is correct that, without the Proposed Transaction, there would be a disorderly exit. Without a disorderly exit:
- (a) the current cash distribution would continue to operate smoothly, despite the transition from two to one national providers (ie the transition would simply be through orderly exit instead of merger); and
 - (b) the harms caused by a disorderly exit would be avoided.
- 1.23 Even if it is correct that one of the Applicants is likely to exit the market within the next two years, NCR Australia Group does not consider it credible that either Applicant would do so in an abrupt or disorderly way. Both Applicants have existing contractual obligations, activities in markets outside of CIT services, and global presence in CIT and other services. In these circumstances, it is unlikely that any financial savings associated with an abrupt or disorderly exit would outweigh the reputational damage, and associated financial losses, for Armaguard and Prosegur's non-CIT businesses in Australia, or CIT and non-CIT businesses overseas.
- 1.24 It is also not credible that the public benefit of increased investment will result from the Proposed Transaction. As stated in the HoustonKemp Report, the Proposed Transaction may enhance the merged entity's ability to invest, but since it will not face competition for CIT services, it will not have any incentive to do so. In addition, increased investment is not a benefit unless the benefit to the merged entity's customers as a result of the investment outweighs the cost of the investment.
- 1.25 The efficiencies in reducing duplicative costs do not necessarily result in benefits to the public. Bringing forward the "inevitable" exit of Armaguard or Prosegur and the synergies in combining their businesses are private, rather than public benefits. The merged entity may choose to absorb those benefits and may go further by raising prices to the detriment of customers and consumers.
- 1.26 It is also not in the public interest to bypass the RBA giving due consideration to the extent of regulatory reform that may be necessary to ensure that the cash distribution supply chain is sustainable and robust in the long term. Further, the Proposed Transaction does not necessarily avoid the alleged costs or uncertainty associated with the regulatory process. The Applicants suggest that the threat of regulation by the RBA acts as a constraint on the merged entity's ability to increase prices. If the merged entity were to raise prices (or decrease service quality) to a level that prompted regulatory intervention, the alleged "cost and uncertainty" would then arise. At that stage, the approaches available to the RBA would be materially diminished as it would be regulating a monopoly provider, instead of considering what other options may be available which preserved competition between the Applicants.
- 1.27 In light of the above, and for the reasons explained in this submission, NCR Australia Group considers that the Proposed Transaction:
- (a) is likely to substantially lessen competition in CIT markets and non-CIT markets;
 - (b) will not result in public benefits that outweigh public detriments; and
 - (c) should not be authorised.

2. INTRODUCTION

2.1 The Proposed Transaction is taking place in an industry that has been in decline for many years, but remains of vital importance.

2.2 The use of physical currency as a means of payment in Australia has been falling for over a decade.⁷ Consumers have increasingly switched to other forms of payment, particularly the use of debit and credit cards. This trend has been facilitated by the increasing availability of "tap and go" functionality and digital wallets, and has been accelerated by the COVID-19 pandemic.

2.3 However, although the use of cash for transactions continues to decline, there are significant parts of the community that still heavily rely on cash for many of their payments.⁸ The Regional Banking Taskforce found, in its September 2022 report:

"While there has been a shift away from the use of cash in transactions, cash remains a vital means of payment for some members of the community. The RBA's 2019 Consumer Payment Survey indicated that around 15 per cent of people used cash for 80 per cent or more of their in-person transactions. These high cash users are more likely to be older, have lower household incomes, live in regional areas, and/or have limited internet access, with around 18 per cent of those living in regional areas being high cash users. The majority of high cash users indicated they would suffer a major inconvenience or genuine hardship if they could no longer withdraw cash or if retailers stopped accepting cash...

Consistent with this, the Taskforce heard that reduced availability of cash is a challenge. Cash is important for individuals, businesses and local community groups (which may experience negative impacts on fundraising opportunities without cash and change for floats)...

Cash access is likely to be a particular issue in remote locations..."⁹

2.4 It is vital that cash remains accessible to, and affordable for, Australians, whether they live in metropolitan, regional or remote areas. ATMs remain the most common way consumers withdraw cash, and will likely become an increasingly important access point, as banks continue to rationalise their branch networks.

2.5 NCR Australia Group agrees that the Applicants play a critical role in the wholesale and retail cash distribution system in Australia. In addition to being the only two CIT services providers that are Approved Cash Centre Operators (**ACCOs**), that own and operate national networks of Approved Cash Centres (**ACCs**), and are capable of providing CIT services at scale, across Australia, the Applicants also own and operate their own ATM networks and provide ATM maintenance services.

2.6 A combination of the Applicants' operations across CIT and related ATM markets can, therefore, be expected to impact businesses that rely on CIT services and businesses that compete with the Applicants in related ATM markets, the customers of those businesses and, ultimately, consumers that require access to cash. NCR Australia Group urges the Commission to carefully consider the impact of the Proposed Transaction on each of these stakeholders.

⁷ According to the RBA, the share (by number) of total consumer payments made in cash has fallen from 69% in 2007 to 27% in 2019. As a proportion of total number of payments, contactless card payments (including digital wallets) increased from under 10% in 2013 to nearly 60% in 2019. See: <https://www.rba.gov.au/publications/annual-reports/psb/2020/trends-in-payments-clearing-and-settlement-systems.html>.

⁸ See <https://www.rba.gov.au/publications/annual-reports/psb/2020/trends-in-payments-clearing-and-settlement-systems.html>.

⁹ Regional Banking Taskforce, Final Report, September 2022, p 15, available at: <https://treasury.gov.au/sites/default/files/2022-09/p2022-260600-final-report.pdf>



- 2.7 NCR Australia Pty Ltd and Cardtronics Australasia Pty Ltd are subsidiaries of NCR Corporation, and for the purposes of this submission are referred to together as **NCR Australia Group**. The NCR Australia Group has operated in Australia since 1907 and has continuously delivered innovation in consumer payment transaction technologies, including cash, to Australian businesses and consumers for over 100 years. NCR Australia Group is in a unique position; NCR Australia Group is an actual (or potential) competitor, customer and supplier of each of the merger parties across various levels of the cash distribution supply chain.
- 2.8 NCR has significant concerns about the Proposed Transaction, as detailed in this submission, which should be read with the HoustonKemp Report. In the limited time available, NCR Australia Group has sought to respond to what it regards as the key points in the Application. The fact that NCR Australia Group has not addressed other submissions made by the Applicants in the Application does not mean that NCR Australia Group agrees with those submissions. It has simply not had time to address them in the time available.
- 2.9 The Application is heavily redacted, and it is difficult to assess the validity of assertions based on redacted material. For example:
- (a) The Application claims that the Applicants are incurring "heavy financial losses" but the tables and sections containing information about these losses are redacted. This makes it difficult to identify which parts of the Applicants' businesses are loss-making.
 - (b) Details regarding why potential arrangements short of a full merger are not viable are redacted. This makes it difficult to assess the counterfactual contended for by the Applicants and whether any measures short of full merger are likely counterfactuals.
- 2.10 NCR Australia Group's submission should be read in light of the above-mentioned limitations.
- 2.11 NCR Australia Group would be pleased to provide any additional information that would assist the Commission to assess the Proposed Transaction.

3. **OVERVIEW OF NCR AUSTRALIA GROUP'S BUSINESS AND ITS RELIANCE ON CIT SERVICES**

NCR Australia Group

- 3.1 NCR Corporation is a global manufacturer and supplier of ATMs, point-of-sale equipment, self-service kiosks, cheque processing systems and barcode scanners, and provider of associated software and services. NCR Corporation is publicly listed on the New York Stock Exchange. It is headquartered in Atlanta, Georgia. NCR Corporation supplies its products and services in 141 countries, including Australia.
- 3.2 In June 2021, NCR Corporation acquired Cardtronics Limited, a company incorporated in the United Kingdom. Cardtronics Limited is a global independent deployer of ATMs and ATM managed services, operating approximately 285,000 ATMs across 10 countries in North America, Europe, Africa and the Asia-Pacific region, including Australia.
- 3.3 Although Cardtronics Limited (and Cardtronics Australasia Pty Ltd) is wholly owned by NCR Corporation and the businesses are now integrated, in this submission, we have distinguished between the division of NCR Corporation's business that comprises Cardtronics Limited's Australian business, referred to as **NCR Payments**, and the division



of NCR Corporation's Australian business that comprises the traditional NCR banking division, referred to as **NCR Banking**.¹⁰

NCR Payments' business in Australia

3.4 NCR Payments is a major independent ATM deployer in Australia, operating approximately 6,527 ATMs nationally and providing convenient access to cash in all States and Territories. NCR Payments' business consists of the following segments:

- (a) **ATM deployment services to merchants.** NCR Payments currently owns and operates 4,053 ATMs at retail locations across Australia, pursuant to agreements with merchants who own and/or operate the relevant retail sites. The businesses operated from these sites typically include gaming venues, pubs/hotels/clubs, convenience stores, service stations, supermarkets and other retail venues, festivals, sporting arenas and venues.

The provision of ATM deployment services to merchants involves entering into contracts with merchants, pursuant to which one or more ATMs are deployed at the merchant's site(s), enabling cardholders to withdraw cash and check their balance. NCR Payments charges cardholders a surcharge amount agreed with the merchant for withdrawals of cash from the ATM (and balance checks), and shares an agreed proportion of the surcharge amount with the merchant. NCR Payments also provides ATM maintenance (and security upgrade) services, and (at the option of the merchant) cash funding/filing and forecasting services.

Some ATMs deployed by NCR Payments at merchant sites are part of the Allpoint Network, described below.

- (b) **ATM deployment services to large corporates.** NCR Payments also has bespoke ATM deployment arrangements with large corporate groups. These contracts are typically negotiated with each corporate group and apply to the corporate group's identified business sites. However, as a matter of substance, the arrangements are similar to those described in paragraph (a) above. NCR Payments currently owns and operates 2,008 ATMs at large corporate group sites, such as Coles Express, BP and 7-Eleven.
- (c) **ATM as a service (ATMaaS) services.** NCR Payments provides ATMaaS services to financial institutions in respect of their ATM fleet.¹¹ Under these arrangements, NCR Payments essentially operates ATMs on behalf of the financial institution, which typically involves providing transaction processing, maintenance, general operation and cashing of the ATM. The ATMs may be owned by the financial institution or NCR Payments; however, the terms on which cardholders can transact at the ATM are always dictated by the financial institution. Financial institutions pay a fee to NCR Payments for these services. Currently, NCR Payments provides ATMaaS services in respect of 466 ATMs.
- (d) **ATM access arrangements to financial institutions through the Allpoint network.**¹² NCR Payments operates the Allpoint network, which currently consists

¹⁰ For completeness, NCR has other business divisions, including divisions focused on the retail and restaurant sectors. These divisions are not described in this submission.

¹¹ ATMaaS may also be referred to as "ATM managed services", "end-to-end" ATM services or "full service" ATM contracts.

¹² NCR Payments also plans to establish the Allpoint+ network in Australia in future. Allpoint+ is intended to be a separate network of advanced functionality ATMs and kiosks which will provide fee-free deposit transactions. Some ATMs and kiosks in the Allpoint+ network may also be configured to operate as part of the Allpoint network, which would enable cardholders of



of 402 ATMs owned and operated by NCR Payments. Financial institutions who are (or become) members of the Allpoint network pay a fee to NCR Payments in exchange for NCR Payments agreeing not to charge their cardholders a surcharge for transactions on Allpoint ATMs. The only current member of the Allpoint network is Bank of Queensland. The Allpoint network is currently a subset of NCR Payments' retail and corporate networks as it comprises select ATMs within those networks that are operated as Allpoint ATMs.

3.5 Where NCR Payments' contract with the merchant, corporate group or financial institution requires NCR Payments to provide ATM cash funding/filling and forecasting services, and maintenance services for the ATM, NCR Payments fulfills those services through arrangements with CIT providers (currently Prosegur). The need for CIT services is partially driven by the location but primarily by the strategy of the site owner (i.e. are they willing to "self-cash" or do they require CIT services). NCR Payments provides CIT services (procured from Prosegur) to [REDACTED] of NCR Payments' fleet, as described further below:

(a) ATM deployment to merchants: [REDACTED] The merchant ATMs for which NCR Payments is not required to supply CIT services are ones where the merchant either "self-cashes" the ATM, or in a limited number of cases, the merchant obtains CIT services directly from a CIT provider. [REDACTED]

(b) ATM deployment to large corporates: [REDACTED] Corporate clients will not self-cash. They do not have the cash supply nor are they willing to take the risk of handling large volumes of ATM cash themselves.

(c) ATMaas ATMs to financial institutions: [REDACTED] The financial institution ATMs for which NCR Payments is not required to supply CIT services are, in most cases, located at the financial institution's branch. In those cases, the financial institution obtains CIT services for those ATMs together with CIT services for its branch more broadly.

3.6 In the supply of ATM deployment services to merchants, corporates and tier two banking customers, NCR Payments competes with independent ATM deployers including Armaguard's atmX, Prosegur's Precinct and KwikCash networks, Next Payments, Banktech, ATM West, ATM2GO and Cashpoint.

3.7 In the supply of ATMaas and the Allpoint network, NCR Payments' main competitors are Armaguard's atmX, Prosegur's Precinct and Diebold Nixdorf.

NCR Banking's business in Australia

3.8 NCR Banking offers a range of products and services in Australia, including, relevantly:¹³

(a) NCR-manufactured ATMs as described in more detail in paragraphs 3.10 to 3.12;

financial institutions participating in Allpoint to access surcharge-free withdrawals and balance enquiries at those machines. Financial institutions could join either Allpoint or Allpoint+, or both.

¹³ In the time available, in this submission we have focused on NCR's key ATM-related offerings.

- (b) associated software, including ATM software and bank branch software as described in more detail in paragraphs 3.13 to 3.14; and
- (c) associated services related to the monitoring, maintenance and repair of ATMs, including ATMaas services as described in more detail in paragraphs 3.15 to 3.18.

3.9 These products and services are primarily targeted at financial institutions and independent ATM deployers.

ATM hardware

3.10 In Australia, ATMs are typically purchased via competitive tender processes for one-off bulk sales of ATMs. NCR Banking also sells ATMs on a "needs basis" outside large life cycle management bids. NCR Banking's ATM sales activities are primarily targeted at banks. However, NCR has in the past sold, and continues to sell, ATMs to a range of buyers including Banktech, NCR Payments (before it was acquired by NCR Corporation), Cuscal, CashCard, First Data and credit unions.

3.11 NCR Banking has a number of programs that allow third parties to gain support from NCR Banking for installation and maintenance of its ATM hardware and software. Components for NCR Banking ATMs can also be purchased from alternative suppliers.¹⁴

3.12 The supply of ATM hardware is competitive; in Australia, NCR Banking competes with major ATM hardware manufacturers Hyosung TNS, Diebold Nixdorf, Triton Systems LLC and Neo ICP Korean Inc.¹⁵

ATM software

3.13 The ATM software provided by NCR Banking falls into two categories:

- (a) the XFS layer, the basic operating software which is necessary for the ATM to operate. XFS layer software comes pre-installed on ATM hardware and is not supplied separately. NCR Banking provides technical support in the event of issues with XFS layer software installed on NCR Banking machines; and
- (b) the "stack", which broadly refers to additional software for the purpose of the ATM's functions, including application software (such as the consumer interface), remote monitoring software, security software and marketing software. The "stack" is fully interchangeable: NCR Banking software can be installed on other manufacturers' machines, and competitors' software can be installed on NCR Banking machines.

3.14 NCR Banking competes with a range of providers of ATM software in Australia, including Hyosung TNS, Diebold Nixdorf, Triton, Neo ICP and KAL.¹⁶

¹⁴ For example, NCR Australia Group is aware that Armaguard has a well-established practice of purchasing components for NCR Banking ATMs from third party sales channels for the purpose of providing maintenance services to other ATM owners and for servicing its own ATMs.

¹⁵ NCR Banking also competes with a number of other ATM manufacturers that currently have a smaller presence in Australia, including Chungho Comnet, Hantle/Genmega, GRG and Glory. See Cardtronics authorisation application - Allpoint and Allpoint+ ATM network, Cardtronics' response to submission from Armaguard, 2 February 2022, p 2.

¹⁶ Cardtronics authorisation application - Allpoint and Allpoint+ ATM network, Cardtronics' response to submission from Armaguard, 2 February 2022, p 3. The products offered by these providers listed are substitutable for the products offered by NCR Banking. NCR Australia Group is not aware of any capacity constraints that would prevent NCR's rivals from expanding their supply of ATM hardware or software.



ATM monitoring, maintenance and repair services and ATMaas

- 3.15 NCR Banking provides ATM monitoring, maintenance and repair services to financial institutions and independent ATM deployers. NCR Banking has “first line maintenance” (FLM) and “second line maintenance” (SLM) capability through a dedicated team of technicians that specialise in ATMs:
- (a) FLM refers to the resolution of issues and repairs to the ATM which do not require the replacement of hardware. This includes: resolving receipt printer faults and replenishing receipt rolls, resolving dispenser faults, cash and cheque deposit faults, performing alarm resets and ATM resets, clearing banknote jams and performing systematic checks including basic remedial maintenance and reporting site issues to the customer.
 - (b) SLM services are more complex and are performed by certified technicians or engineers, and include repairing and replacing parts, loading new software and conducting diagnostics on complex issues.
- 3.16 ATM maintenance and repair services can be provided either on a standalone basis or they may be bundled with other services such as CIT services as part of an ATMaas offering, depending on the customer's preference. If a financial institution is interested in acquiring ATM maintenance / repair services with CIT services, NCR Banking must partner with a CIT provider that has the ability to service the financial institution's network. This is because NCR Australia Group does not have CIT capability in Australia.
- 3.17 Monitoring, ATM maintenance and repair services contracts that cover FLM and SLM on large, geographically dispersed fleets, require NCR Banking to partner with third party providers of FLM and guarding services.¹⁷ For example, [REDACTED]
- 3.18 In the supply of monitoring, ATM maintenance and repair services, whether on a standalone basis or as part of a bundle of other services, to large financial institutions, NCR Banking competes primarily with Armaguard and Prosecur.

Importance of CIT services

CIT services are an essential input for the NCR Payments business in Australia

- 3.19 The operation of ATMs is at the core of the NCR Payments business. ATMs cannot operate without cash. NCR Payments cannot conduct its core business without access to cash distribution. Specifically:
- (a) NCR Payments supplies cash funding/filling and forecasting services to merchants under its ATM deployment contracts with merchants and corporate groups, for merchants and corporate groups that have opted in to acquire these services from NCR Payments;

¹⁷ In essence, NCR will contract with the financial institution to supply the full range of services required by the financial institution, and will subcontract out the components that it cannot provide inhouse.

¹⁸ [REDACTED]



- (b) NCR Payments also provides transaction processing, maintenance, general operation and cashing of the ATM for the majority of ATMs that are under managed ATM services contracts.
 - 3.20 NCR Payments does not have CIT capability in Australia. NCR Payments relies on third party providers of CIT services for cash transportation to and from the ATMs it operates across Australia, related services such as installation, cash replenishment, deposit services and guarding, each of which is a critical input into the services NCR Payments provides to merchants, corporate groups and financial institutions.
 - 3.21 Prosegur and Armaguard are the only providers of CIT services that have the capability to provide the CIT services NCR Payments requires for its national network of ATMs, and for the types of national network opportunities offered by financial institutions and large retailers that NCR Payments seeks to participate in, as described in more detail below in 3.25.
 - 3.22 NCR Payments currently has a contract with Prosegur for CIT services, and previously had a contract with Armaguard. CIT services acquired under these contracts include:
 - (a) **Transportation CIT services**, collecting and transporting cash to and from ATMs at retail and customer bank locations; and
 - (b) **Processing CIT services**, replenishing/loading, re-banking, counting and sorting cash.
 - 3.23 These CIT services are an essential component of NCR Payments' commercial proposition to its customers and consumers. If NCR Payments cannot access CIT services, it cannot provide ATM deployment services or managed ATM services to a majority of its customers and perform its contractual obligations. It also cannot compete effectively for future business. [REDACTED]
- NCR Banking needs to partner with CIT providers to provide a "full service" solution to banks*
- 3.24 As described above, NCR Banking offers ATM monitoring, maintenance and repair services to large banking customers with national networks.
 - 3.25 Increasingly, large banking customers issue an RFP seeking tenders for "full service" ATM and related services solutions, in order to realise the commercial efficiencies of engaging services from only one vendor with national coverage to service its network. In response to RFPs of this kind, NCR Banking seeks to partner with a CIT provider, because it does not have inhouse CIT capability in Australia. As noted above, Armaguard and Prosegur are the only two CIT providers with national coverage and scale.
 - 3.26 Armaguard also supplies ATM maintenance services through its Integrated Technology Services (**ITS**) division, which NCR Banking regards as its main competitor. NCR Banking considers that Armaguard has no incentive to partner with NCR Banking to provide the CIT component because it is more lucrative for it to provide both ATM maintenance and CIT. ITS now offers a 'Complete Line Maintenance' (**CLM**) model to its customers, inclusive of FLM and SLM, and CIT services as a bundled offer. Armaguard/ITS describes CLM on its website as: "A single point of contact for end-to-end maintenance ensures your ATMs and self-service devices are always working their best. This includes our health monitoring and



security services, providing a real time interface to your complete network for quick action when required."¹⁹

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.28 NCR Banking has previously sought to partner with Prosegur on national full service opportunities. Unlike Armaguard, Prosegur has limited in-house SLM capability and, according to the Application, a "de minimis share" in this space.²⁰

3.29 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Ordinarily, NCR Banking would seek to partner with Prosegur on those opportunities.

3.30 Post-merger, Prosegur would form part of the vertically integrated merged entity and would continue to compete with NCR Banking for tenders that include an ATM maintenance services component. NCR Banking is concerned that the merged entity would have no incentive to partner with NCR Banking in the future because it will be more lucrative for the merged entity to secure the entire full service contract (which it will be able to do due to ITS' capability) rather than only the CIT component. Please see section 10 below for more details.

NCR Australia Group's CIT arrangements

3.31 NCR Payments currently acquires CIT and FLM services for [REDACTED] its ATM fleet from Prosegur under a long-term Agreement between Cardtronics Australasia Pty Ltd (NCR Payments and Prosegur for the Supply of Cash Services (**CIT Agreement**)).
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹⁹See 'Maintenance and repair' on Armaguard's website, accessed 27 October 2022: <https://www.armaguard.com.au/page/maintenance-and-repair>.

²⁰ Application, p114.

²¹ [REDACTED]

[Redacted]

3.32 The key features of the CIT Agreement include: [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

- 3.35 Although NCR Banking has sought to partner with Prosegur on opportunities to supply ATM maintenance and CIT services to major banks in the past, NCR Banking does not currently have any agreements with Prosegur in respect of CIT services.
- 3.36 In at least the last 5 years, NCR Payments and NCR Banking have not contracted with any provider other than Prosegur or Armaguard for CIT services.
- 3.37 For completeness:
 - (a) NCR Payments and NCR Banking do not currently acquire products or services from Armaguard.
 - (b) [REDACTED]
 - (c) NCR Banking currently provides XFS layer software support to Armaguard's atmX ATM fleet and optcash software, and also supplies NCR ATM hardware components from time to time.

Impact of increased prices of CIT services, decreased service quality or inability to source CIT services

- 3.38 In light of NCR Australia Group's reliance on, and use of, CIT services, any of the following would have a significant, detrimental impact on its business and ability to continue to compete effectively in the future:
 - (a) a substantial increase in the price of CIT services, or the inability to procure CIT services at competitive rates in the future;
 - (b) a decrease in CIT service levels obtained from its CIT provider that is persistent or prolonged, whether that is in breach of its contractual arrangements or falls short of a breach; and
 - (c) the inability to procure CIT services from a single, national CIT provider for its ATM fleet or for future opportunities (to provide ATMaaS to financial institutions, or ATM maintenance services).
- 3.39 NCR Australia Group considers that the Proposed Transaction makes each of the above scenarios more likely, for the reasons explained in this submission. This is notwithstanding that the CIT Agreement is in place because:
 - (a) The prices at which NCR Payments acquires CIT and FLM services from Prosegur under the CIT Agreement in respect of its ATM fleet are fixed for the initial term of the agreement (ie until [REDACTED], unless the CIT Agreement is

22 [REDACTED]

terminated earlier). [REDACTED]
[REDACTED]
[REDACTED]

- (b) Agreements may be breached or terminated. Legal action to enforce contracts can be protracted, and too slow to stem inevitable and potentially irreparable damage to NCR Australia Group's business.
- (c) There may be opportunities for the counterparty to degrade service quality without breaching the CIT agreement. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (d) NCR Banking does not have a CIT agreement in place, and the merged entity will have the ability and incentive to deny supplying CIT services to NCR Banking in circumstances where it is likely to be more profitable for the merged entity to operate (and/or expand) its own ATM network (and provide a "full service" end-to-end ATM solution) for a particular customer or in a particular region.

3.40 We outline below how these scenarios would impact NCR Australia Group's business and customers and consumers, if they were to eventuate.

Harm to NCR Australia Group's business

3.41 The cost of CIT services makes up a significant proportion of the operating cost of NCR Payments' ATM business. [REDACTED]
[REDACTED]
[REDACTED] NCR Australia Group estimates that the cost of CIT services makes up [REDACTED]
[REDACTED]

3.42 Accordingly, an increase in the cost of CIT services can have a material impact on NCR Payments' ATM network operating costs, and in turn, the terms on which NCR Payments supplies services to merchants (including corporate groups), financial institutions and consumers.

3.43 A material increase in NCR Payments' CIT costs in the future would significantly impact its operating costs and its ability to compete in the supply of ATM deployment services, ATMaaS services, cash withdrawal / transaction services to cardholders, and operation of the Allpoint network. NCR Payments would need to find ways to recover such costs from its customers and/or consumers, or via alternative cost reductions (for example, by reducing its ATM footprint).

3.44 If the merged entity decreased the quality of CIT services, NCR Australia Group could not switch to any other supplier of CIT services. A reduction in service quality could include, by way of example, lower or inconsistent frequency of cash transportation services, increased volume of missed services, lower safety and security standards, failure to provide adequate guarding services and failure to respond to cash outages.

- 3.45 NCR Australia Group considers some or all of the following could occur if it could not obtain CIT services at an acceptable standard:
- (a) breach of NCR Australia Group's customer contracts giving rise to service level penalties, breach of contract or potentially termination if significant;
 - (b) loss of transaction volume and consequently revenue for NCR Australia Group and its customers;
 - (c) customers and consumers may not be able to access cash if, for example, service level decreases resulted in cash outages that are unattended to; and
 - (d) damage to reputation with customers.
- 3.46 The prices and terms on which NCR Banking can acquire CIT services will directly impact its ability to provide ATMaaS solutions and maintenance services to financial institutions, and the terms on which it is able to offer those solutions / services.
- Harm to customers and consumers*
- 3.47 If NCR Australia Group cannot secure CIT services on competitive terms, this will inevitably lead to adverse outcomes for NCR Australia Group's customers and consumers that use ATMs that it operates or services.
- 3.48 If the price of CIT services supplied to NCR Australia Group were to materially increase, NCR Australia Group would seek to:
- (a) pass these costs on to consumers through higher ATM surcharges;
 - (b) impose higher fees on financial institutions for ATMaaS or ATM access arrangements;
 - (c) offer lower rebate payments to new merchants / corporate groups or existing merchants / corporate groups interested in renegotiating their contracts, which would place it at a competitive disadvantage to other competitors, including the Applicants; or
 - (d) implement a combination of the above.
- 3.49 Increasing surcharges and decreasing merchant rebates in parallel would disincentivise merchants from maintaining a NCR Payments ATM on the premises, likely resulting in loss of business (and revenue) for NCR Australia Group, and if those ATMs are not replaced by alternative providers' ATMs, loss of cash access points for consumers.
- 3.50 NCR Australia Group would also look to offset the increased costs through rationalising its ATM fleet. Given that CIT costs tend to be significantly higher in regional and rural locations than metropolitan areas, higher cost ATMs in those areas are more likely to be removed earlier. This would have the detrimental effect of reducing cash access points in the community (particularly for those who face digital exclusion and are reliant on cash distribution), and materially reducing consumer choice in the supply of ATMs.
- 3.51 Further, if NCR Australia Group is no longer able to compete effectively in the supply of ATMaaS or maintenance services, its financial institution customers will have fewer quality choices in the future.



4. **NCR AUSTRALIA GROUP'S RELATIONSHIP WITH THE MERGER PARTIES**

4.1 As described above, NCR Australia Group has a multi-faceted relationship with the merger parties:

- (a) NCR Australia Group is a customer (or potential customer) of each of the merger parties, acquiring CIT services (and FLM services).
- (b) NCR Payments (and in respect of iii, NCR Banking) competes with the merger parties in relation to the supply of:
 - (i) cash withdrawal facilities to consumers (ie cardholders);
 - (ii) ATM deployment services to merchants; and
 - (iii) ATM managed services / ATMaas or ATM access arrangements to financial institutions.
- (c) NCR Banking competes with the merger parties in relation to the supply of ATM maintenance services to financial institutions and independent ATM deployers.
- (d) NCR Banking is a supplier (or potential supplier) of SLM ATM maintenance services to the merger parties.
- (e) NCR Banking is a supplier (or potential supplier) of ATM hardware and software to the merger parties.

4.2 In this submission, in the time available, we have focused on the relationships in (a), (b) and (c).

5. **MARKET DEFINITION**

5.1 NCR Australia Group has not had an opportunity to conduct a market definition exercise in respect of CIT services or non-CIT services in the time available. We are concerned that the Applicants' market definitions may not capture the services NCR Australia Group acquires (or seeks to acquire) from the Applicants, or the services NCR Australia Group provides in competition with the Applicants, as outlined below.

CIT markets

5.2 The Applicants have identified three separate national CIT services markets:

- (a) a market for the supply of integrated end-to-end wholesale and retail cash services for which the Major Banks are the only customers as they have wholesale banknote distribution arrangements with the RBA;
- (b) a market for the supply of CIT services to retail customers who require a full service solution (ie both cash transportation and processing services); and
- (c) a market for the supply of cash transport services to retail customers between their locations and bank branches.

5.3 Having regard to these market definitions, NCR Australia Group considers that NCR Payments operates as a customer in the "market for the supply of CIT services to retail customers requiring a full service solution", as it acquires both transportation and processing CIT services. However, NCR Australia Group is concerned that this market definition may be too broad because large customers that are reliant on cash, have high

cash volumes and require national geographic coverage (like NCR Payments) have different requirements (and fewer options) than smaller customers or customers that operate in a smaller region.

- 5.4 As described in 3.21, for NCR Payments, Prosegur and Armaguard are the only credible suppliers of CIT services. NCR Payments cannot acquire services from any other CIT supplier. If the price of CIT services increased by 5-10%, NCR Payments could not switch to any other supplier of CIT services. Other retail customers, particularly those that do not have a national network of ATMs or significant cash requirements (and bailment arrangements), may have credible alternatives beyond Armaguard and Prosegur. Additionally, for some retail customers, switching away from cash to digital transactions, or insourcing CIT services, may be viable options or credible threats. This is not the case for NCR Payments.
- 5.5 NCR Australia Group also notes that the production facilities and distribution networks of the Applicants appear to be used across the three CIT markets identified by the Applicants, and could be readily switched from one to another. However, smaller CIT providers that are not Approved Cash Centre Operators (**ACCos**), do not own Approved Cash Centres (**ACCs**) and do not have specialised vehicle fleets could not readily switch to providing CIT services to the major banks, NCR Payments or large national retailers.
- 5.6 The above observations also apply to NCR Banking, acknowledging that it does not have current contacts with either Prosegur or Armaguard for CIT services, but that it has sought to acquire CIT services from Prosegur in the past in order to pursue opportunities with banks, and would expect to do so in respect of future opportunities. Like NCR Payments, NCR Banking cannot switch or threaten to switch to digital payments, and it cannot source CIT services (that meet the requirements of its banking customers) from smaller CIT providers.

Non-CIT markets

- 5.7 The Applicants have identified non-CIT markets including:
- (a) local markets for the supply of cash withdrawal facilities;
 - (b) a national market for the supply of ATM deployment services to merchants;
 - (c) a national market for the supply of ATM access arrangements to financial institutions; and
 - (d) a national market for specialist ATM maintenance (which appears to include SLM services, but exclude FLM services, which the Applicants claim are included in CIT²⁴).
- 5.8 NCR Australia Group notes that in Cardtronics Australasia Pty Ltd's application for Commission authorisation of its Allpoint and Allpoint+ ATM Network arrangements, the following non-CIT markets were identified:
- (a) local markets for the supply of ATM transaction services to cardholders, or local markets for consumer cash dispensing through ATMs (**Local ATM Transaction Services Markets**);
 - (b) the national wholesale market for the deployment and operation of ATMs, which also includes ATM deployment to merchants (**National ATM Deployment Market**). Cardtronics considered that this market encompassed the supply of ATM managed

²⁴ Application, p113-114.



services (ie ATMaas) to financial institutions and ATM network models such as Precinct, atmX and the Allpoint network; and

- (c) national markets for the supply of retail banking services, including the supply of deposit-taking services.

5.9 NCR Australia Group appreciates that the Commission generally adopts a purposive approach to market definition, and we anticipate that the Commission will carefully test the Applicants' market definitions so that it may properly assess the impact of the Proposed Transaction on each relevant market.

5.10 As described above, NCR Australia Group competes with the merger parties to provide ATMaas, or in responding to RFPs from banks for ATM services that include both maintenance and CIT, which are likely to become increasingly common. It is not clear to us which of the markets identified by the Applicants encompass these services as they are not deployment services, nor access arrangements. They are also not confined to specialist ATM maintenance.

6. COMPETITIVE DYNAMICS IN THE SUPPLY OF CIT SERVICES

6.1 The most important factors to NCR Australia Group as a customer of CIT services are the following:

- (a) **Geographic coverage:** NCR Australia Group considers the ability to provide national coverage to be the single most important factor for a CIT provider. NCR Payments has a network of ATMs comprising over 6,500 locations nationally. It is not viable for NCR Australia Group (or other firms requiring CIT services on a national scale, including major customers requesting "full service" solutions) to procure CIT services from multiple smaller providers that, in combination, may be able to cover a national footprint. This is because:
 - (i) It would result in inconsistent service quality and coverage across the network. NCR Australia Group's customers require a standardised offering across its national network which would be impossible to achieve using multiple smaller providers.
 - (ii) NCR Payments may not be able to obtain approval from its banks under its bailment agreements (see below).
 - (iii) The costs would likely be prohibitive compared to using a CIT provider with national coverage as each provider would have separate rates, and NCR Australia Group would be unable to obtain volume discounts. NCR Australia Group's administrative costs would also increase substantially as it would require a team of people to manage the provider network and NCR Australia Group would need to engage in multiple contract negotiations.
- (b) **Scope / type of services:** NCR Australia Group requires a CIT provider that can provide a full service solution including CIT, cash processing, FLM and cash administration. The CIT provider must have sufficient capacity to service NCR Australia Group's national network (and the national network opportunities that NCR Australia Group expects to participate in for financial institutions and large retailers) which requires a large, geographically wide network of depots / processing facilities, armoured trucks and trained staff. NCR Payments also requires its CIT provider to have sufficient capacity to scale up CIT services during surge periods (such as Easter and Christmas). [REDACTED]

Smaller CIT providers only have capacity to carry more limited volumes of cash.

- (c) **Security and bailment requirements:** NCR Payments has bailment facilities with [REDACTED] to source physical cash for its ATMs. The bailment agreements require NCR Payments to ensure its CIT providers have adequate security measures in place. NCR Payments must obtain the banks' approval of its CIT providers. [REDACTED]
- (d) **Cost of services:** CIT services are the largest cost input into the services supplied by NCR Payments. NCR Payments uses a high volume of CIT services and expects to receive volume discounts or other cost effective options to allow it to compete effectively downstream. These options are also necessary in order for NCR to compete effectively to provide specialist maintenance services as part of the "full service" offering.
- (e) **Competitive terms:** As mentioned in 3.47 above, the ability to acquire CIT services on competitive terms for its national network of ATMs is critical for NCR Payments' business. Historically, the vigorous competition between Armaguard and Prosegur (or its predecessor, Chubb) has meant that NCR Payments has been able to acquire CIT services on competitive terms. NCR Payments has observed Armaguard and Prosegur improve the terms offered to it, including price and service levels, to win business from the other party. NCR Payments is concerned that the removal of competition between Armaguard and Prosegur resulting from the Proposed Transaction will deprive NCR Payments of the opportunity to acquire CIT services on competitive terms in the future, as explained in 8.13 below.

6.2 Prosegur and Armaguard are the only firms currently operating in Australia that are capable of meeting NCR Australia Group's requirements. [REDACTED]

Accordingly, NCR Australia Group considers that Prosegur and Armaguard are unconstrained by smaller CIT providers in respect of the supply of CIT services to customers requiring national coverage.

6.3 Prosegur and Armaguard are unconstrained by the availability of digital payment methods in respect of the supply of CIT services to ATM owners. There is no possibility for ATM owners, such as NCR Australia Group, to switch away from cash in favour of digital payment methods, or use that possibility as a threat to constrain a CIT provider.

6.4 Contrary to the Applicants' submissions, the barriers to entry into the national market for full service CIT solutions are not low. As the RBB Report recognises, CIT providers that exclusively offer cash transport services could likely only begin providing cash processing and administrative services after undertaking significant investment. The investment required to provide these services on a national scale in competition with Prosegur and Armaguard would be substantial, and likely prohibitive for most if not all of the smaller CIT providers, as they would need to establish a national network of cash processing centres, armoured vehicle fleets and a team of skilled staff.



7. COMPETITIVE DYNAMICS IN NON-CIT MARKETS IDENTIFIED BY THE APPLICANTS

Local markets for the supply of cash withdrawal facilities

- 7.1 NCR Payments competes in local markets with other cash withdrawal facilities including:
- (a) other surcharge-free ATMs, including Armaguard's atmX network and Prosegur's Precinct ATM network;
 - (b) financial institutions' ATMs in relevant local markets (branch and off-premise ATMs);
 - (c) ATMs of other independent deployers and financial institutions; and
 - (d) cash out services offered by major supermarkets, large retailers, food chains, Australia Post and some smaller merchants.
- 7.2 Armaguard and Prosegur have ATMs in many of the local markets, in metro, country and rural areas, in which NCR Payments has ATMs. We note that, based on data in the RBB Report, the Applicants would be the third largest independent ATM deployer, with 2,705 ATMs across Australia.²⁵ NCR Australia Group expects that the Applicants would seek to grow their ATM network (and considers that they are well placed to do so). [REDACTED]

National market for the supply of ATM deployment services to merchants

- 7.3 Prosegur and Armaguard are two of NCR Payments' key rivals in the market for the supply of ATM deployment services to merchants. The other participants in this market are other independent ATM deployers including Next Payments, and Banktech.
- 7.4 As noted above, based on data in the RBB Report, the Applicants would be the third largest independent ATM deployer, with 2,705 ATMs across Australia.²⁶ Although a large proportion of these ATMs were acquired by the Applicants from banks, we consider that the Applicants are well placed to retain that business and win new business, particularly given their dominant position in CIT services and expansion of skillset in FLM and SLM services.
- 7.5 The ability of Prosegur and Armaguard to supply CIT services provides each of them with a significant competitive advantage over NCR Payments and other independent ATM deployers in competing in this market, enabling them to secure new business. NCR Payments has observed each of the Applicants competing aggressively to win independent ATM deployment contracts, leveraging their CIT offerings.

²⁵ RBB Report, p71.

²⁶ RBB Report, p71. We note that the RBB Report states that "*The Parties' total ATM numbers overstate the Parties' ability to compete for merchants. This is because the vast majority of the Parties' ATMs are ATMs that the Parties recently acquired from banks, who already had these ATMs deployed at merchants. In other words, the vast majority of the Parties' ATMs do not represent merchants that they won themselves.*"



National market for the supply of ATM access arrangements to financial institutions and supply of ATMaas (whether in this, or a separate, market)

- 7.6 Prosegur and Armaguard are NCR Payments' only rivals in the market for the supply of ATM access arrangements to financial institutions. They are also NCR Australia Group's only rivals in the supply of ATMaas services to financial institutions.
- 7.7 NCR Australia Group agrees with the Applicants' submission that Prosegur, Armaguard and NCR Payments are the only ATM suppliers that have entered into agreements with financial institutions.²⁷
- 7.8 NCR Australia Group has competed vigorously with each of Prosegur and Armaguard in relation to the supply of ATM access arrangements and ATMaas services to financial institutions. The ability of Prosegur and Armaguard to supply CIT services provides each of them with a significant competitive advantage over NCR Australia Group in the supply of these services. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁷ Application, [285].

7.9 As can be seen from these examples, Armaguard and Prosegur have each expanded aggressively and successfully in recent years in this market.

National market for the supply of specialist ATM maintenance services

7.10 Armaguard (via its dedicated ATM maintenance subsidiary ITS) competes closely with NCR Banking for the supply of specialist ATM maintenance services on a national basis. Prosegur's presence in this market is currently limited.

7.11 If we consider Table 22 in the Application, and solely in relation to the financial institutions listed in that table for reference, NCR Banking estimates that it has approximately [REDACTED] and Armaguard / ITS has approximately [REDACTED] of what the Applicants describe as the market for specialist ATM maintenance services.

7.12 The customers of specialist ATM maintenance services are owners of ATMs, which include large financial institutions and independent ATM deployers.

7.13 As noted above, increasingly customers for specialist ATM maintenance services are issuing RFPs for a full service ATM solution including CIT services and specialist ATM maintenance services. NCR Banking must partner with a CIT service provider to respond to these RFPs whereas Armaguard's vertical integration allows it to provide a full service solution.

7.14 NCR Banking currently seeks to partner with Prosegur for these opportunities. Armaguard does not have an incentive to partner with NCR Banking Division because it is able to unilaterally provide a full service.

7.15 Contrary to the Applicants' submissions,²⁸ NCR Australia Group does not consider its position as an OEM of ATM software to be a competitive advantage over Armaguard. As noted above, NCR Australia Group faces competition in the supply of ATM hardware and software, and can be bypassed. By contrast, NCR Australia Group has no ability to bypass the Applicants in the procurement of national CIT services.

7.16 NCR Australia Group considers that Armaguard's ability to bundle CIT services with specialist ATM maintenance services in a single full service solution provides Armaguard with a material competitive advantage over NCR Australia Group. By way of illustration:

[REDACTED]

8. ASSESSMENT OF THE COUNTERFACTUAL

8.1 The Commission's Merger Guidelines state that the following is necessary to demonstrate that a merger will not substantially lessen competition due to the prospective failure of one of the merger parties:²⁹

- (a) the relevant firm is in imminent danger of failure and is unlikely to be successfully restructured without the merger;

²⁸ Application, [468].

²⁹ Australian Competition and Consumer Commission, Merger Guidelines (November 2008, updated November 2017), [3.23].

- (b) in the absence of the merger, the assets associated with the relevant firm, including its brands, will leave the industry; and
- (c) the likely state of competition with the merger would not be substantially less than the likely state of competition after the target has exited and the target's customers have moved their business to alternative sources of supply.

8.2 The HoustonKemp Report explains the appropriate economic framework for assessing whether a firm is likely to shut down, as follows:³⁰

- (a) As a matter of economic principle, a firm can be expected to shut down when the revenues it is able to earn no longer meet or exceed the costs that it must expend to continue to operate, and it does not expect this situation to improve. By definition, the costs that a firm must expend to continue to operate are those that the firm could avoid by shutting down, which are also known as 'avoidable costs'.
- (b) The costs that affect this shut down decision include those that are variable over the time horizon that is relevant to the shut down decision, such as:
 - (i) variable operating costs, being costs that the firm must incur for every unit of output that it produces; and
 - (ii) variable capital costs, being sustaining investments that the firm must incur to be able to maintain its operating capacity.
- (c) To the extent that the firm's fixed assets are not also sunk (ie, irreversible) then these costs would also be avoidable, at least to the value that the firm could recoup by selling those assets in a secondary market.
- (d) A determination of whether a firm may need to shut down requires a detailed assessment of the current state of its financial performance, future prospects and strategic options.
- (e) Applying this principle to a service, a firm can be expected to cease provision of a particular service when the revenues earned from that service no longer meet or exceed the avoidable costs that it must expend to continue to provide that service and it does not expect this situation to improve.

8.3 Having regard to this framework, the HoustonKemp Report is critical of the RBB Report's contention that the basis for competition between Armaguard and Prosegur being 'not sustainable' is that both firms are making 'negative profits' such that they are recovering only their 'variable costs and some of their fixed costs'.³¹ The HoustonKemp Report finds that the approach taken in the RBB Report does not provide any insight as to whether Armaguard or Prosegur would find it more profitable to cease providing CIT services than to continue operating, because:³²

- (a) the test applied in the RBB Report does not refer to the economic threshold for a firm to cease operations, being whether or not it is recovering its avoidable costs; and
- (b) the concept of 'negative profits' to which the RBB Report refers is, at best, ambiguous in terms of its economic implications.

³⁰ HoustonKemp Report, [66] – [74].

³¹ HoustonKemp Report, [86].

³² HoustonKemp Report, [87].

- 8.4 The HoustonKemp Report also criticises the approach taken in the RBB Report which focuses on the economic factors that determine whether a firm would *enter* an industry, rather than focusing on the economic factors that determine whether a firm would *exit* an industry.³³
- 8.5 Further, the HoustonKemp Report finds that the available facts do not support the RBB Report's conclusion that it is most likely that either Armaguard or Prosegur will shut down their CIT services in the near term.³⁴ In addition, HoustonKemp considers that:
- (a) the available facts do not support the existence of, or need for, the reinvestment options that RBB contends will be required by one of the merger parties; and
 - (b) there are likely to be a number of strategic options available as alternatives to closure that the RBB Report does not address.
- 8.6 Accordingly, the HoustonKemp Report finds that the conclusion drawn in the RBB Report that either Armaguard or Prosegur can be expected to cease provision of their CIT services in Australia in the near term has no basis in economic principle, since it is apparently founded upon comparisons that are not capable of supporting the conclusion that the RBB Report seeks to draw.³⁵ The HoustonKemp Report finds that the RBB Report's analysis falls well short of an assessment as to whether either Armaguard or Prosegur are currently unable to recover their avoidable costs and are therefore likely to cease provision of CIT services in the near term.³⁶
- 8.7 Consistent with the findings in the HoustonKemp Report, which are described further below, and the framework set out in the Commission's Merger Guidelines, NCR Australia Group is sceptical of the Applicants' claims that they would exit the CIT market in the near term in the absence of the Proposed Transaction. These claims must be rigorously tested by the Commission.
- 8.8 NCR Australia Group does not consider it credible that either Applicant would exit the CIT market within the next two years including because:
- (a) NCR Australia Group does not consider the demand for cash to be insufficient to sustain two major national CIT suppliers, particularly where the incumbent suppliers are each part of large corporate groups with complementary business units that support their CIT operations. NCR Australia Group's experience is that Prosegur and Armaguard have competed aggressively with each other for CIT contracts and have each invested to expand into complementary non-CIT markets to support their CIT operations.
 - (b) Prosegur has a multi-year contract (as described in paragraph 3.22) with NCR Payments for CIT services [REDACTED] NCR Australia Group expects that Armaguard and Prosegur each have ongoing long term contractual commitments for CIT services with a wide range of other customers in Australia. NCR Australia Group also expects that many of those customers procure other services from Armaguard and Prosegur. Those commercial relationships would be damaged substantially if either firm suddenly ceased supplying CIT services to those customers.

³³ HoustonKemp Report, [88] – [89].

³⁴ HoustonKemp Report, [83].

³⁵ HoustonKemp Report, [92].

³⁶ HoustonKemp Report, [93].

- (c) Linfox (Armguard) and Prosegur each have strong global reputations to maintain. In particular, Prosegur is the world leader in CIT services and its global reputation would be damaged substantially if it failed to honour its commitments in Australia by suddenly exiting the Australian market. Linfox (Armguard) also has a number of major customers including Coles and Woolworths that utilise other divisions of the Linfox Group (for example, logistics). We would expect that Armguard would not want to risk damaging those relationships by failing to meet its CIT obligations.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8.10 Prosegur’s claims regarding its growth trajectory appear consistent with the fact that it won the Westpac contract in 2018 and the Woolworths contract in 2020, as outlined in the statement of Jose Antonio Lasanta Luri, at [31]. Mr Luri notes that Prosegur needed “to have one of 7 major contracts to be a successful / viable operator”, and the Westpac and Woolworths contracts are two of the 7 major contracts. Ennio Paul Alberici notes in his statement that there were some improvements in the Prosegur business in 2021 compared to 2020 ([70]), although he claims that he does not see the business “returning to profitability or having a sustainable future with a focus on the CIT and ATM businesses *under the current competitive landscape*” (emphasis added).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8.14 The HoustonKemp Report finds that the basis of the RBB Report's conclusion that one of the parties would exit the CIT market to avoid making substantial reinvestments is unclear and does not support the contention that it is 'most likely' that one of Armaguard or Prosegur will cease to provide CIT services within two years.³⁷ This is because:

- (a) It seems unlikely that Armaguard or Prosegur would seek to exit from the supply of CIT services in a way that would breach their legal obligations under their existing contracts or give rise to a 'disorganised exit' in which customers would not be supported.³⁸ The potential cost savings that either company could enjoy from an abrupt cessation of the provision of CIT services would need to be carefully weighed against the prospect for broader reputational harm that could impact the companies across the range of sectors in which they operate.³⁹
- (b) To the extent that opportunities arise for Armaguard or Prosegur to avoid making an unprofitable investment, it does not follow that this requires the firm to exit the provision of CIT services on a nation-wide basis. Given the potential costs involved with an abrupt industry exit, it seems reasonable to expect that any exit by either firm would occur on a gradual and staggered basis, such as by ceasing supply to a particular customer or within an unprofitable region.⁴⁰
- (c) If there are investments required to maintain the nation-wide supply of CIT services and these are of sufficient magnitude that render it profitable for one of Armaguard

³⁷ HoustonKemp Report, [98] – [105]

³⁸ HoustonKemp Report, [100].

³⁹ HoustonKemp Report, [100], [104].

⁴⁰ HoustonKemp Report, [101].

or Prosegur to cease the supply of CIT services, there are good reasons to expect that an industry re-organisation reflecting these facts should already have occurred.⁴¹

- 8.15 The HoustonKemp Report finds that the RBB Report did not sufficiently explore strategic alternatives to closure other than a single example of vertical integration into the ownership of ATMs.⁴² Importantly, the fact that the parties have sought or achieved cost efficiencies in the past does not indicate that further cost efficiencies cannot be achieved in the future.⁴³ The HoustonKemp Report considers that a range of options may be available to a firm in these circumstances other than closure of its entire operations or full merger with its competitor, including:⁴⁴
- (a) reductions in its cost base through seeking efficiencies, such as a partial closure of the most unprofitable part of its operations, if some parts of its operations could continue to be operated profitably;
 - (b) sale of some or all its assets, either to an unrelated firm or to another firm in the supply chain (ie, a vertical merger) if this could derive efficiencies in the (cash) cost of continued operations that are not available to the firm by itself; or
 - (c) entry into a joint venture arrangement with its competitor to share costs in unprofitable parts of its operation.
- 8.16 Even if the Applicants' contended counterfactual is appropriate, HoustonKemp's view is that competition between the parties prior to this exit is relevant to the state of competition without the proposed transaction.⁴⁵
- 8.17 According to HoustonKemp, given the benefits of competition, the fact that the state of competition without the proposed transaction includes vigorous competition between Armaguard and Prosegur, at least for some time, should be properly accounted for in assessing the proposed transaction.⁴⁶ Beyond the benefits of competition on price, cost and investment that arise under the counterfactual scenario, HoustonKemp also identifies two further potential benefits arising from competitive interactions between Armaguard and Prosegur without the proposed transaction:⁴⁷
- (a) First, to the extent that one firm may eventually cease to provide CIT services, allowing the competitive process to determine which firm survives would be expected to give rise to benefits to consumers and society because the competitive process would ensure the firm that is more efficient or more attractive to customers would be the one to survive.
 - (b) Second, by maintaining competition for longer, alternatives to the merger could become available, to the extent that they are not already available. Such options could include cost efficiency measures and alternative merger or joint venture arrangements.

⁴¹ HoustonKemp Report, [102] – [103].

⁴² HoustonKemp Report, [106], [108].

⁴³ HoustonKemp Report, [109].

⁴⁴ HoustonKemp Report, [107].

⁴⁵ HoustonKemp Report, [118].

⁴⁶ HoustonKemp Report, [123] – [127].

⁴⁷ HoustonKemp Report, [125] – [127].

- 8.18 NCR Australia Group submits that it would not be sufficient for the Applicants to prove that an alternative commercial arrangement would not realise the cost savings necessary to create a financially sustainable business. The Commission must be satisfied that any other commercial arrangement between the Applicants' businesses short of full merger, such as a limited joint venture or partial merger, is not possible or would not arrest any imminent danger of failure claimed by the Applicants. It may be that an alternative commercial arrangement would delay the possibility of one of the Applicants exiting in the near term in which case the relevant counterfactual in the CIT markets would not be the one claimed by the Applicants.
- 8.19 In particular, the RBB Report considers that a second possible counterfactual to either Applicant exiting cash distribution is the intervention of the RBA to impose a new regulatory solution for cash distribution.⁴⁸ While the timing and the scope of any regulatory change driven by the RBA is unknown, this does not mean that such a possibility should be discounted as a likely counterfactual particularly in circumstances where the RBA only published its Conclusions Paper regarding its Review of Banknote Distribution Arrangements in August 2022.
- 8.20 In light of the above, and consistent with the findings in the HoustonKemp Report, NCR Australia Group submits that there is insufficient evidence to support the Applicants' contended counterfactual that it is most likely that one of the parties will cease to provide CIT services in Australia within two years. NCR Australia Group urges the Commission to consider whether alternative counterfactuals are more likely. For example:
- (a) An alternative commercial arrangement between the Applicants short of a full merger which would reduce the fixed costs of the CIT services currently incurred by each Applicant. This may be achieved as a result of RBA intervention or otherwise by the Applicants in the absence of the Proposed Transaction. In Prosegur's submission to the RBA dated February 2022⁴⁹, Prosegur supported an evaluation of alternative models particularly for regional and remote services that would consolidate services and cash processing to provide a more economic solution.
 - (b) A scenario in which the weaker party, in response to competition from the other Applicant, gradually exits in ~1-2 years, and assets are divested to one or more smaller CIT providers or a new entrant (eg Brinks) that would be better placed to compete with the incumbent.
 - (c) A scenario in which the exit of one party occurs sometime after 2-3 years and the parties continue to compete vigorously in the supply of CIT services in the interim.

9. THE MERGED ENTITY WILL HAVE AN EFFECTIVE MONOPOLY IN CIT SERVICES

- 9.1 The Proposed Transaction will create an effective monopoly in the supply of CIT services. There will be no credible alternative CIT providers remaining in the market that will constrain the merged entity, particularly for large customers like NCR Australia Group that require national coverage. Further, for the reasons set out in 6.1(a), it is not feasible for large customers like NCR Australia Group to engage multiple providers of CIT services to obtain national coverage as an alternative to using a single CIT provider with national coverage.
- 9.2 The key source of countervailing power in the market today is the ability of customers to create tender processes for the supply of CIT services which exploit the close rivalry

⁴⁸ RBB Report, [330].

⁴⁹ Prosegur, response to the RBA's Review of Banknote Distribution Arrangements: Issues Paper (February 2022), 32.



between Prosegur and Armaguard to generate competitive bids. That power will be extinguished by the Proposed Transaction.

- 9.3 There are few to no effective alternatives to the supply of CIT services, which means the ability for many customers to move to the sole use of digital payments and thus avoid the use of CIT services entirely, is limited.⁵⁰ Further, NCR Australia Group does not have a digital alternative to offer to customers and cannot encourage its customers to use digital payments because, like other independent ATM deployers and providers of ATM access arrangements and ATMaas, their core services rely on access to cash.
- 9.4 The HoustonKemp Report finds that it is very unlikely that the countervailing power of customers would serve as any type of effective constraint upon the market power of the merged firm, whether by seeking to integrate into the provision of CIT services or by avoiding the use of CIT services altogether.⁵¹ Further, the prospect of a CIT customer sponsoring entry in competition with the merged entity appears to be remote given the RBB Report's finding that the CIT industry can only support a single firm as a result of the decline in cash.⁵² The Applicants themselves say that the costs to operate a national supplier of CIT services are very high and even the two incumbents with established infrastructure, networks, customers and significant market share cannot operate profitably. These barriers will be raised significantly as a result of the Proposed Transaction. In these circumstances, it is not credible for the Applicants to suggest that the major banks (or any other large customers) could exert countervailing power by sponsoring a new entrant for the supply of CIT services.
- 9.5 There is no credible likelihood of new entry or expansion by smaller CIT providers which could possibly constrain the merged entity in relation to the supply of CIT services to large customers such as NCR Australia Group. The Applicants are currently each other's closest competitors for a substantial number of customers and are the only credible options for large customers requiring a national network. There would be little to no incentive for an existing or new CIT provider to expand to offer full service retail CIT services on a national scale having regard to the very high fixed costs involved to establish an efficient national network and the prospects that such a venture would not be profitable, in light of the claimed experience of the Applicants and the merged entity's incumbent status.
- 9.6 The merged entity will face only limited constraint from the terms of existing contracts, and any constraint would apply only for a short period. In the case of NCR Australia Group, the CIT Agreement will provide limited constraint to benefit NCR Australia Group because the pricing under that agreement is only locked in until expiry of the initial term being [REDACTED]. The merged entity could reduce the quality of services that it provides to NCR Australia Group, since it would not face competition for NCR Australia Group at the expiry of the current contract.⁵³ [REDACTED]
- 9.7 Even if the Applicants' counterfactual is correct, the Proposed Transaction will deprive NCR Australia Group from any competitive tension in the process of engaging with providers in respect of its CIT supply arrangements, ahead of the expiry of the initial term of its current

⁵⁰ HoustonKemp Report, [145].

⁵¹ HoustonKemp Report, [143].

⁵² HoustonKemp Report, [144].

⁵³ HoustonKemp Report, [137].

contract with Prosegur on [REDACTED]. In the absence of any credible alternatives, the merged entity would be unconstrained from negotiating substantial price increases and/or reductions in service quality for the supply of CIT services to NCR Australia Group moving forward.

9.8 There is a significant lead time to negotiate contracts for the supply of CIT services on a national scale. [REDACTED]

[REDACTED]

In any of the alternative counterfactuals where Prosegur and Armaguard do not merge within 2 years, customers would still be able to obtain the benefit of competition between them to obtain competitive pricing. Following the merger, the merged entity will be unconstrained from raising prices for CIT services above competitive levels, particularly to customers like NCR Payments or bid partners like NCR Banking.

9.9 The merged entity will be unconstrained from lowering the quality of its services and it will not have any incentives to innovate or improve the service quality for CIT services. For the reasons set out in 3.44 to 3.46, a reduction in service quality would have detrimental effect on competitors to the merged entity in downstream and adjacent markets (including NCR Australia Group and similar customers) because they could not switch to an alternative CIT provider, and this would, in turn, also harm their customers and consumers. The HoustonKemp Report is critical of the RBB Report's conclusion that the expected greater profits from the merged entity would necessarily, in practice, give rise to more investment in higher quality services that is sought by customers because although the merged entity may have the ability to make such investments, it may have little incentive to do so, when not faced with the prospect of rivalry to secure customers.⁵⁴

9.10 The possible threat of regulatory intervention by the RBA is not a credible constraint on the merged entity:

- (a) The conditions in which the RBA would intervene are unknown.
- (b) The pricing of CIT services is complex and it is likely the merged entity could raise prices above competitive levels without triggering a regulatory response.
- (c) The merged entity will be able to engage in price discrimination and so could offer competitive pricing to some customers (such as those at risk of transitioning to digital payments) while offering prices above competitive levels to other customers (such as those with no alternatives to cash).
- (d) It would likely take a significant amount of time for the RBA to intervene and regulate the supply of CIT services by the merged entity. In the intervening period, the merged entity would benefit from high prices,⁵⁵ and may have caused irreparable harm to competition in a number of markets which cannot be remediated by subsequent RBA intervention.
- (e) Any possible constraint from the RBA would likely only apply with respect to the pricing of CIT services. Possible regulation by the RBA would likely not:
 - (i) constrain the merged entity from reducing service quality;

⁵⁴ HoustonKemp Report, [139] – [140].

⁵⁵ HoustonKemp Report, [142].

- (ii) constrain the merged entity from refusing supply;
 - (iii) constrain the merged entity from engaging in anti-competitive bundling; or
 - (iv) incentivise the merged entity to innovate or invest to improve service quality.
- (f) Economic regulation is widely understood to be an imperfect substitute for competition, with potentially significant direct and indirect costs and it is reasonable to suggest that vigorous and intense competition would be preferable to reliance upon regulation of market outcomes.⁵⁶
- 9.11 Finally, the HoustonKemp Report finds that the relationship between higher prices for CIT services and reductions in the use of cash is weak and that the relationship between the price for CIT services and the use of cash in the Australian economy is not presently, and cannot be expected to become, a meaningful constraint upon the incentive or ability of CIT suppliers to increase their prices.⁵⁷
10. **THE MERGED ENTITY WILL BE ABLE TO LEVERAGE ITS MONOPOLY POWER INTO DOWNSTREAM AND ADJACENT MARKETS**
- 10.1 The Authorisation Application and the RBB Report do not address the question of whether the merged entity will be able to foreclose its rivals in downstream markets. The HoustonKemp Report considers this omission to be a significant shortcoming of the RBB Report.⁵⁸ NCR Australia Group urges the Commission to consider this issue carefully.
- 10.2 HoustonKemp's Report explains that vertical foreclosure takes place when a vertically integrated firm with substantial power in the upstream market increases the price at which it supplies its downstream rivals.⁵⁹ The economic motivation for such conduct is that by raising the input cost of rivals, the integrated firm can put those rivals at a cost disadvantage, and thereby increase its own prices and/or market share in the downstream market.⁶⁰
- 10.3 A vertical foreclosure strategy will lessen competition when:⁶¹
- (a) the vertically integrated firm has the *ability* and *incentive* to foreclose rivals; and
 - (b) the *effect* of the foreclosure in one or more downstream markets is to lessen competition.
- 10.4 A merger lessens competition due to a risk of foreclosure if:⁶²
- (a) the merger increases the likelihood that foreclosure takes place; and
 - (b) foreclosure may lessen competition post-merger.

⁵⁶ HoustonKemp Report, [142].

⁵⁷ HoustonKemp Report, [148] – [149].

⁵⁸ HoustonKemp Report, [150].

⁵⁹ HoustonKemp Report, [152].

⁶⁰ HoustonKemp Report, [153].

⁶¹ HoustonKemp Report, [156].

⁶² HoustonKemp Report, [157].

- 10.5 A merger may increase the likelihood that foreclosure takes place if it raises the merged entity's ability or incentive to foreclose.⁶³
- 10.6 Consistent with the findings in the HoustonKemp Report, and as explained in more detail below, NCR Australia Group submits that the Proposed Transaction is likely to substantially lessen competition in one or more downstream (or adjacent) markets because:
- (a) the merged entity will effectively become a monopoly in CIT, and its market power in the upstream market for CIT services will provide it with the ability to foreclose rivals in downstream markets that are reliant on access to those services;
 - (b) the merged entity will have substantial interests in downstream (or adjacent) markets that rely on access to CIT services including markets for the deployment of ATMs to merchants, ATM access arrangements and ATMaaS to financial institutions and ATM maintenance services to financial institutions;
 - (c) the merged entity will have an incentive to expand its presence in downstream (or adjacent) markets because services provided in those markets attract a healthy margin; and
 - (d) as a result:
 - (i) the merged entity will have a strong incentive to leverage its market power in the upstream market for CIT services into downstream markets, to capture margins in those markets;
 - (ii) it is likely that the merged entity will pursue a vertical foreclosure strategy;
 - (iii) the merged entity's rivals in downstream and/or adjacent markets will be prevented from competing effectively; and
 - (iv) barriers to entry and expansion in downstream and/or adjacent markets will increase.
- 10.7 The HoustonKemp Report considers that the merged entity may be able to undertake a variety of different foreclosure strategies in a range of markets. For simplicity, HoustonKemp examined two potential strategies in which the merged entity:⁶⁴
- (a) increases prices or reduces the quality of CIT services it provides to NCR Payments and other rivals of the merger parties that supply ATM deployment services to merchants; and
 - (b) imposes more onerous terms on which it would be willing to provide CIT services to NCR Banking in the context of the merged firm partnering with NCR Banking to offer ATMaaS.
- 10.8 While the HoustonKemp Report only examines these two potential strategies, the report finds that there may be a risk of anti-competitive foreclosure in any of the markets in which the merger parties compete that rely on CIT services.⁶⁵

⁶³ HoustonKemp Report, [158].

⁶⁴ HoustonKemp Report, [162].

⁶⁵ HoustonKemp Report, [163].

Increasing prices/reducing service quality of CIT services to NCR Payments and others

- 10.9 Armaguard and Prosegur both provide CIT services in addition to ATM deployment services to merchants and access to ATM networks to financial institutions.⁶⁶ CIT services are an essential input to the supply of ATM deployment services to large corporate merchants and a key input to the supply of ATM deployment services to a significant proportion of other merchants.
- 10.10 HoustonKemp considers the necessity of having a complementary CIT service raises the question of whether the Proposed Transaction increases the likelihood that the merged entity would foreclose rivals in markets for ATM deployment services to merchants by raising the price or reducing the quality of CIT services provided to those rivals.⁶⁷
- 10.11 The HoustonKemp Report finds that the Proposed Transaction will result in a merged entity that will have the *ability* to foreclose rivals in downstream markets for ATM deployment services and ATM access arrangements because:⁶⁸
- (a) If the Proposed Transaction did not proceed, the merger parties would continue to compete against each other intensely and neither would have the ability to foreclose downstream rivals. For example, NCR Payments could switch from using Prosegur to using Armaguard if Prosegur increased its prices or reduced its quality of service.
 - (b) With the merger, the merged firm would represent the monopoly supplier of CIT services, at least for some customers, such as NCR Payments. For any such customers, the merged entity would be able to raise prices because its downstream rivals would not be able to secure the essential CIT inputs from another source.
 - (c) CIT services represent a significant proportion of the cost of providing ATM services for NCR Payments. An increase in prices for CIT services could therefore significantly increase the merged firm's downstream rivals' costs.
 - (d) Taken together, the merged entity would have the ability to foreclose some of its downstream rivals in the market for ATM deployment services to merchants, in contrast to without the merger, whereby each merger party would constrain the ability of the other to foreclose rivals.
- 10.12 The HoustonKemp Report finds that the Proposed Transaction will result in a merged entity that will have the *incentive* to foreclose rivals in downstream markets for ATM deployment services because:⁶⁹
- (a) The loss of profit at the upstream level is likely to be small, given that the merged entity would be able to calibrate the foreclosure to its advantage, and the profits at the CIT service level appear to be low. Any loss would also be offset to an extent by higher prices for CIT services.
 - (b) It is likely that the foreclosure strategy would increase the merged entity's profits earned from the provision of ATM deployment services to merchants. There is a potentially large share of ATMs that the merged firm would be able to gain from such a foreclosure strategy.

⁶⁶ RBB Report, [280] – [285].

⁶⁷ HoustonKemp Report, [167].

⁶⁸ HoustonKemp Report, [170] – [179].

⁶⁹ HoustonKemp Report, [180] – [186].

- (c) The foreclosure strategy may generate higher profits for the merged firm overall, because the loss at the upstream level is likely to be small and there are potentially substantial gains to be made in the provision of ATM deployment services to merchants for the merged firm.
- 10.13 HoustonKemp's preliminary conclusion is that the merged firm may have the ability and incentive to foreclose its downstream rivals in the market for ATM deployment services to merchants, and that there would be a detrimental effect on competition and consumers as a result of the foreclosure. This compares to the situation without the Proposed Transaction in which foreclosure would not take place because Armaguard and Prosegur would not have the ability to foreclose their downstream rivals.⁷⁰
- 10.14 Further to the findings in the HoustonKemp Report, NCR Australia Group considers that the merged entity would be able to leverage its monopoly power in the supply of CIT services in a number of ways in the market for ATM deployment services to merchants including by:
- (a) refusing to supply competing independent ATM deployers (including NCR Payments) with required CIT services, which are a key input into ATM deployment services;
 - (b) supplying competing independent ATM deployers on unfavourable terms (by increasing prices or reducing service quality) that do not enable them to compete effectively with the merged entity; or
 - (c) bundling⁷¹ CIT services to merchants with ATM deployment services (for example, offering discounted CIT services to merchants who also obtain ATM deployment services from the merged entity).
- 10.15 NCR Australia Group considers that it is likely the merged entity would have the incentive and ability to engage in anti-competitive foreclosure strategies because:
- (a) Prosegur and Armaguard have been aggressively expanding their respective ATM networks. Armaguard currently deploys approximately 1,823 ATMs located in high street locations, shopping centres and Ampol petrol stations.⁷² Prosegur currently deploys approximately 882 ATMs located in high streets, retail, gaming and hospitality venues.⁷³ As a result of the Proposed Transaction, the merged entity would be the third largest independent ATM deployer, with 2,705 ATMs across Australia.
 - (b) Independent ATM deployers have no option but to obtain CIT services from national CIT providers for large corporate merchants with a national presence, and a large number of their other merchant customers, and do not have any ability to constrain the merged entity by threatening to move towards digital payments or an alternative supplier of CIT services.
 - (c) In addition, where the merged entity wins a merchant site from a competing ATM deployer:

⁷⁰ HoustonKemp Report, [190].

⁷¹ In this submission, we refer to 'bundling' conduct for ease of reference. These references also include 'tying' conduct, namely where other services (such as ATM deployment or ATM maintenance services) could be sold by the merged entity on condition that the customer also acquired CIT services from the merged entity.

⁷² RBB Report, [76], [279].

⁷³ RBB Report, [77], [279].



- (i) the merged entity may already have ATMs in reserve which can be deployed at the premises; or
- (ii) it can readily obtain additional ATMs from multiple providers, including NCR Banking , Diebold Nixdorf, Nautilus Hyosung, Triton and GRG.

10.16 NCR Australia Group considers that the merged entity's ability to leverage its position as monopoly provider of CIT services would be similar in the market(s) for the supply of ATM access arrangements to financial institutions and the supply of ATMaaS. If anything, its ability to engage in bundling may be stronger in these markets, as many financial institutions (the primary customers of these services) are also major acquirers of CIT services.

10.17 The merged entity would be able to engage in bundling conduct to attract financial institutions to join its surcharge-free ATM networks. In this regard, NCR Australia Group competes with the Applicants through its operation of the Allpoint Network. With the closure of the rediATM network, NCR Australia Group is the only network operator currently operating a surcharge-free network in competition with the Applicants' surcharge-free ATM networks. After the Proposed Transaction, the merged entity could leverage its monopoly power in CIT services to prevent NCR Australia Group from competing. By doing so, the merged entity could establish itself as the owner and operator of the only remaining network of this kind. Future entry would also be discouraged as the merged entity would have the ability to repeat the same foreclosure strategy with any new entrant.

Worsening the terms for the provision of ATMaaS

10.18 NCR's largest competitor in the supply of ATM maintenance services is Armaguard-owned ITS. Post-merger, ITS would form part of the vertically integrated merged entity and would continue to compete with NCR Banking for tenders that include an ATM maintenance services component. In the supply of monitoring, ATM maintenance and repair services, whether on a standalone basis or as part of a bundle of other services as part of an ATMaaS offering, to large financial institutions, NCR Banking competes primarily with Armaguard and Prosegur.

10.19 The national market for specialist ATM maintenance services is not strictly "downstream" of the market(s) for CIT services. CIT services and specialist ATM maintenance services are separate services but are both key inputs for the operation of ATMs, and, as described above, customers increasingly seek a bundled solution. NCR Banking does not have CIT capability in Australia, and must contract with third party providers, such as Armaguard or Prosegur, to provide the CIT component of ATMaaS solutions.

10.20 The HoustonKemp Report considers a potential foreclosure strategy available to the merged firm may be to refuse to partner with NCR Banking to provide ATMaaS (or other ATM services), or to offer NCR Banking terms for partnering with it that were substantially worse than those it provides in combination with its own business, ITS.⁷⁴ The benefit to the merged firm from such a strategy would be its ability to win more of the ATMaaS business, or any bundle of CIT services with ATM maintenance.⁷⁵

⁷⁴ HoustonKemp Report, [196].

⁷⁵ HoustonKemp Report, [197].

- 10.21 The HoustonKemp Report finds that the merged entity will have the *ability* to foreclose rivals in downstream markets for specialist ATM maintenance services or ATMaaS business because:⁷⁶
- (a) If the Proposed Transaction did not proceed, competition between the merger parties would be intense and neither would have the ability to foreclose downstream rivals. NCR Banking could continue to seek to partner with Prosegur from time-to-time to bid for ATMaaS contracts.
 - (b) With the merger, NCR Banking would have to partner with the merged firm if it wanted to provide ATMaaS. NCR Banking's largest competitor in the provision of ATM maintenance services would also be the merged firm. The merged firm would have the ability to refuse to partner with NCR Banking for ATMaaS contracts, or to provide an uncompetitive offer for CIT services as part of a partnership.
 - (c) CIT services represent a significant proportion of the cost of providing ATMaaS. An increase in prices for CIT services could therefore significantly increase NCR Banking's costs, or the cost of a partnership between the merged firm and NCR Banking to provide ATMaaS.
 - (d) The result would be that NCR Banking would not be able to be competitive for future ATMaaS contracts.
- 10.22 The HoustonKemp Report finds that the merged entity will have the *incentive* to foreclose rivals in downstream markets for specialist ATM maintenance services or ATMaaS business because:⁷⁷
- (a) The loss of profit at the upstream level is likely to be small because that the merged firm would be able to calibrate the foreclosure to its advantage, and that it will earn higher margins for CIT services to the extent that the merged firm does win business with NCR or other rivals, despite offering a higher price than it offered through its own ITS business.
 - (b) It is likely that the foreclosure strategy would increase the merged firm's profits from the provision of ATM maintenance services. This is because a foreclosure strategy could provide the merged firm with a substantial advantage in supplying ATM managed services, rival providers of ATMaaS will have no choice but to use the merged firm to procure CIT services, the merged firm would have the ability to expand its existing ATM maintenance services operations, and the downstream services can be profitably provided.
- 10.23 HoustonKemp's preliminary conclusion is that the merged firm may have the ability and incentive to foreclose its downstream rivals in markets for ATMaaS, and that there would be a detrimental effect on competition and consumers as a result of the foreclosure.⁷⁸ This compares to the situation without the proposed transaction in which Prosegur could partner with NCR Banking.
- 10.24 Further to HoustonKemp's analysis, NCR Australia Group considers that the merged entity's monopoly position in CIT services would enable it to engage in an effective bundling strategy to win customers that require ATM maintenance services or ATMaaS services. In addition, as explained above at 3.25, many customers already require providers to offer a "full service"

⁷⁶ HoustonKemp Report, [198] – [202].

⁷⁷ HoustonKemp Report, [203] – [208].

⁷⁸ HoustonKemp Report, [212].

comprising both CIT and SLM. Even in the absence of bundling conduct by the merged entity, NCR Banking or other SLM service providers may no longer be able to partner with Prosegur to compete with the merged entity's full service offering, and so would be precluded from participating in tenders for large banking customers, risking foreclosure.

- 10.25 Following the Proposed Transaction, the merged entity would continue to be the only entity capable of offering a "full service", but would no longer face meaningful constraint from NCR Australia Group or other SLM service providers in respect of these customers because NCR Australia Group could not practically partner with a smaller, regional CIT services provider as these RFPs typically concern national full service contracts, and regional providers cannot feasibly service a national network.

11. THE PROPOSED TRANSACTION WOULD SUBSTANTIALLY LESSEN COMPETITION IN CIT AND NON-CIT MARKETS

- 11.1 NCR Australia Group considers that the Proposed Transaction would substantially lessen competition in CIT and non-CIT markets. In particular, the Proposed Transaction would result in a single monopoly provider of CIT services to the segment of the CIT market comprising national customers (like NCR Australia Group) who require a single service covering a national, geographically dispersed ATM fleet. Relevantly:

- (a) NCR Australia Group does not consider it credible that either of the Applicants would exit the market within the next two years. NCR Australia Group urges the Commission to rigorously test the Applicants' claims regarding the appropriate counterfactual.
- (b) Even if one of the Applicants were to exit the market in the absence of the Proposed Transaction, it is unlikely that it would do so in a disorderly or abrupt manner. As explained in 8.3, each Applicant has ongoing contractual commitments and a global (and local) reputation and broader business to protect, which would be prejudiced by a disorderly exit. Continued competition between the Applicants prior to that exit increases the opportunity for the Applicants to identify alternative measures of continuing to operate efficiently, short of a full merger. It also maximises the opportunity for new entry or self-sourcing, relative to the creation, by merger, of a single national CIT provider with 75-90% of the national market.
- (c) The merged entity would not be effectively constrained by smaller providers, or by transportation service providers, in respect of CIT services for national customers like NCR Australia Group who are not able to credibly threaten to switch to those providers.
- (d) The merged entity would also not be constrained by alternative digital payment methods in respect of customers, like independent ATM deployers, who are not able to reduce their reliance on cash or encourage their customers to do so.

- 11.2 A material increase in the cost of acquiring CIT services by independent ATM deployers would cause considerable consumer detriment as it would result in deployers having to choose between increasing surcharges, decreasing rebates or reducing the number of ATMs (and therefore consumer access to cash).

- 11.3 The creation of a single national monopoly CIT service provider is also likely to have flow-on effects of substantially lessening competition in non-CIT markets.

- (a) **The national market for the supply of ATM deployment services to merchants.** Independent ATM deployers compete with the Applicants to provide ATM deployment services to merchants. They are able to do so due to upstream

competition between the Applicants for the provision of the key input of CIT services. The Proposed Transaction would remove this competitive dynamic and give the merged entity the ability to leverage its monopoly position by refusing to supply, bundling or self-preferencing.

- (b) **Local markets for cash withdrawal facilities.** In the time available, NCR Australia Group has not sought to identify specific local markets for cash withdrawal which are likely to be affected by the Proposed Transaction. However, one consequence of a price increase for (or refusal to supply) CIT services may be ATM operators choosing to cease operating some of their ATMs. This is especially likely in locations which are expensive to operate in, which may already be characterised by low ATM numbers. A further reduction in ATM numbers in those areas may substantially reduce competition for cash withdrawal facilities in those local markets.
- (c) **The national market for ATM access arrangements to financial institutions and supply of ATMaas (whether in this, or a separate, market).** Following the Proposed Transaction, the vertically-integrated merged entity would have the ability and incentive to engage in profitable bundling behaviour, or refusal to supply.
- (d) **The national market for specialist ATM maintenance.** NCR Australia Group and other providers of specialist ATM maintenance services are unlikely to constrain the merged entity post-transaction. Armaguard's ITS business already possesses a competitive advantage over NCR Australia Group and other SLM providers who do not provide CIT services. NCR Australia Group is currently able to mitigate this disadvantage to some extent by partnering with Prosegur for CIT services. The Proposed Transaction will remove this option and significantly reduce the competitive constraints faced by the merged entity in this market.

12. ANY PUBLIC BENEFITS DO NOT OUTWEIGH THE PUBLIC DETRIMENTS

- 12.1 NCR Australia Group considers that the Proposed Transaction will lead to limited public benefits, and that any public benefits will be outweighed by the detriments that will result from the loss of competition between Armaguard and Prosegur, including higher prices and likely lower quality services to customers of CIT services, and in turn their customers and consumers. If the Proposed Transaction proceeds, the merged entity would be effectively insulated from competition. Very significant public benefits would need to be identified in order to be satisfied that public benefits outweigh these clear detriments.
- 12.2 The HoustonKemp Report sets out the economic framework in which to assess the extent of public benefits arising from the proposed transaction that can be quantified in economic terms.⁷⁹ Importantly, the public benefit to be assessed must be those that 'would result, or would be likely to result' from the proposed transaction; benefits that may be achieved with the transaction, but would also likely be achieved absent the proposed transaction, are not relevant to the assessment of public benefits.⁸⁰
- 12.3 Having regard to the information in the RBB Report, HoustonKemp finds that the extent to which there are substantial public benefits from the proposed transaction is unclear.⁸¹
- 12.4 NCR Australia Group considers that a full merger is not necessary to realise the public benefits claimed by the Applicants. These benefits could be realised by a commercial

⁷⁹ HoustonKemp Report, [217] – [221].

⁸⁰ HoustonKemp Report, [221].

⁸¹ HoustonKemp Report, [214].

arrangement short of a full merger, such as a partial merger or joint venture arrangement, which would result in much less risk of competitive detriment.

- 12.5 Bringing forward the 'inevitable' exit of Armaguard or Prosegur and the synergies avoiding duplication costs by combining their businesses appear to be private, rather than public benefits. The efficiencies in reducing duplicative costs may not be specific to the Proposed Transaction and do not necessarily result in benefits to the public. The merged entities may choose to absorb those benefits and may go further by raising prices to the detriment of consumers.
- 12.6 The HoustonKemp Report finds that of the sources of public benefit cited by the RBB Report, redeployment of some of the assets and resources currently used to provide CIT services for some other valuable use is the most likely to give rise to some benefit. However, because the RBB Report does not apply the appropriate economic framework for the assessment of public benefits, it is not possible to discern whether any public benefits arise as a result of using fewer assets to provide the same CIT services.⁸²
- 12.7 The HoustonKemp Report finds that the available evidence supporting the idea that an exit would lead to the collapse of cash processing is very limited given that it is very unlikely that Armaguard or Prosegur would seek to exit from the supply of CIT services in a way that would breach their legal obligations under their existing contracts or give rise to a 'disorganised exit' in which customers would not be supported.⁸³ HoustonKemp's preliminary opinion is that there is not likely to be a substantial public benefit from avoiding the costs of dislocation because all parties would benefit from an orderly exit.⁸⁴ Further, any benefit from avoiding dislocation costs may not be specific to the proposed transaction.⁸⁵
- 12.8 The HoustonKemp Report criticises the approach adopted in the RBB Report to assessing the purported public benefit of bringing investment to sustainable levels as a result of the merger.⁸⁶ In particular, the HoustonKemp Report finds that:⁸⁷
- (a) If there are investments required to maintain the nation-wide supply of CIT services and these are of sufficient magnitude that render it profitable for one of Armaguard or Prosegur to cease the supply of CIT services, there are good reasons to expect that an industry re-organisation reflecting these facts should already have occurred; and
 - (b) If the proposed transaction takes place the short run will give rise to a near monopoly supplier of CIT services with very weak competition. In those circumstances, there would be no need for the merged firm to undertake efficient levels of investments, because customers would have no alternative suppliers.
- 12.9 The public would benefit from the continued competition between the parties in the lead up to the exit of one of them (if indeed that occurred). There are immediate benefits to consumers paying low prices whilst the potential for increased investment (even if realised)

⁸² HoustonKemp Report, [215], [231] – [236].

⁸³ HoustonKemp Report, [226] – [227].

⁸⁴ HoustonKemp Report, [228] – [229].

⁸⁵ HoustonKemp Report, [230].

⁸⁶ HoustonKemp Report, [237] – [249].

⁸⁷ HoustonKemp Report, [244], [245].

involves a certain cost that only gives rise to a net benefit if it is valued more highly by customers than its cost.⁸⁸

- 12.10 NCR Australia Group considers that it is not in the public interest to have a critical feature of the economy in the hands of an unregulated and privately controlled monopoly owner. This creates a single point of failure and does not stop the merged entity threatening to exit the market in the future.
- 12.11 Further, it is also not in the public interest to bypass the RBA giving due consideration to the extent of regulatory reform that may be necessary to ensure that the cash distribution supply chain is sustainable and robust in the long term. The potential costs arising from the uncertainty of regulation and the possible transition to a new regulatory model are not described in the RBB Report and it is not clear what these costs would be.⁸⁹ The RBA would presumably seek to maximise net benefits to Australian society and it is counterintuitive to assume the RBA would consider regulating in a way that involves substantial net costs, relative to the benefits that any intervention would achieve.⁹⁰
- 12.12 To the extent there is any reduction in carbon emissions as a result of the Proposed Transaction, benefits would therefore be the reduction in carbon emissions slightly earlier than otherwise would be the case having regard to the Applicants' counterfactual.⁹¹ This factor should therefore be given little, if any, weight.
- 12.13 To the extent there are likely to be any public benefits arising from the Proposed Transaction, they are outweighed by the significant detriments (including the loss of vigorous competition between the merger parties).

⁸⁸ HoustonKemp Report, [247].

⁸⁹ HoustonKemp Report, [256].

⁹⁰ HoustonKemp Report, [257].

⁹¹ HoustonKemp Report, [251].