

Released under FOI

Voller, Samuel

From: Voller, Samuel
Sent: Tuesday, 24 October 2017 4:02 PM
To: 'Andrew Dunshea'
Cc: 'Howarth, David'; Adams, Shane; 'Hudson, Marc'
Subject: HPE CM: Albury Taxis - alleged anti-competitive conduct [SEC=UNCLASSIFIED]
Attachments: Letter to Steele + Co 24 October 2017.pdf

Record Number: D2017/00148925

Security Classification: UNCLASSIFIED

Dear Mr Dunshea,

Please refer to the *attached* correspondence.

Kind regards,

Samuel Voller

Investigator | Enforcement NSW & ACT
Australian Competition & Consumer Commission
Level 20 | 175 Pitt Street Sydney 2000
T: +612 9230 9171
www.accc.gov.au

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Released under FOI



Our ref: CS1045711
Your ref: AD:SD:178998
Contact officer: Samuel Voller
Contact phone: (02) 9230 9171

Level 20, 175 Pitt Street
Sydney NSW 2000
GPO Box 3648
Sydney NSW 2001
tel: (02) 9230 9133
www.accc.gov.au

24 October 2017

Mr Andrew Dunshea
Partner
Steele + Co
253 Horwick Street
BATHURST NSW 2795

Dear Mr Dunshea

Re: Albury Taxis - alleged anti-competitive conduct

We refer to your letter dated 20 October 2017.

We acknowledge that your client appears to have taken steps to address the ACCC's concerns and we look forward to working with you to achieve a resolution on the matter.

In your letter, you note that Albury Radio Taxis Co-operative Society Limited (**Albury Taxis**) is prepared to make certain changes to its fees structure and to consider the concerns raised in our letter dated 5 October 2017. We consider that the Commissioners may decide not to take further action if the following matters can be addressed with sufficient certainty:

- Albury Taxis will amend its fees structure to allow full access to its booking and despatch services without discriminating between members and non-members;
- Albury Taxis will not implement in any form either the Application Exclusivity Provision or the Driver Exclusivity Provision as outlined in our letter dated 5 October 2017; and
- Albury Taxis will engage a suitably qualified competition law practitioner to provide a competition law training seminar to all Albury Taxis members.

We accept that it is not necessary for Albury Taxis to change the terms on which it accepts members provided that Albury Taxis amends its structure of fees so as not to discriminate against non-members.

As we have previously explained, the decision as to what enforcement action should be taken in resolution of an investigation is ultimately a matter for the ACCC's Commissioners, who act on the advice of staff on that investigation. Please be aware that, even if the ACCC decides not to take any further enforcement action in relation to this matter, it may still decide to refer publicly to the outcome of this investigation, including by way of a media release.

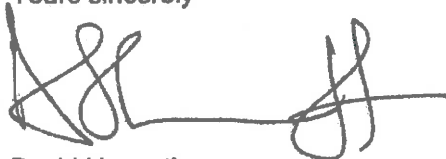
Released under FOI

In your letter, you requested an opportunity to provide further clarification. In order for us to make the necessary recommendations to senior staff and the Commissioners, could you please provide us with the following:

1. An outline of Albury Taxis' new fees structure, including any subsidies or rebates proposed to be paid to members to alter their effective level of fees;
2. The form of the proposed resolution which would impose the new fee structure;
3. The dates on which the proposed new fees structure:
 - a. is to be voted upon; and
 - b. if it is upheld, the date on which it is proposed that it would take effect;
4. A confirmation that Albury Taxis has not and will not:
 - a. restrict the ability of drivers to accept bookings through means other than Albury Taxis' booking and despatch service, including through the use of other booking applications; or
 - b. prevent, discourage or in any other way impede the ability of Albury Taxis' drivers to provide passenger transport services through or on behalf of any other booking service provider.
5. The name of a suitably qualified compliance professional who will be engaged by Albury Taxis to deliver competition and consumer law training, as well as a brief outline of the proposed training and planned date/s.

I note that it is likely the Commission will not decide to discontinue the investigation until the resolutions mentioned above have taken effect. Please provide the above information and documents by **COB Wednesday 1 November 2017**. If you have any further questions in relation to this letter or the information or materials requested, please contact Samuel Voller on (02) 9230 9171, or by email at samuel.voller@accg.gov.au.

Yours sincerely



David Howarth
Director
Enforcement Group NSW and ACT