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Commerce Commission
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Dear Sir/Madam

Wilson Parking/Tournament Parking merger

Introduction

The New Zealand Automobile Association (NZAA) wishes to raise concerns about the proposed acquisition by Wilson Parking of Tournament Parking's parking assets.

The NZAA is an incorporated society with 1.35 million Members. It represents the interests of road users who collectively pay over \$2 billion in taxes each year through fuel excise, road user charges, registration fees, ACC levies and GST. The NZAA's advocacy and policy work mainly focuses on protecting the freedom of choice and rights of motorists, enhancing the safety of all road users, and keeping the cost of motoring fair and reasonable.

Executive Summary

The NZAA is concerned that the proposed merger will lessen competition in the privately-owned public parking sector, which could lead to reduced choice, increased parking fees, more aggressive and unfair compliance and enforcement practices, and reduced customer service.

Background

Parking issues are one of the most common complaints the NZAA receives from its members. Numerous media reports and online forums also indicate that unfair treatment by parking providers is one of the motorists' main frustrations, along with high fuel prices. Therefore any proposed business merger in this sector must be carefully reviewed to ensure that the impact on motorists does not worsen the already poorly-perceived status quo.

Public parking administered by road controlling authorities (like city councils) is regulated under the Land Transport Act. However, privately-owned public parking and enforcement (including wheel clamping) is not regulated. While complaints about parking received by the NZAA concern both city-council and privately-owned public parking facilities, the majority of complaints relate to private parking (and enforcement) companies. This reflects the absence of regulation in this sector.

Typical complaints relate not so much to the cost of parking, but the penalties applied for non-compliance, the lack of clear notification of terms and conditions, and the complex, inefficient and ineffective appeals process when motorists consider the subsequent penalty to be unjust. Motorists are also concerned at what many perceived is aggressive and rapid escalation of enforcement activity and fees.

Parking issues are a major focus of the NZAA's advocacy role. The NZAA also provides advice to members on understanding their rights and obligations, and how to challenge fines. The NZAA is also lobbying for the private parking sector (including wheel clamping companies) to be regulated.

Proposed merger

Wilson Parking and Tournament Parking are the two largest nationwide providers of short-term off-street public ('pay and display') parking in New Zealand, and operate over 100 and 80 carpark sites respectively throughout the country.

Short-term off-street public carparks are essential for commuters who rely on their cars to travel to and from work or training institutions or other regular appointments. While some city councils also provide some short-term off-street parking, their carparking is predominantly time-restricted on-street parking, which is mainly provided for shoppers or irregular appointments and so is a completely different market which does not compete with the privately-owned carparks used by commuters.

To compound matters, many city councils in New Zealand have district plans which specifically restrict the provision of off-street public carparks, thereby creating a barrier to entry to new providers. Thus private carpark operators not only have a captive market, but they can only grow market share by competing with other suppliers on price or service delivery (which could benefit consumers), something that would decline under a merger.

Therefore, with the exception of employer-provided private long-term lease parking, commuters' daily parking needs are primarily met by privately-owned carparks, of whom Wilson Parking and Tournament Parking are New Zealand's dominant providers. This is roughly akin to New Zealand's supermarket sector, which is similarly dominated by two main providers (Foodstuffs and Progressive Enterprises).

The NZAA contends therefore, that the market impact of a merger of two such dominant parking providers must be treated with similar seriousness as a merger of Foodstuffs and Progressive.

The NZAA is concerned that the proposed merger of parking assets will lead to market dominance in the provision of off-street parking. This will reduce competition, potentially leading to higher parking fees and poorer customer service for the many motorists who use carparks.

Wilson Parking's market dominance under such a merger could also reduce innovation and the potential for improving enforcement policy, thereby leading to more aggressive enforcement of non-compliance and a less effective, efficient and fair appeals system.

The NZAA's analysis of the parking sector has identified that parking companies have been slow to innovate and adopt new technology that could facilitate compliance and reduce the costs of enforcement action. We believe this uptake is likely to be further constrained in a less-competitive market.

By way of illustration, some carpark providers require motorists to enter their registration plate number when purchasing a ticket (either at the site, or in advance online). However, in some cases a motorist may be fined by the parking company for not clearly displaying their ticket

even though they have paid. The NZAA contends if the registration number has been entered into the ticketing machine or recorded online, that a carpark employee enforcing the carpark could easily cross-reference this information with parked vehicles to verify that they have purchased a valid ticket. Inevitably there will be other technological improvements in future (such as automatic number plate recognition and transponders) which could further improve compliance but which carpark providers would be slow to adopt if not faced with competitive pressure to improve service delivery and efficiency of operation.

We also note that both Wilson Parking and Tournament Parking are two of the five signatories to the voluntary Code of Conduct for Wheel Clamping on Private Land. While it is too early to say whether the 2012 code (which was a government-initiated response to a spate of public complaints about unfair wheel clamping enforcement) has improved the behaviour of the clamping sub-sector, a merger of two of the main clamping providers could also reduce competition in this sub-sector or even risk the possibility of Wilson Parking choosing to withdraw from the code which would have a negative impact on motorists.

Recommendation

While the NZAA has concerns about the proposed merger, should it proceed, we would recommend to the Commerce Commission that it be conditional upon the adoption of a regulatory code to govern the operational practices of privately-owned parking companies, similar to those that govern road controlling authorities.

Yours sincerely



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