

From: Jennifer Hambleton
Sent: Thursday, 23 June 2022 7:22 PM
To: Susan Brown
Cc: Millie Lynskey; Jeff Hamilton; Alex Smaill; Marilyn Pan; Dr Ross Patterson
Subject: THL/Apollo [MERWNZ-MERWLIB.FID289442]
Attachments: NERA response to anon x-sub final 230622.pdf

Dear Susan

We refer to the two cross-submissions received from the Anonymous Submitter dated 10 June 2022 and 14 June 2022, respectively.

The cross submissions largely repeat submissions that the Anonymous Submitter has made in previous submissions and therefore *thl* does not propose to respond, save to make the following comments:

- The Anonymous Submitter has referred to additional public statements made by *thl* in support of its submissions. As for the previous public statements relied upon by the Anonymous Submitter, the public statements extracted by the Anonymous Submitter are grossly out of date and/or are taken entirely out of context and assigned whatever erroneous meaning the Anonymous Submitter chooses. The reliance by the Anonymous Submitter on these statements simply highlights the lack of evidence available to support the Anonymous Submitter's views.
- The Anonymous Submitter submits that *thl*'s and Apollo's upstream manufacturing facilities give the parties a greater ability to overcome supply chain challenges. This is simply incorrect. Neither *thl* nor Apollo are original equipment manufacturers (OEM). While both parties have manufacturing facilities to build motorhome bodies, [REDACTED]. Accordingly, the parties do not have any greater ability to overcome the current supply chain challenges than any other party. Indeed, for the reasons already explained, other motorhome operators with links to larger motorhome manufacturers, such as McRent which is part of the Thor group, are better placed than *thl* and Apollo to obtain supply of new motorhomes in an environment of limited supply.
- The Anonymous Submitter makes a number of unfounded criticisms of the design of the customer survey. We refer you to the letter from The Klein Partnership (TKP), a reputable research agency, dated 30 May 2022 confirming that the survey is statistically robust. You have also been provided with the raw data from the survey.
- The Anonymous Submitter also references literature in an attempt to undermine the NERA critical loss analysis and references the fact that NERA did not rely on the customer survey to estimate demand elasticity. We **attach** a brief memorandum from NERA in relation to these points. The Commission is very familiar with the use of critical loss analysis as a tool in merger analysis, and itself has used critical loss analysis as part of its analysis of a merger's likely effect on competition in a market (see for example https://comcom.govt.nz/_data/assets/pdf_file/0010/111520/How-to-use-quantitative-analysis-in-your-merger-analysis-Advisory-note-December-2018.pdf and *epay New Zealand Limited and Ezi-Pay Limited & Ors* [2012] NZCC 13).

We would be happy to provide any further information required by the Commission in relation to the points raised by the Anonymous Submitter. Please let us know.

Kind regards,
Jennifer