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Cross-submission by Suncorp on the additional AIG submission to the SOPI

Introduction

1. Vero Insurance New Zealand Limited ("**Vero**"), a member of the Suncorp New Zealand group ("**Suncorp**"), has had the opportunity to review the additional submission from Matt Dunning QC (on behalf of AIG) ("**Second AIG Submission**") to the Commerce Commission ("**Commission**") in response to the Commission's 16 March 2017 Statement of Preliminary Issues ("**SOPI**") relating to Vero's application for clearance to acquire up to 100% of the shares in Tower Limited (the "**Transaction**").
2. Similar to its first cross-submission, Suncorp considers the submissions in the Second AIG Submission raise no new concerns that the Commission should take into account, and that they fail to demonstrate how the Transaction would negatively affect competition in the relevant markets. This cross-submission responds to the points raised in the Second AIG Submission.
3. **Summary.** In response to matters set out in [3] of the Second AIG Submission:
 - (a) Suncorp's submissions are entirely consistent with the Commission's approach to the relevant markets in the *IAG/Lumley* and *IAG/AMI* transactions. Since the *IAG/Lumley* and *IAG/AMI* transactions, there has been new entry into the markets for domestic house and contents insurance and private motor vehicle insurance markets, which have had a pro-competitive effect on those markets. However, there has not been a fundamental change in any of those markets which would justify redefining those markets in any way. Suncorp agrees that the Commission's approach to the relevant markets in the *IAG/Lumley* and *IAG/AMI* decisions is still the correct approach.¹
 - (b) Banks and brokers hold, and are able to exercise, a material degree of countervailing power over insurers, particularly in the domestic house and contents insurance and private motor vehicle insurance markets. A significant portion of the insurance products in the domestic house and contents and private motor vehicles markets are sold through banks (white label insurance products) and through brokers (Suncorp estimates that approximately []% of its personal insurance business is sold through banks and brokers).² The major banks have significant negotiating leverage and market power and will continue to provide a strong countervailing impact on price and terms available for the relevant personal lines products. Brokers also represent a substantial share of sales of personal line insurance products, particularly as the proportion of brokers who regularly use smaller insurers is increasing.³ If Vero (or indeed any other insurer) was to reduce its services or quality, or increase prices, Suncorp would expect banks to switch underwriters and brokers to shop around to find the best deal for their customers, which could have a material detrimental effect on Vero's personal insurance business.
 - (c) As stated in Vero's clearance application [], the status quo still is the most likely counterfactual relevant to Vero's clearance application.
 - (d) There is a substantial degree of uncertainty regarding a counterfactual where Fairfax Financial Holdings Limited ("**Fairfax**") is successful in its bid to acquire Tower (for

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reasons discussed below in this cross-submission) and, even if Fairfax was successful in its bid, there is no reasonable supporting evidence other than speculation that Tower will increase its competitive significance in a way that could make a difference to the competitive effects assessment in this case. This is particularly the case for Tower given the market for personal lines insurance is highly competitive and will remain so following the Transaction. To the contrary, the small amount of information available in the market suggests that, under ownership by Fairfax, Tower would likely continue along the same lines as it has been operated to date (with the same management team and same board of directors).⁴ Any suggestion that, under management by Fairfax, Tower would suddenly become a maverick, or begin punching above its weight in the domestic house and contents insurance and private motor vehicle insurance markets, is entirely speculative and without sound evidential basis. There is no reason to think that a Fairfax-owned Tower would be a counterfactual that is materially different from the status quo.

4. **Paragraph 4.** Suncorp's response to the particular comments raised in the Second AIG Submission are set out below. Suncorp sees little merit in discussing historic submissions that the Commission disagreed with. As noted above, notwithstanding there have been certain pro-competitive developments in the market since the *IAG/Lumley* and *IAG/AMI* transactions, Suncorp does not consider that there has been such a fundamental change in any of the relevant markets to justify adopting a different approach to that adopted by the Commission in those decisions.

(a) **The Transaction will result in highly concentrated markets, and entry is difficult.**

(i) The Transaction will not concentrate the markets for home and contents and motor vehicle insurance "substantially".⁵ Tower's market share in the personal lines insurance markets is only approximately []%, and the acquisition only would result in an increase in Vero's market share in those markets from []% to []%. A []% market share aggregation is typically characterised as a small or very moderate increase (and not characterised as a "significant" change). This is consistent with how Tower's share has been characterised in the market as well - for example, Morningstar analyst David Ellis recently characterised Tower's market share as being "relatively small" and lacking "sustainable competitive advantages", despite future business efficiency and customer retention initiatives.⁶

As already noted, Vero's current market share ([]%) is significantly below IAG's current market share ([]%), and is also significantly below what IAG's market share was before it was cleared to acquire AMI in 2011 ([]%), and Lumley in 2013 ([]%).⁷ Even when Vero's current market share is combined with Tower's market share, the merged entity's market share is still less than IAG's market share was before the AMI and Lumley transactions (the combined Vero / Tower market share will be []%, compared to IAG's market share of []% before it acquired AMI and Lumley).

⁴ "Fairfax Financial to Acquire Tower" (press release, 8 February 2017) Fairfax Financial. Accessible at <http://www.fairfax.ca/news/press-releases/press-release-details/2017/Fairfax-Financial-to-Acquire-Tower/default.aspx>.

⁵ For discussion regarding the separate markets for domestic house and contents insurance and private motor vehicle insurance (rather than one single "HCMV market") see [4(a)(x)] below.

⁶ Morningstar analyst David Ellis featured in an ODT: <https://www.odt.co.nz/business/more-catastrophe-claim-costs-hit-tower-earnings>

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The Commission cleared both IAG/AMI and IAG/Lumley and did not characterise those acquisitions as a "significant" change in IAG's existing market shares, even though in both cases the transaction involved:

- (A) aggregation of a larger market share than Vero's acquisition of Tower (the AMI transaction involved IAG acquiring market share of approximately []%, and the Lumley transaction involved IAG acquiring market share of approximately []%, compared with the current transaction which would involve Vero acquiring market share of approximately []% (including []% in personal lines)); and
- (B) a buyer (IAG) with a significantly higher existing market share at the time it was seeking a clearance than Vero's current market share (before IAG was cleared to acquire Lumley, its market share was about [] times larger than Vero's current market share and, as a consequence of the transaction, increased to more than [] times Vero's market share).

After the transaction, IAG will continue to have a significantly larger share of personal lines than any other competitor, but the Transaction should enhance Vero's competitive position relative to IAG (from being about []% of the size of IAG's market share to being about []% of the size of IAG's market share) and improve the competitiveness of Vero as the number 2 player - thereby improving competition in the market, not reducing it.

- (ii) The Transaction should not be categorised as a three-to-two merger in the domestic house and contents insurance and private motor vehicle insurance markets. Post-Transaction, IAG and Vero will remain as the two largest competitors in those markets, but there are a number of other competitors offering domestic house and contents insurance and private motor vehicle insurance in New Zealand, including Youi, QBE, FMG, Ando, MAS, AIG, Chubb, and Allianz.

Collectively, those other insurers represent approximately []% of the market share in personal insurance lines, a share more than [] times the size of Tower's market share. It appears entirely inconsistent to characterise a []% aggregation as "substantial" while ignoring []% of the market and categorising the Transaction as a three-to-two merger. Suncorp maintains that there are a number of active (and potential) competitors in the domestic house and contents insurance and private motor vehicle insurance markets.

- (iii) Suncorp disagrees with the suggestion that Vero and Tower have a stronger market share than the combined figures indicate. Suncorp maintains the view that the ICNZ premium information provides a good indication of market share in the personal insurance markets, a view which appears to be supported in the Second AIG Submission (at [4(a)(iii)]). For the reasons set out in the Vero clearance application,⁸ it is possible that the ICNZ numbers may actually overstate Vero's and Tower's market share in personal insurance markets (rather than understate it), but Suncorp

⁸ Vero's clearance application dated 2 March 2017 at [8.8] and [8.9].

takes no issue with those figures being used as an indicator of market share.

Suncorp disagrees with the suggestion that the ICNZ numbers understate Vero's and Tower's market share in personal lines insurance markets, and does not believe there is any basis for sustaining such a claim. The Second AIG Submission does not provide any evidence or justification for how the ICNZ may understate market shares; instead noting that, if the market share held by QBE, AIG, Chubb and Allianz is removed from the ICNZ data, then Vero's and Tower's market share would increase (which, for mathematical reasons, Suncorp does not dispute), and that "AIG cannot articulate the precise effect". However, there is no basis for excluding market data for QBE, AIG, Chubb and Allianz (or any other competitor in the domestic house and contents insurance and private motor vehicle insurance markets) from the ICNZ data, for the reasons discussed in [4(a)(ii)] above.

Further, for the reasons set out below, Tower is not a special or "significant" competitor and, to the contrary, punches below, not above, its weight in market share terms.

- (iv) Tower is not a special or "significant" competitor in the personal lines insurance markets. No evidence has been provided as to why Tower would be a special or "significant" competitor in the domestic house and contents insurance and private motor vehicle insurance markets. To the contrary, Tower has not been a particularly vigorous, innovative, or aggressive competitor in recent years.

Since 2016, Tower has faced high level of claims costs from ex-cyclone Debbie (between \$10m and \$12m),⁹ has dealt with reinsurance suppliers withholding payments,¹⁰ and has had weak / negative domestic GWP growth.¹¹ Tower posted a loss of \$21.5m in 2016,¹² a half-year loss of \$8.2m to 31 March 2017,¹³ and its shares had subsided to a 12-year low at the end of 2016.¹⁴

In looking at Tower as an investment prospect, Morningstar analyst David Ellis was recently quoted as saying "We still think Tower lacks sustainable competitive advantages".¹⁵ There is no evidence to suggest that Tower should be considered differently from any other competitor offering personal insurance lines, or that the Transaction should be considered the acquisition of a particularly "significant" competitor in the domestic house and contents insurance and private motor vehicle insurance markets.

⁹ Dene Mackenzie "More catastrophe claim costs hit Tower earnings" (26 April 2017) at: <https://www.odt.co.nz/business/more-catastrophe-claim-costs-hit-tower-earnings>.

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¹² Tower Limited "Full Year Results to 30 September 2016" (29 November 2016) at p 3, available at: <https://www.tower.co.nz/~media/Files/Tower/investor-centre/financial-results/FY16/FY16%20Results%20Announcement%20Presentation.ashx?la=en>.

¹³ Tower Limited "Tower management review – Half year to 31 March 2017" (24 May 2017) available at: <https://www.tower.co.nz/~media/Files/Tower/investor-centre/financial-results/170524-Results%20announcement%20to%20market.ashx?la=en>

¹⁴ "Tower Subsides to a 12-Year Low" (8 September 2016), available at: http://m.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11706224

¹⁵ Dene Mackenzie "More catastrophe claim costs hit Tower earnings" (26 April 2017) Otago Daily Times. Accessible at: <https://www.odt.co.nz/business/more-catastrophe-claim-costs-hit-tower-earnings>.

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- (v) Suncorp believes the Commission is well aware of the applicable test for considering a clearance application and sees no need for further submissions on this point.

However, Suncorp fails to see any particular relevance of the discussion around natural disaster strikes in New Zealand (or similar occurrences) to the Commission's role in assessing Vero's clearance application (unless the suggestion is that the Commission ought to consider a counterfactual where (i) a natural disaster occurs in New Zealand, and (ii) Suncorp hasn't "got it right" in terms of its financial exposures and becomes insolvent – which Suncorp believes is a highly speculative scenario and not one that should sensibly be entertained by the Commission).

Prudential requirements and risk management are, of course, an integral part of Suncorp's business and a key part of its interactions with the RBNZ (as regulator). It is not clear that consideration of such matters would in any way sensibly inform the Commission's assessment of the competitive dynamics in the domestic house and contents insurance and private motor vehicle insurance markets for the purposes of Vero's clearance application.

- (vi) The barriers to entry in the domestic house and contents insurance and private motor vehicle insurance markets are not significant, as has been evidenced by recent entry and expansion in those markets.¹⁶ This is consistent with the Commission's view in the *IAG/AMI* decision (at [82]), where the Commission stated:

The Commission considers that while barriers to entry are not significant, current market conditions make new entry into the New Zealand insurance market unlikely in the short to medium term due to the cost of re-insurance. However, the Commission considers that if the merged entity were to raise prices above the competitive level, specific new entry could occur.

No substantial barriers to entry into the domestic house and contents insurance and private motor vehicle insurance markets have been imposed since the *IAG/AMI* transaction. New entry and expansion into those markets has already occurred since the *IAG/AMI* transaction (Youi and QBE being the most notable examples – both having a strong brand with a growing New Zealand presence, and Youi recently exceeding a GWP of \$31 million based on ICNZ statistics), in circumstances where prices in those markets continued to be highly competitive.

If, Post-Transaction, the price for domestic house and contents insurance products and/or private motor vehicle insurance products increased above a competitive level, then new entry into those markets, or further expansion from existing insurers, would likely occur.

- (vii) AIG is one of a number of participants in the market and whether or not it has historically been willing to attempt a larger entry into the personal lines markets in New Zealand should, of course, be considered in that context - particularly where there has been other entry and expansion in those

¹⁶ As discussed at [8.25]-[8.38] of the application, and at [11] of Suncorp's first cross-submission.

markets during that time (as referred to above). While AIG's decisions regarding the level of its presence in the personal lines markets in New Zealand are its own to make, Suncorp expects that, if prices for domestic house and contents insurance products and/or private motor vehicle insurance products increased above a competitive level, then new entry or further expansion (whether from AIG or other market participants) would be likely occur.

While there are, of course, costs and risks associated with entry into the personal lines markets (as there are with almost all markets), Suncorp considers those costs and risks are far from insurmountable (as has been evidenced by recent entry and expansion) and that they are not so substantial as to allow anti-competitive pricing to prevail in those markets. Any attempts by Vero following the Transaction to anti-competitively increase price, or to reduce services or quality, would be unsustainable and easily defeated by its competitors.

- (viii) Youi's entry into the domestic house and contents insurance and private motor vehicle insurance markets has had a significant impact on the competitive dynamic in those markets. As discussed in Suncorp's first cross-submission, Youi has demonstrated how a well-capitalised new entrant (unencumbered by legacy systems and difficult risk portfolios, including earthquake risk and legacy claims) can enter the personal lines markets, invest in marketing, target lower risk areas, and grow an established brand presence and significant premium base (as noted, Youi has recently surpassed a GWP of \$31 million, based on ICNZ reports).

Since its entry into those markets, Youi has been an aggressive competitor, and its overall impact on the market is not limited to the market share it has earned by enticing customers away from its competitors (the Macquarie Report notes that the marketing spend of Youi has created churn in the market, with IAG being the suspected "net loser from this phenomenon"¹⁷), but also in prompting a competitive response from other market participants (including Suncorp) to avoid a higher volume of churn to Youi.

In respect of QBE, the fact that it operates principally through brokers (and via BMW) without a direct offering to consumers does not indicate a limited market presence in New Zealand. QBE has a well-established brand in New Zealand, and a significant volume of personal lines insurance products are sold via brokers or placed through affinity channels (eg banks). In Vero's case, for example, its only personal lines insurance offering direct to consumers is through the AAI brand, and all Vero's other personal line insurance sales are via a broker or through its arrangements with ANZ.

Since QBE's recent expansion into personal lines insurance in New Zealand, Suncorp understands that QBE has built its personal lines insurance book up to []¹⁸ and does not expect QBE would face any significant barriers to further expansion, if pricing in those markets were raised above the competitive level.

¹⁷ Ibid.

¹⁸ []

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- (ix) There are a number of insurers (including AIG, Berkshire Hathaway, QBE and Allianz) who would meet the banks' standards when tendering for white label personal lines insurance products. While banks will typically require respondents to be able to demonstrate their ability and capacity to be able to deliver to the banks requirements in New Zealand (which is not a particularly unusual requirement for a bank or any other purchaser of services to have), this should not create a substantial barrier for any insurance provider with a large international backing (particularly one with an existing relationship with a bank overseas and/or a strong presence in New Zealand and/or Australia).

In the *IAG/AMI* decision the Commission stated that:¹⁹

"the major banks will continue to provide a level of competitive constraint on the merged entity through their ability to switch insurance underwriters"

Further, in *IAG/Lumley* the Commission specifically considered whether there were insurers who do not provide white label products to banks who would likely be able to do so, and found that:²⁰

After speaking to several insurers that do not currently provide underwriting services to banks, we are satisfied that there are likely to be insurers that have the ability and intention to bid for bank tenders.

Suncorp's experience is that banks have been increasing the level of pressure on pricing and product differentiation over the past couple of years, and expects that, post-Transaction, banks will continue to exercise significant countervailing power over insurers. However, if, contrary to the current trend, Vero was to try to raise prices for personal lines insurance products above a competitive level, there would likely be no shortage of other insurers with large international backing who would be ready and willing to take over Vero's white label insurance business in New Zealand.

- (x) The markets for domestic house and contents insurance and private motor vehicle insurance should not be regarded as a single market. In *IAG/Lumley*, the Commission considered the competitive effects of personal insurance products in aggregate (with the exception of personal insurance products sold to banks and pleasure craft insurance), but still considered that they are separate product markets.²¹ There is no reason to depart from that approach in this case.

In any event, if those markets are grouped and considered collectively (as we expect the Commission intends to do), then there should be no impact on the competitive effects analysis.

Suncorp disagrees with the proposition that a competitor needs to offer a full suite of domestic house, contents, and private motor vehicle insurance to be an effective competitor in the domestic house and contents insurance

¹⁹ See cross submission at [19]. See also Vero's clearance application at [8.35(a)] and [8.36] and [8.43].

²⁰ At [115].

²¹ *IAG/Lumley* at [61].

market or the private motor vehicle insurance market. As noted at [9] of its submission dated 21 April 2017, while bundled insurance products are available, it is not uncommon for customers to purchase home and contents separately from motor vehicle insurance. Suncorp's experience is that customers purchase different personal insurance products at different times and from different insurers. While there may be commercial reasons and synergies that explain why insurers would expand into both markets (which can lead to cost savings for customers), this does not mean those markets should necessarily be considered a single market.

- (xi) As discussed in Suncorp's first cross-submission²², Suncorp's experience is that different insurers use different methods to manage risk and set prices, which leads to different patterns of behaviour across brands and differences in book performance. Recent entry and expansion into the domestic house and contents insurance and private motor vehicle insurance demonstrates that it is possible to work around knowledge limitations, to build up a knowledge base and react as new information becomes available, and to successfully operate an insurance book without immediate access to a comprehensive data set.

(b) **Countervailing power will not be effective**

- (i) Banks continue to exercise a material level of countervailing power over insurers,²³ which (as discussed above) has been even more apparent over the past couple of years. Sales through affinity channels represent a significant proportion of the total market for domestic house and contents insurance and private motor vehicle insurance (in Vero's case, approximately []%), and Suncorp agrees with the Commission's view in *CGU Plc and Norwich Union Plc*,²⁴ re-affirmed in *IAG/AMI* at [73], that banks:

... provide a degree of constraint over insurance companies due to their size, and because of their ability (and willingness) to change insurance underwriter readily if faced with a decline in service, quality or increased prices.

Suncorp's experience is that banks have a material degree of constraint in the personal lines markets and frequently exercise that power through tenders and other negotiations, including [], as well as discussions around renewals. As discussed above, Suncorp expects there would be no shortage of other insurers with large international backing who would be ready and willing to take over an incumbent's white label insurance book business with a bank if that incumbent's prices were to increase above a competitive level, or if it was to reduce its services or quality.

- (ii) Brokers (on behalf of their customer base) also exercise a material level of countervailing power over insurers. Sales through brokers also represent a significant proportion of the total market for domestic house and contents insurance and private motor vehicle insurance (in Vero's case, approximately []%).

²² At [12].

²³ For the reasons set out in Vero's clearance application dated 2 March 2017 at [8.43] – [8.44].

²⁴ Decision No. 391 *CGU Plc / Norwich Union Plc* (9 May 2000).

The countervailing power of brokers in the markets for commercial lines was recognised by the Commission in *CGU Plc and Norwich Union Plc*²⁵ and Suncorp submits that the role of brokers in the personal lines markets has increased significantly since that decision (which was made in 2000) and now represents a more substantial share of sales of personal line insurance products, particularly as the proportion of brokers who regularly use smaller insurers is increasing.²⁶

- (iii) Suncorp disagrees with the statement that banks' countervailing power is illusory (see the discussion on banks' countervailing power above). The fact that incumbent providers have generally been successful in retaining their relationships with the major banks does not mean that the banks do not have, or are not exercising, countervailing power over insurers, or that unsuccessful tenders are not acting as a competitive constraint. Suncorp's experience is that tenders to win business from the major banks in New Zealand are highly competitive, and that, if an incumbent provider was to seek to increase prices or reduce features, banks will shop around for a more competitive offering. Suncorp expects that, post transaction, bank tenders will continue to be highly competitive and that banks will continue to exercise significant countervailing power over insurers.

(c) **The counterfactual is far more competitive**

Suncorp disagrees that another counterfactual is far more competitive. The most likely counterfactual relevant to Vero's clearance **application** is the status quo, and there is no reasonable supporting evidence, other than speculation, that Tower will increase its competitive significance under ownership by Fairfax in a way that could make a difference to the competitive effects assessment in this case.

In previous Commission decisions in which there has been a competitive bid process in play, the Commission has formed a view consistent with the above submission, that the counterfactual is effectively a continuation of the status quo.²⁷ These decisions reflect the Commission properly taking a balanced and evidence-based approach, effectively requiring robust evidence of any alleged material change in the future market behaviour,²⁸ in this case, of the target, before it would consider a counterfactual that is more competitive than the status quo.

Suncorp is aware that Fairfax has indicated it intends to make an offer to acquire 100% of Tower's shares (at \$1.17 per share) and, while Suncorp is yet to be convinced there is a real prospect of that offer succeeding (at that price), even if the Fairfax bid was successful, there is no evidence that Tower would somehow become more competitive than it has been for the past few years.

To the contrary, Fairfax's own statements do not indicate that Fairfax intends to inject money or transfer any operational capabilities into Tower's business, or that it plans to make any significant changes to the way Tower's management operates in New Zealand and in the Pacific. Instead, Fairfax's CEO and Chairperson Prem Watsa has publicly stated that Fairfax intends to keep the current management team, which

²⁵ *Ibid*, at [118].

²⁶ []

²⁷ The Commission considered the counterfactual to be the status quo – or at least not more competitive than the status quo – in the following decisions involving competitive bids: *Decision 586 – Lion Nathan / Independent Liquor: IAG/Lumley* [2014] NZCC 12 and *Telecom New Zealand Limited and The Crown* [2014] NZCC 13.

²⁸ *The Commerce Commission v Woolworths* [2008] NZCA 276.

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indicates it will not change the way Tower's management operates.²⁹ It is very likely that Tower's existing board and management would remain following an acquisition by Fairfax.

This "hands-off" approach is consistent with communications about plans relating to other insurance companies it has acquired. Specifically:

- (i) In December 2016, in relation to its announced acquisition of Allied World, Fairfax stated that: "We are buying AWAC because of Scott Carmilani and his track record with his management team. It is an outstanding track record created by Scott and his team since they began 15 years ago... AWAC will be run by Scott on a decentralised basis with no cost synergies. I emphasise no cost synergies. No change in operations other than what Scott sees fit to do. AWAC will continue to be built under Scott's vision";³⁰ and
- (ii) In March 2017, in relation to its acquisition of Brit PLC, Fairfax stated that: "Mark will remain as Executive Chairman, and will assist us in other areas of the Fairfax group where his long experience and judgment will come in handy".³¹

This is consistent with one of Fairfax's guiding principles, which is: "Our companies are decentralized and run by the presidents except for performance evaluation, succession planning, acquisitions, financing and investments, which are done by or with Fairfax."³²

Following the approach of the Court of Appeal in *CC v Woolworths*, Fairfax's corporate philosophy, public statements and past behaviour overseas are highly relevant evidence when assessing the likely counterfactual. Any suggestion that, under the ownership of Fairfax, Tower would operate other than as per the status quo or that Tower would suddenly become a maverick, or begin punching above its weight in the domestic house and contents insurance and private motor vehicle insurance markets, is entirely speculative.

Accordingly, the appropriate counterfactual in the event of an acquisition by Fairfax is not a more competitive Tower, but the status quo – a Tower that has a small market share and is lacking sustainable competitive advantage.

5. **Paragraph 5.** Suncorp's response to the matters raised in Appendix 1 of the Second AIG Submission are set out in Appendix 1 of this submission (to the extent not already addressed above).

²⁹ Fairfax Financial Press Release (8 February 2017), available at: <http://www.fairfax.ca/news/press-releases/press-release-details/2017/Fairfax-Financial-to-Acquire-Tower/default.aspx>.

³⁰ Conference call (19 December 2016) available at: https://www.sec.gov/Archives/edgar/data/915191/000104746916163203/a16-23359_4425.htm

³¹ Letter to the shareholders (10 March 2017) available at: https://www.sec.gov/Archives/edgar/data/915191/000104746917001488/a2231186zex-99_4.htm

³² Fairfax Guiding Principles, available at: <http://www.fairfax.ca/corporate/guiding-principles/default.aspx>

Appendix 1

1. **Regarding 1.9 and 8.19** - As discussed in [4(a)(viii)] above, Youi has been an aggressive competitor in the personal lines insurance markets and has been successful in enticing customers away from Vero and its competitors (the Macquarie Report notes that the marketing spend of Youi has created churn in the market, with IAG being the suspected "net loser from this phenomenon"³³). While Youi's market share remains lower than Tower's market share, Youi's entry into the personal lines insurance markets has had a significant impact on the competitive dynamic in those markets in only the three years it has been active and is viewed by Vero as a more significant competitive threat than Tower (since Tower has not been a particularly vigorous, innovative or aggressive competitor and has had weak / negative domestic GWP growth).³⁴
2. **Regarding 1.11** - Vero has articulated its introduction of its SMART technology, its parts company, and home repairs in response to MTA's submission³⁵ [].
3. **Regarding 5.2(c)** – Yes, the correct reference should be to AIG. As regards AIG's presence in the personal lines markets in New Zealand, Suncorp refers to [4(a)(vii)] above. In any event, regardless of AIG's decisions regarding its participation in the personal lines markets in New Zealand, there are a number of insurers with large international backing (including Berkshire Hathaway, QBE (which underwrites personal insurance products for ANZ in Australia) and Allianz (which underwrites personal insurance products for National Australia Bank)) who will continue to have the ability to bid for white label bank tenders.
4. **Regarding 5.2(c), 6.25, 8.15(b), 8.38 and 8.39(c)** – As previously noted in Vero's clearance application,³⁶ and in its cross-submission,³⁷ competitors need not be large to provide a competitive constraint. QBE has a well-established brand in New Zealand and operates in the personal lines insurance markets through a network of brokers – having taken personal insurance business from Vero during the past couple of years through its broker channels. While QBE has a well-established commercial lines business, it has been expanding into the personal insurance markets over the past 2-3 years, primarily through insurance brokers. As noted above at 4(a)(viii), Suncorp understands that in the past 2-3 years QBE has built its personal lines insurance book up to [] and that this growth has been derived in part by QBE taking personal insurance business from Vero (as well as other insurers).³⁸ Its entry into the New Zealand market directly (rather than as a subsidiary of QBE Australia) is also relevant when considering barriers to entry and expansion, as the New Zealand subsidiary would, of course, have needed to obtain its own regulatory approvals and meet its own licensing conditions. QBE's combined market share (across commercial and personal lines – approximately []%) is larger than Tower's combined market share (approximately []%), and the barriers to QBE's further expansion into personal lines products are likely to be low. Chubb is well-known overseas for its high net-worth personal insurance products, with an established presence in the commercial lines markets in New Zealand (having recently taken some commercial accounts from Vero). While Chubb has only recently commenced offering personal lines insurance products in New Zealand (after it merged with ACE Insurance in 2016), it has already made inroads into those markets and has the ability to expand its offering in New Zealand further.

³³ Macquarie Group Report on NZ General Insurance (28 June 2016) at 4 states: "It did not surprise us that the general public are either not aware or do not understand the content of the [Commerce Commission] review. What did surprise us is that it is not materially affecting their pace of growth."

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³⁵ Vero's cross-submission of 21 April 2017 at [28].

³⁶ At [8.1],

³⁷ Vero's cross-submission of 21 April 2017 at [18].

³⁸ []

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5. **Regarding 8.3** – Suncorp disagrees with the claim that brokers do not have countervailing power. Sales of personal lines insurance products through brokers represents a significant portion of the personal lines insurance markets (in Vero case, representing approximately []% of its personal insurance business³⁹), and brokers can and do shop around for the best offering for their customers. Brokers continue to sell personal lines insurance for a number of underwriters and the proportion of brokers who regularly use smaller insurers is increasing.⁴⁰
6. **Regarding 8.15(c)** - Suncorp's experience is that tenders to win business from the major banks in New Zealand are highly competitive. []
7. **Regarding 8.39(b)** – The reference in 8.39(b) to "AIG" should be to "IAG".

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⁴⁰ []