

Determination

EROAD Limited and Coretex Limited [2021] NZCC 22

The Commission:	Dr Derek Johnston Vhari McWha Dr John Small
Summary of application:	An application from EROAD Limited (EROAD) seeking clearance to acquire all the shares in Coretex Limited (Coretex) (the Proposed Acquisition).
Determination:	Under section 66(3)(a) of the Commerce Act 1986, the Commerce Commission gives clearance to the proposed acquisition.
Date of determination:	17 November 2021

Confidential material in this report has been removed. Its location in the document is denoted by [].

Glossary

Term	Description
eaRUC	A system that automates at least one part of the RUC purchasing process.
eLogbook	A system that electronically records how long a driver has been driving a vehicle. It is used to help companies comply with work-time rules which set out how many hours drivers can work in a shift.
eRUC	A system that fully automates the RUC purchasing process.
Hubometer	A device mounted on the axle of a vehicle that measures distance travelled.
Odometer	An instrument used for measuring the distance travelled by a vehicle, usually pre-installed by the vehicle manufacturer in the vehicle's dashboard.
Off-road rebates	A rebate on RUC for distances travelled by a vehicle on private roads (which are not subject to RUC).
RUC	Road user charges levied by Waka Kotahi under the Road User Charges Act 2012. The charges apply to vehicles that use fuel (predominantly diesel) that is not taxed at the pump, and are based on the distance that a vehicle travels and its type and weight. RUC contribute to the upkeep of New Zealand's roads.
RUC purchasing process	The process of purchasing RUC licences. A pre-payment of RUC charges.
Specialised sensor	A device that monitors specific aspects relating to the transport of cargo. For example, the temperature of a refrigeration unit.
GPS	Global positioning system. A satellite-based system that provides geolocation and time information. It is used by telematic solutions providers to provide information to users on the location of their vehicles.
Telematic solutions	These allow commercial fleet owners to analyse and manage their fleets. Telematic solutions operate using a hardware device, a mobile network and a software platform. A device inside the vehicle collects information. It communicates information to a server using a mobile network. The server stores and processes the information and displays information to the customer through a software platform. See paragraph 20 for more details.

Telematic solution device	The physical device that sits on a vehicle's dashboard which collects and transmits information as part of a telematic solution.
Vertical	An industry sector that has specific requirements for telematic solutions. Examples of verticals include refrigeration and construction.
Waka Kotahi	New Zealand Transport Agency. Waka Kotahi is a Crown entity tasked with promoting safe and functional transport by land.
Work-time rules	The rules that govern how long a driver of a commercial or heavy motor vehicle may work before taking rest. This is aimed at reducing the risk of fatigue. Drivers must maintain a logbook of their hours.

The Proposed Acquisition

1. On 24 August 2021, we registered an application from EROAD Limited (EROAD) seeking clearance to acquire all the shares in Coretex Limited (Coretex) (the Proposed Acquisition).¹

Our decision

2. The Commission gives clearance to the Proposed Acquisition because it is satisfied it will not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand.
3. The merging parties both provide telematic solutions to customers in New Zealand, as well as in Australia and North America. Telematic solutions allow commercial fleet owners to analyse and manage their fleets. Telematic solutions provide features such as:
 - 3.1 helping users to comply with regulatory requirements and standards such as the payment of road user charges (RUC) or logging how long a driver has been working to meet work-time rules;
 - 3.2 vehicle tracking, including providing location information and alerting users when a vehicle requires repairs;² and/or
 - 3.3 monitoring vehicle cargo , for example, the temperature of a refrigeration unit.
4. While there are many suppliers of vehicle telematic solutions in New Zealand, the merging parties are among only a few which offer an electronic RUC (eRUC) system. eRUC systems automatically identify when a RUC licence is needed, pay for the RUC licence, calculate off-road rebates and display the RUC licence digitally inside the vehicle. Such systems are important for some large customers that need to frequently purchase RUC licences. Given this overlap, the focus of our investigation was on the effect on competition for the supply of telematic solutions which include eRUC systems. (For ease we use the term “eRUC systems” to refer to telematic solutions which include eRUC systems.)
5. In the past, EROAD and Coretex have been two of the leading providers of eRUC systems. However, EROAD submitted that Coretex now imposed a minimal constraint on EROAD and accounted for a small part of the market. The evidence we viewed was consistent with this claim.

¹ A public version of the Application is available on our website at: <https://comcom.govt.nz/case-register/case-register-entries/eroad-limited-coretex-limited>.

² Tracking devices can be used for vehicles and other assets such as trailers and machinery (powered and non-powered). References to “vehicles” should be taken to include those other assets as well.

6. Against this counterfactual, we considered that the competition lost from Coretex leaving the market was unlikely to be significant. Further, we are satisfied that rival suppliers of telematic solutions were likely to replace the constraint lost.
- 6.1 The main constraint on the merged entity would likely be rival suppliers of eRUC systems, in particular Teletrac Navman. Teletrac Navman has a comparable feature set and is likely to be an alternative for customers of the merged entity.
- 6.2 For some customers (particularly smaller customers), suppliers of telematic solutions which include electronic assisted RUC (eaRUC) systems are likely to be an alternative. (For ease we use the term “eaRUC systems” to refer to these systems.) eaRUC systems automate some parts of the RUC purchasing process. eaRUC systems offer many of the benefits that those customers value from eRUC systems and cost less to provide. While we found a lack of general awareness about eaRUC products, we consider suppliers of eaRUC systems have the potential to compete for a broader range of customers in the future.

Our framework

7. Our approach to analysing the competition effects of the Proposed Acquisition is based on the principles set out in our Mergers and Acquisitions Guidelines (our guidelines).³

The substantial lessening of competition test

8. As required by the Act, we assess mergers and acquisitions using the substantial lessening of competition test.
9. We determine whether a merger is likely to substantially lessen competition in a market by comparing the likely state of competition if the merger proceeds (the scenario with the merger, often referred to as the factual), with the likely state of competition if the merger does not proceed (the scenario without the merger, often referred to as the counterfactual).⁴
10. A lessening of competition is generally the same as an increase in market power. Market power is the ability to raise prices above the price that would exist in a competitive market (the ‘competitive price’),⁵ or reduce non-price factors such as quality or service below competitive levels.

When a lessening of competition is substantial

11. Only a lessening of competition that is substantial is prohibited. A lessening of competition will be substantial if it is real, of substance, or more than nominal.⁶

³ Commerce Commission, *Mergers and Acquisitions Guidelines* (July 2019).

⁴ *Commerce Commission v Woolworths Limited* (2008) 12 TCLR 194 (CA) at [63].

⁵ Or below competitive levels in a merger between buyers.

⁶ *Woolworths & Ors v Commerce Commission* (2008) 8 NZBLC 102,128 (HC) at [127].

Some courts have used the word ‘material’ to describe a lessening of competition that is substantial.⁷

12. As set out in our guidelines, there is no bright line that separates a lessening of competition that is substantial from one which is not. What is substantial is a matter of judgement and depends on the facts of each case.⁸
13. A lessening of competition or an increase in market power may manifest itself in different ways, including higher prices or reduced services.⁹
14. While we commonly assess competition effects over the short term (up to two years), the relevant timeframe for assessment depends on the circumstances. A longer timeframe will be appropriate if, on the evidence, competition effects are likely to arise in later years.¹⁰

When a substantial lessening of competition is likely

15. A substantial lessening of competition is ‘likely’ if there is a real and substantial risk, or a real chance, that it will occur. This requires that a substantial lessening of competition is more than a possibility but does not mean that the effect needs to be more likely than not to occur.¹¹

The clearance test

16. We must clear a merger if we are satisfied that the merger would not be likely to substantially lessen competition in any market.¹² If we are not satisfied – including if we are left in doubt – we must decline to clear the merger.

Background

17. The merging parties both provide telematic solutions to customers in New Zealand, as well as in Australia and North America. Telematic solutions allow commercial fleet owners to analyse and manage their fleets.

What telematic solutions do

18. Telematic solutions contain features to track different aspects of vehicle performance. Suppliers of telematic solutions differ in the range and depth of features offered. Features commonly fall within the categories below.
 - 18.1 Compliance and driver safety: to comply with regulatory requirements or standards, for example:
 - 18.1.1 calculating RUC (discussed in more detail further below);

⁷ Ibid at [129].

⁸ *Mergers and Acquisitions Guidelines* above n3 at [2.23].

⁹ Ibid at [2.21].

¹⁰ *Woolworths & Ors v Commerce Commission* (2008) 8 NZBLC 102,128 (HC) at [131].

¹¹ *Woolworths & Ors v Commerce Commission* (2008) 8 NZBLC 102,128 (HC) at [111].

¹² Section 66(3)(a).

- 18.1.2 complying with work-time rules (such as electronically recording how long the driver has been working, known as an “eLogbook”); and
 - 18.1.3 promoting safe driving (through features like driver fatigue monitoring).
- 18.2 Vehicle tracking and management: to allow fleet managers to optimise the use of their assets (including vehicles and trailers) through features such as:
- 18.2.1 mapping (showing where an asset is);
 - 18.2.2 service alerts (alerting the operator when the asset requires repairs or maintenance); and,
 - 18.2.3 pool booking (assigning assets to tasks).
- 18.3 Sensors and controls: to allow owners of specialised vehicles to monitor their cargo, for example:
- 18.3.1 for refrigerated vehicles, monitoring temperature of the cargo;
 - 18.3.2 for cement trucks, counting rotations and measuring water; and
 - 18.3.3 for waste control, monitoring the weight of the trailer.
19. A component of competition is how fast competitors develop and deploy new features.

How telematic solutions work

20. Telematic solutions operate using a hardware device, a mobile network and a software platform.¹³ (References in this document to “telematic solutions” refer to all the components that make up the service.)
- 20.1 *Hardware*: A device inside the vehicle collects information. Depending on the features offered, it may need to connect to:
- 20.1.1 GPS to collect location information and wheel sensors to monitor rotations (to track distance);
 - 20.1.2 sensors to capture driver activity (such as fatigue) and vehicle activity (such as temperature control); and
 - 20.1.3 engine diagnostic systems.
- 20.2 *Mobile network*: The device communicates the information to a server using a mobile network. This means information can only be transmitted within the communications network and the amount of information that can be sent is

¹³ The Application at [25].

limited by the network's capacity. As communications technology improves telematic solutions suppliers can provide more features.

20.3 *Software platform*: The server stores and processes the information received via the mobile network and customers can monitor the information through a software platform. This information, or reports made from it, can generally be accessed by the customer inside the vehicle or in the customer's office. For example, the platform might show the location of the vehicles or assets on an interactive map and provide real-time information on their performance.

21. Customers from different industries tend to have interest in different features. For example, bus service companies may have a particular interest in compliance features, whereas refrigerated freight transport companies may have a particular interest in temperature tracking. Telematic solutions suppliers refer to these different industries as "verticals". Some telematic solutions suppliers focus on specific verticals and develop specialised features for those customers.

Road user charges and related telematics functionality

22. Road users in New Zealand pay taxes which fund the public roads. For petrol users, this is done through a tax on fuel paid for and collected at the source (ie, the pump). Heavy (>3,500kg) and light vehicles that use diesel or another fuel not taxed at the source are required to pay RUC, which are charges levied by Waka Kotahi under the Road User Charges Act 2012 to pay for road usage.¹⁴ Users that are required to pay RUC purchase distance licences in 1,000km units.¹⁵ Licences must be purchased in advance of travel. A RUC licence must be carried on the vehicle and displayed behind the inside of the windscreen on the passenger side of the vehicle or where an eRUC system is used, digitally on the telematic device. RUC do not apply to private roads and fleet owners can apply for a rebate for any distances the vehicle travels on private roads (referred to as "off-road rebates").

23. There are several ways road users can purchase (or manage) RUC licences.¹⁶

23.1 *Manual RUC system*: The most basic means to obtain a licence is a direct purchase of a paper licence over the counter. The main steps in obtaining a RUC licence in this manner include:

23.1.1 monitoring the distance the vehicle has travelled through checking the odometer (light diesel vehicles) or a hubometer (heavy vehicles);

¹⁴ Waka Kotahi "Road user charges" <www.nzta.govt.nz>. RUC is a system that does not seem to be common around the world. We understand Oregon in the United States also operates a form of road user charging system.

¹⁵ Waka Kotahi "Road user charges" <www.nzta.govt.nz>.

¹⁶ See, for example, the Application at [89] – [90].

- 23.1.2 purchasing the licence from Waka Kotahi or an agent (such as the Automobile Association, Post Shops, Vehicle Inspection New Zealand, and Vehicle Testing New Zealand);
- 23.1.3 placing the paper licence in the windscreen; and
- 23.1.4 then (if relevant) calculating and applying for off-road rebates by estimating the distances that a vehicle has travelled on private roads.
- 23.2 *Electronically-assisted RUC system*: eaRUC systems automate parts of the purchasing process. For example, using GPS, a telematic solution can automatically notify vehicle administrators when the remaining distance on a paper RUC licence is getting low and a new RUC licence needs to be purchased. The eaRUC system can then automatically place an online order for a paper RUC licence. RUC licences purchased in this way must still be carried on the vehicle and displayed behind the inside of the windscreen on the passenger side of the vehicle.¹⁷ GPS records can be matched against a database of public roads to help obtain off-road rebates from Waka Kotahi.
- 23.3 *eRUC system*: These systems provide end-to-end automation of the purchase of a RUC licence. They identify when a licence is required, purchase the licence and then digitally display the electronic licence on the telematic solution device.¹⁸ The eRUC system will also automatically calculate the off-road rebates due to the user.
24. The choice of RUC system will be influenced by the nature of the road user's fleet. In general, the administrative cost of a manual RUC system may be low for businesses that have few vehicles, rarely use private roads (or have consistent routes) and return regularly to base (because it is easy to monitor distances and place paper licences in the windscreens of vehicles). Businesses that have large fleets that rarely return to base and regularly use private roads may find eRUC systems save significant administrative costs.
25. Waka Kotahi administers the RUC regime but can appoint agents to act on its behalf.¹⁹ Telematic solutions suppliers wishing to offer an eRUC system are required to have it approved by Waka Kotahi and must become an agent of Waka Kotahi in order to be authorised to issue RUC licences electronically.²⁰ There are four firms that have an eRUC system approved by Waka Kotahi: EROAD, Coretex, Navman

¹⁷ EROAD submits that some suppliers of eaRUC systems provide for "displaying electronic labels" notwithstanding that an eaRUC system "still uses paper RUC labels purchased from Waka Kotahi". The Application at [208] and [210].

¹⁸ The Application at Appendix 17.

¹⁹ Waka Kotahi "Code of Practice for Electronic Road User Charges Management Systems" (2021) at [2.2].

²⁰ Those seeking to provide eaRUC systems may also need go through a registration process to become a RUC agent depending on the level of automation intended. However, this is less intensive than that for eRUC systems as eaRUC solutions do not need to also act as a distance recorder, and the suppliers of these systems act more like paper RUC agents. The Application at [210] and Waka Kotahi "Code of Practice for Electronic Road User Charges Management Systems" (2021) at [3.2].

Wireless NZ (known as Teletrac Navman (Navman)) and Picobyte Solutions Limited (Picobyte).²¹

26. There is some speculation that as more New Zealanders move towards driving electric vehicles (EVs), which are exempt from RUC,²² fuel taxes will be replaced with a new funding system.²³ This may mean that RUC, or another form of distance charging, will apply to more vehicles in future to ensure Waka Kotahi is adequately funded.

Market participants

27. The main telematic solutions suppliers in New Zealand are described below, and a table of the features that the main suppliers of telematic solutions in New Zealand offer is set out in **Attachment A**.

The merging parties

EROAD

28. EROAD is the largest supplier of telematic solutions in New Zealand, with approximately 91,000 connected vehicles.²⁴ As shown in Attachment A, EROAD's telematic solution has one of the largest range of features. However, EROAD does not offer sensors for refrigeration or concrete mixers. (In the rest of this Determination we refer to sensors designed for specific verticals such as refrigeration and concrete as "specialised sensors".)
29. EROAD's core telematic solutions are provided through an in-cab device called Ehubo. It has two core versions of this being Ehubo1 and Ehubo2 (the latter being a more advanced version).²⁵ EROAD's telematic solutions include an eRUC system.
30. EROAD also has other devices that carry out specific functions.²⁶ For example, a dashcam camera, distance recorders for trailers and light vehicles, and tracking devices for vehicles and machinery that do not require RUC solutions.
31. EROAD has historically offered a broad range of telematic solutions suitable for all commercial fleets.²⁷ This allows it to provide solutions across many vehicle types and industries.²⁸

²¹ Waka Kotahi "RUC Distance Recorders" <www.nzta.govt.nz>.

²² The exemption applies until 31 March 2024 for light EVs and 31 December 2025 for heavy EVs. Waka Kotahi "RUC Exemptions" <www.nzta.govt.nz>.

²³ Thomas Coughlan "Fuel taxes could be gone in three years as Waka Kotahi urgently looks to replace funding system" *NZ Herald* (online ed, Auckland, 2 September 2021).

²⁴ The Application at [48].

²⁵ The Application at [50] and [51].

²⁶ The Application at [52].

²⁷ The Application at [20.1].

²⁸ The Application at [64].

Coretex

32. Coretex was formed in October 2015 through the merger of International Telematics Holdings Limited (which focused on refrigerated trailers) and Imarda Pty Ltd (which focused on the construction industry).²⁹ In November 2015 Coretex acquired Air-Track which offered telematic solutions to the waste and recycling industries.³⁰ As a result, Coretex continues to supply telematic solutions with a focus on each of these verticals. Coretex's vehicle telematic solution also includes a broad range of compliance and asset tracking features.³¹
33. Coretex's telematic solutions in New Zealand are delivered through an in-cab device called the TMU750.³² Its features include GPS for location tracking, motion sensing to detect aggressive driver manoeuvres and an eRUC system.
34. Coretex provides telematic solutions through other devices overseas, including a device called CoreHub.³³ CoreHub is a recently developed wireless device that collects information from sensors around the vehicle.³⁴ It has not yet been introduced in New Zealand.

Other suppliers of telematic solutions

35. Other suppliers of telematic solutions in New Zealand include the following (see **Attachment A** for a full feature list for these suppliers).
 - 35.1 *Navman*:³⁵ Navman's telematic solution has one of the largest range of features, which includes an eRUC system, an eLogbook and specialised sensors. The Application states that Navman is the largest telematic solution supplier in Australasia.³⁶
 - 35.2 *Smartrak*:³⁷ The application states that Smartrak is the third-largest player in New Zealand.³⁸ Smartrak offers functionality for asset tracking and fleet management. Smartrak does not offer an eRUC system, an eLogbook functionality or specialised sensors but does offer an eaRUC system.
 - 35.3 *TrackIt*:³⁹ Trackit offers tools for managing fleets and mobile workforces. TrackIt does not offer an eRUC system or specialised sensors but offers an eaRUC system and eLogbook.

²⁹ The Application at [66].

³⁰ The Application at [66].

³¹ The Application at Appendix 13.

³² The Application at [68.1].

³³ The Application at [70].

³⁴ The Application at [70.2].

³⁵ <www.teletrac.navman.co.nz>.

³⁶ The Application at [41.1].

³⁷ <www.smartrak.com>.

³⁸ The Application at [142].

³⁹ <www.trackit.co.nz>.

- 35.4 *Argus*.⁴⁰ Argus offers functionality for compliance and driver safety, and asset tracking and management. Argus does not offer an eRUC system, an eLogbook or specialised sensors but does offer an eaRUC system.
- 35.5 *Blackhawk*.⁴¹ Blackhawk offers customised asset tracking and management. Blackhawk does not offer an eRUC system, an eLogbook or specialised sensors but does offer an eaRUC system.
- 35.6 *Vehicle Technologies*.⁴² Vehicle Technologies provides software and hardware solutions for compliance and driver safety and asset tracking and management by acting as a reseller for a range of third-party telematic solutions. Vehicle Technologies offers an eRUC system through reselling RUC Monkey (discussed in the paragraph below).
36. In addition to the above telematic solutions suppliers, software as a service supplier Picobyte offers a stand-alone eRUC system called RUC Monkey. Picobyte sells RUC Monkey through telematic solutions suppliers that do not offer their own eRUC solution.⁴³ Current resellers of RUC Monkey include Ctrack and Vehicle Technologies.⁴⁴

With and without scenarios

37. To assess whether a merger is likely to substantially lessen competition in a market, we compare the likely state of competition if the merger proceeds (the scenario with the merger, often referred to as the factual), with the likely state of competition if the merger does not proceed (the scenario without the merger, often referred to as the counterfactual).⁴⁵
38. Where there are multiple counterfactual scenarios, our practice is to focus our analysis on the scenario that we consider to be most competitive.⁴⁶ This is because if the Proposed Acquisition is unlikely to result in a substantial lessening of competition in this scenario, then it is unlikely to do so in any other likely counterfactual scenarios.⁴⁷
39. The Application submitted that Coretex imposed a minimal constraint on EROAD.⁴⁸ Consistent with this, our enquiries indicated that Coretex was not competing strongly against EROAD and that [] We refer to this as the “status quo” counterfactual.

⁴⁰ <www.argustracking.co.nz>.

⁴¹ <www.blackhawk.io>.

⁴² <www.vehicletech.co.nz> .

⁴³ The Application at [92.3].

⁴⁴ The Application at [92.3].

⁴⁵ *Mergers and Acquisitions Guidelines*, above n 3, at [2.29].

⁴⁶ Commerce Commission *Mergers and Acquisitions Guidelines* (July 2019) at [2.33].

⁴⁷ Commerce Commission *Mergers and Acquisitions Guidelines* (July 2019) at [2.30] – [2.33].

⁴⁸ The Application at [6].

40. We considered whether there was a counterfactual in which Coretex would become a stronger competitor, for example, through introducing CoreHub into New Zealand or being acquired by another player that would compete more effectively in New Zealand. [

40.1

40.2

]

41. As such we considered that the appropriate counterfactual against which to assess the Proposed Acquisition was the status quo (in which Coretex imposed a minimal constraint).

The relevant markets

42. We define markets in the way that we consider best isolates the key competition issues that arise from a merger. In many cases this may not require us to precisely define the boundaries of a market. What matters is that we consider all relevant competitive constraints, and the extent of those constraints. For that reason, we also consider products and services that fall outside the market, but which would still impose some degree of competitive constraint on the merged entity.
43. When assessing relevant markets we consider:⁴⁹
- 43.1 whether customers could easily switch to alternative products in response to a price increase (known as ‘demand side’ substitution); and
- 43.2 whether suppliers could easily switch their manufacturing process to produce different products (known as ‘supply side’ substitution).

The Applicant’s view of the markets

44. EROAD submitted that the relevant market definition was the market for the supply of telematics in New Zealand.⁵⁰ It submitted that narrowing the market based on product features or customer segments would not be appropriate because it would not sufficiently capture the competitive dynamics of the market.⁵¹

⁴⁹ Commerce Commission *Merger and Acquisition Guidelines* (July 2019) at [3.16].

⁵⁰ The Application at [84]; As both EROAD and Coretex supply telematics in New Zealand, Australia, and North America, EROAD submits that the market is arguably Australasian or global in scope. The Application at [86].

⁵¹ The Application at [87].

The supply of telematic solutions which include eRUC systems

Our view on the relevant product market

45. The merging parties offer a wide range of features with their telematic solutions,⁵² and customers tend to purchase these features as a bundle rather than using multiple telematic solutions to mix and match features. Market enquiries indicate that customers do not wish to have multiple devices in their vehicles, and it adds cost and complexity to operate multiple solutions.⁵³
46. For most features, there are other suppliers of telematic solutions that offer these as part of comparable bundles.⁵⁴ However, only the Parties and two others are approved by Waka Kotahi to provide an eRUC system. We therefore tested whether there is a market for eRUC systems.
47. On the demand side, many of the telematic solutions customers and suppliers that we spoke with identified eRUC systems as a critical component of a broader telematics offering.⁵⁵ This is because eRUC systems:
- 47.1 reduce the costs of operations through avoiding the manual work to calculate and pay RUC;
 - 47.2 improve cash-flow by allowing licences to be purchased in smaller and cheaper increments in advance of when they are required (for example, 1,000km in advance instead of 5,000km), incurring lower transaction fees (\$2 vs \$8 at the counter) and being instantly displayed on the device; and
 - 47.3 allow for more accurate calculation of payments and refunds when using private roads (which can provide significant savings).
48. The benefits of an eRUC system are greatest when compared to manually purchasing a paper RUC licence. Purchasing RUC licences in this manner can impose a high

⁵² The Application at Appendix 13.

⁵³ For example: [] advised that it is conscious of wanting to make things more simple than complicated (Commerce Commission interview with []); [] stated it wants one provider to provide the whole solution and would not want multiple boxes in vehicles (Commerce Commission interview with []).

⁵⁴ The Application at Appendix 13; See Attachment A below.

⁵⁵ For example: [] identified the savings from off-road rebates and stated it would not go back to manual RUC (Commerce Commission interview with []); [] identified that it would not want to go back to paper RUC and that eRUC is a “big thing” (Commerce Commission interview with []); [] stated it would not go back to paper RUC again as it was labour intensive, expensive and meant having more cost in the windscreen. (Commerce Commission interview with []); [] identified the ability to get a refund where RUC does not apply as one of the most valuable features (Commerce Commission interview with []); [] said eRUC was a main driver for telematics (Commerce Commission interview with []); [] considered eRUC was the main driver in its choice of telematics (Commerce Commission interview with []); [] identified that customers had been lost in the past due to the inability to provide an eRUC system []).

administrative cost for firms with large fleets. Most of the customers we spoke to appeared to be comparing their eRUC system against manually purchasing paper RUC, which is what they did before they adopted an eRUC system. It seems unlikely that those customers would be willing to switch back to manually purchasing RUC licences even in the face of a price increase for eRUC systems.

49. eaRUC systems are those that automate parts of a customer’s RUC compliance process. eaRUC systems can encompass a wide range of solutions, ranging from those which automate only one or two parts (eg, using GPS to give a reminder to purchase a RUC licence) to those which closely resemble the functionality of eRUC (eg, calculating off-road rebates and providing digital display of RUC licences). The evidence we viewed suggests eaRUC systems could be an acceptable alternative for those with eRUC systems for some customers. This is because:
- 49.1 the more advanced eaRUC systems can offer many of the features that customers for eRUC systems value, such as (depending on the eaRUC system) automatic purchase of RUC licences, digital display of RUC licences and calculating off-road rebates;⁵⁶ and,
- 49.2 there are examples of customers (mainly small customers) switching from eRUC systems to those with eaRUC systems.⁵⁷
50. Many of the customers we spoke with did not identify specific suppliers of eaRUC systems as alternatives. This appeared to be due, at least in part, to a lack of awareness of those alternatives. Customers tend to have long term relationships with their telematic solution suppliers and some of the suppliers of eaRUC systems are relatively new. However, those suppliers appear to be growing swiftly.⁵⁸ It is possible that when customers next go to market they will become more aware of suppliers of eaRUC systems and consider them as alternatives for suppliers of eRUC systems. The evidence suggests eaRUC systems can be developed more cheaply than eRUC systems, which suggests they could be cost competitive.
51. On the supply side, at this stage it appears unlikely that a telematic solutions supplier could quickly and easily switch to supplying an eRUC system. Suppliers of eRUC systems must develop a product to meet Waka Kotahi’s security and accuracy

⁵⁶ For example, Argus offers Smart Renew and RUC Collect that offers most of these benefits. Argus does not offer digital display of the RUC licence. (“Automate the purchasing of RUC ...Easy set and forget process. Once setup, there is nothing else to do except insert the licence when it arrives.”) <<https://argustracking.co.nz/automated-ruc-registration-purchasing>>. (“Automatically calculates your off-road usage...Automatically fills out the NZTA electronic RUCOR form ready for paperless submission – quickly get your refund.”); <<https://argustracking.co.nz/ruc-collect>>; TrackIt states that “Reminders can automatically notify administrators when the remaining distance on a RUC licence is getting low and a new RUC licence needs to be purchased. With a few simple clicks, you can apply for a new RUC licence for either a single vehicle or multiple vehicles at the same time”. <https://www.trackit.co.nz/Solutions/Road_User_Charges.aspx>.

⁵⁷ We provide further evidence of this constraint in horizontal unilateral effects section below.

⁵⁸ [] claimed that it had been growing at around 30% per year. Commerce Commission interview with []. [] stated that it had been growing strongly. Commerce Commission interview with [].

requirements. Our enquiries found that there are significant barriers to establishing an eRUC system, which we discuss in the horizontal unilateral effects section below.

52. For the purposes of our analysis, we defined a market for telematic solutions which include eRUC systems and considered eaRUC systems as an additional constraint outside the market. We recognise that eaRUC systems are likely to be a substitute for some customers, particularly small customers. As the constraint for other customers is unclear, we have taken the conservative approach of adopting a narrow market. Even using this narrower market definition, we are satisfied that the Proposed Acquisition would be unlikely to cause a substantial lessening of competition.

Our views on the relevant geographic market

53. We consider the relevant geographic scope for the market for eRUC systems is New Zealand.

53.1 To supply an eRUC system, a potential supplier must obtain approval from Waka Kotahi, which requires a New Zealand presence in addition to meeting many other requirements (which we describe in the unilateral effects section).

53.2 Some larger customers appear reluctant to use suppliers without a physical New Zealand presence. An office in New Zealand may show to customers a commitment to the New Zealand market and potentially greater service and support, including the likelihood that the supplier will continue to develop New Zealand-specific features.

54. We consider the constraint from Australian suppliers (and other countries) as part of the threat of entry assessment.

Other areas of potential overlap we considered

55. The parties also supply other telematic modules, including specialised sensors and eLogbooks. It was not necessary to form a view on whether telematic solutions that include these functionalities comprise separate product markets. For the reasons set out below, we are satisfied that the Proposed Acquisition would not be likely to cause a substantial lessening of competition in these areas of overlap, however the markets are defined.

56. For specialised sensors, Coretex is a significant supplier due to a historic focus on these products and we received mixed views on the difficulty of developing these sensors. However, horizontal concerns are unlikely to arise in relation to the supply of specialised sensors.

56.1 EROAD does not appear to compete closely with Coretex to supply telematic solutions with specialised sensors.

56.2 There appear to be closer competitors to Coretex than EROAD. For example, we understand that another telematic solution supplier has been developing

a solution and the suppliers of refrigeration units (such as Thermo King and Carrier) offer a module that allows for monitoring temperatures.⁵⁹

57. For eLogbooks, market enquiries indicated that there are many suppliers of these modules that will compete with the merged entity, and it does not appear difficult for a new entrant to develop and launch an eLogbook module.

Our view of the relevant market

58. The relevant market for the purpose of our analysis is the national market for telematic solutions which include eRUC systems (the eRUC systems market).

Horizontal unilateral effects in the eRUC systems market

59. Horizontal unilateral effects arise when a firm merges with or acquires a competitor that would otherwise provide a significant competitive constraint, particularly relative to remaining competitors, such that a market participant can profitably increase prices above the level that would prevail without the merger and/or reduce quality or the rate of innovation. A reduction in competition could occur in different ways but for ease we just refer below to the potential for the merged entity to raise prices.
60. As we identified earlier, we consider the relevant without-the-merger scenario is one where Coretex imposes a minimal constraint. Against this counterfactual, we considered whether the remaining constraints in the market post-acquisition would be sufficient such that a substantial lessening of competition is unlikely. The constraints we considered are:
- 60.1 the strength of existing competitors;
 - 60.2 the extent to which the merged entity would be constrained by potential entry and expansion; and
 - 60.3 the extent of countervailing power.
61. Against a counterfactual in which Coretex imposes a minimal constraint, we are satisfied that the Proposed Acquisition would not have or be likely to have the effect of substantially lessening competition in the eRUC systems market due to horizontal unilateral effects.

Constraint from rivals

62. The Applicant submitted that the merged entity would be constrained by rival suppliers of Waka Kotahi-approved eRUC systems, being Navman and Picobyte. It submitted that Navman is its principal competitor in relation to telematic solutions with eRUC systems, and that Navman's share of the eRUC market is increasing rapidly.⁶⁰

⁵⁹ Commerce Commission interview with [].

⁶⁰ The Application at [203].

63. Further, EROAD submitted that telematic solutions combined with the alternative methods of paying RUC (ie, paper RUC systems and eaRUC systems) are a significant competitive constraint on those with eRUC systems because customers could easily switch to one of these alternative methods in the face of a price increase.⁶¹

Constraint from other eRUC providers

64. The evidence that we gathered suggested that Navman will be the merged entity’s strongest competitor for telematic solutions that include eRUC systems.

64.1 As identified in Attachment A, Navman has a broad set of features comparable to the Parties’ offerings.

64.2 []⁶²

64.3 Two EROAD customers that we spoke to identified Navman as their next best alternative.⁶³

64.4 []

65. The evidence did not suggest resellers that provide RUC Monkey are at present as strong a constraint on the merged entity as Navman. Picobyte sells its RUC Monkey product through resellers as an add-on to other telematic solutions. The evidence suggests that telematic solution suppliers offering eRUC systems using RUC Monkey only account for a small part of the market.

66. It is possible that Picobyte could grow to become a larger competitor in future if the opportunity was to arise (for example if the merged entity raised prices). However, we did not rely on the constraint from suppliers of RUC Monkey in making our decision.

Constraint from eaRUC providers

67. As noted in the market definition section, some suppliers offer telematic solutions that include eaRUC systems and these may be suitable alternatives for some eRUC customers. eaRUC systems automate some parts of the RUC process. We consider these suppliers impose some constraint on competition for smaller customers and may impose an increasing constraint on competition for larger customers in the coming years.

67.1 First, some of the more advanced eaRUC systems have many of the same features that customers that use eRUC systems value. Some of the benefits of eRUC systems identified include automatic purchase of RUC licences, digital

⁶¹ The Application at [205].

⁶² []

⁶³ Commerce Commission interview with []; Commerce Commission interview with [].

display of licences and calculating off-road rebates. Some eaRUC systems can provide all these benefits.

67.2 Second, suppliers of eaRUC systems are growing. There are examples of them winning tenders against EROAD and Coretex, although these are mainly for small customers.

67.2.1 [] has been successful in winning tenders competing against [], including where eRUC was included as a requirement.

67.2.2 [] has won [] customers from []. [] has been growing rapidly and is targeting larger customers.

68. Consistent with this, some suppliers of telematic solutions that include eaRUC systems believed that the Proposed Acquisition would offer them opportunities.

68.1 [] did not think the merged entity would be able to raise prices significantly because it would push customers “into their arms”.⁶⁴

68.2 [] stated that it had received no resistance from EROAD customers for its eaRUC system and did not believe the merged entity could raise prices.⁶⁵

68.3 [] is not targeting large customers but said it would create an opportunity if the merged entity did not continue to provide a good service to those customers.⁶⁶

69. In summary, we consider that suppliers of telematic solutions that include eaRUC systems are likely to impose some constraint on the merged entity. That constraint appears mainly for smaller customers at present however we consider they are likely to impose an increasing constraint on the merged entity for large customers as they overcome the lack of awareness for their products.

Constraint from new entry

70. According to the Application, the barriers to entry to providing a telematic solution are low, as demonstrated by Navman’s and Picobyte’s entry in 2017 and 2018, respectively.⁶⁷ EROAD submitted that any of the telematic solutions suppliers that are operating in New Zealand could develop an eRUC system as part of their telematic solution offering, or that entry from a standalone supplier (like Picobyte/RUC Monkey) is possible.⁶⁸ The Applicant also submitted that the regulatory requirements for eRUC suppliers are likely to be liberalised, which will have the effect of increasing the likelihood of entry by a new participant.⁶⁹

⁶⁴ Commerce Commission interview with [].

⁶⁵ Commerce Commission interview with [].

⁶⁶ Commerce Commission interview with [].

⁶⁷ The Application at [212].

⁶⁸ The Application at [212].

⁶⁹ The Application at [215].

71. The evidence indicated that the conditions of entry and expansion for telematic solutions that involve eRUC systems are likely to be significant. It is necessary to gain approval from Waka Kotahi to offer an eRUC system. The eRUC system is responsible for collecting information to calculate the user's RUC and a supplier of an eRUC system is also a collection agent of Waka Kotahi. The eRUC system must therefore satisfy Waka Kotahi's requirements for:⁷⁰
- 71.1 security: the device must not be able to be tampered with or at least it must be able to identify if it has been tampered with; and
 - 71.2 accuracy: the device must record the distance travelled on public roads.
72. Based on the experience of the existing eRUC system suppliers, meeting these requirements appears difficult. The evidence suggests that it could take a new entrant a long time and considerable expense to develop an eRUC product.
73. The decision on whether to invest will rest on the number of customers that a new entrant could hope to attract. Achieving approval from Waka Kotahi is a necessary step but does not provide a guarantee of gaining customers. Some of the challenges to achieving a necessary scale are set out below.
- 73.1 RUC is a regulatory feature unique to New Zealand. Most of the telematic solutions suppliers operate in several countries. Most features can be offered to customers in all those countries which makes it easier to justify the investment in those features. However, eRUC systems are only relevant to New Zealand which means a return must be achieved over a smaller number of customers.
 - 73.2 There is some degree of churn of customers between suppliers of telematic solutions with eRUC systems. However, some customers identified costs of switching. This may make it harder for a new supplier of an eRUC system to achieve scale. The switching costs include:
 - 73.2.1 the time to switch physical devices in vehicles (which requires the vehicles to be out of service). For larger fleets this often takes a period of months;⁷¹
 - 73.2.2 training staff on new systems, which one customer described as a "steep training curve";⁷²

⁷⁰ As the Application notes, the legislation in relation to eRUC systems is under review. In part this is to update the legislation to better reflect the change in technology and allow a broader means to satisfy Waka Kotahi's requirements. We continue to consider the extent to which this may lower barriers. However, the timeline for such changes are unclear, as too are the changes that will be made. Regardless of the changes, it appears that applicants will still need to meet the same or similar Waka Kotahi requirements on accuracy and security. The Application at [215].

⁷¹ See, for example, Commerce Commission interview with [], Commerce Commission interview with [].

⁷² Commerce Commission interview with [].

73.2.3 integrating a new telematic solution with other back-office systems;⁷³

73.2.4 an upfront cost if customers are required to pay their existing supplier to terminate their contract,⁷⁴ or if a customer chooses to buy its telematic solution hardware outright rather than on a lease;⁷⁵ and

73.2.5 imposing these costs on third parties where large customers require their contractors to use the same telematic solution supplier.⁷⁶

73.3 The presence of switching costs means that a new supplier of an eRUC system may rely heavily on winning a large proportion of new customers (for example new businesses or businesses that have not in the past used telematic solutions). eRUC systems have been available as a product for over ten years now,⁷⁷ and many potential customers for eRUC systems may already have purchased a system from an existing supplier.⁷⁸

74. Consistent with the discussion of barriers to entry above:

74.1 other suppliers of telematic solutions consider the barriers to develop an eRUC system are high;⁷⁹ and

74.2 despite eRUC systems being an essential feature for many customers, there have been only four firms that have developed and launched an eRUC system in the past ten years.

75. The barriers to building an eaRUC system appear lower. eaRUC systems do not need to go through the same approval process as eRUC systems and accordingly cost less to build.⁸⁰ As such, a supplier is likely to require fewer customers to justify investing in an eaRUC system.

Constraint from countervailing power

76. The evidence we gathered did not suggest countervailing power by customers would impose a strong constraint on the merged entity.

77. One possible way that a customer could exercise countervailing power would be to develop its own telematic solution. At this stage it is unclear that such a threat would impose a strong constraint on the merged entity. We are aware of one customer that

⁷³ Commerce Commission interview with [redacted].

⁷⁴ Commerce Commission interview with [redacted].

⁷⁵ Commerce Commission interview with [redacted].

⁷⁶ Commerce Commission interview with [redacted].

⁷⁷ The Application at [197].

⁷⁸ As noted in the background section above, there is some speculation fuel taxes will be replaced with a new funding system based on RUC. If RUC is applied to more vehicles it may make it easier for telematic solutions suppliers to achieve the necessary scale to justify the investment in an eRUC system.

⁷⁹ Commerce Commission interview with [redacted]; Commerce Commission interview with [redacted]; Commerce Commission interview with [redacted].

⁸⁰ For example [redacted] believed that the cost of developing eaRUC was “a fraction” of that to develop eRUC. Commerce Commission interview with [redacted].

has developed its own eaRUC solution.⁸¹ However, the solution appears to be basic compared to the eRUC systems available in the market. Given the barriers we have identified above to develop eRUC systems, we considered it unlikely a customer would develop its own eRUC system. To the extent a customer can develop its own telematic solution, we consider it would be unlikely to protect those that cannot.

78. We considered whether Waka Kotahi may exercise some countervailing power. For example, if the Proposed Acquisition resulted in a lower uptake of eRUC, whether Waka Kotahi, and the Ministry of Transport, would have the ability and incentive to lower the barriers to entry. While this is possible, given the uncertainty over how long such actions would take to be put in place we did not place weight on this constraint in making our decision.

Conclusion on horizontal unilateral effects in the eRUC systems market

79. Against a status quo counterfactual of minimal constraint from Coretex, we consider that the remaining competitive constraints are likely to be sufficient to ensure that any loss of competition would not be substantial. The main constraints are:
- 79.1 existing suppliers of eRUC systems, particularly Navman; and
 - 79.2 existing suppliers of eaRUC systems, mainly for smaller customers at present but with the potential to impose a broader constraint as awareness for their products grow.
80. As such, we are satisfied that the Proposed Acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in the eRUC systems market due to horizontal unilateral effects.

Coordinated effects

81. An acquisition can substantially lessen competition if it increases the potential for the merged entity and all, or some, of its remaining rivals to coordinate their behaviour and collectively exercise market power such that output reduces and/or prices increase across the market. Unlike unilateral effects, which can arise from the merged entity acting on its own, coordinated effects require some or all of the firms in the market to be acting in a coordinated way.⁸²
82. This section covers coordination that may arise in the market in the eRUC systems market but also other potential telematic solutions markets (such as those that include specialised sensors).

⁸¹ Commerce Commission interview with [].

⁸² Commerce Commission *Mergers and Acquisitions Guidelines* (July 2019) at [3.84].

83. As a result of the Proposed Acquisition, Coretex would no longer be an independent competitor. We considered whether this might result in coordinated effects by asking whether:⁸³
- 83.1 the relevant markets are likely to be vulnerable to coordination because:
 - 83.1.1 there is a metric that the market participants could coordinate on; and
 - 83.1.2 the markets have the necessary features to sustain an agreement (such as the ability to monitor and punish deviations from the agreement and aligned incentives to coordinate); and
 - 83.2 the Proposed Acquisition will make coordination significantly more likely (for example, by removing an aggressive market participant or increasing symmetry among competitors).
84. Coordination can take place on different elements of competition. In this case we considered whether any markets might be vulnerable to firms coordinating to:
- 84.1 set the level of prices, quality or innovation in the market;
 - 84.2 allocate customers between each other; and/or
 - 84.3 use standards or regulations to raise barriers or reduce the degree of competition between the parties.

The Applicant's view

85. EROAD submitted that the Proposed Acquisition would not enhance the ability of the merged entity to coordinate its activity with competitors.⁸⁴ EROAD submitted that the relevant market was not vulnerable to coordination, and that this would not likely change following the Proposed Acquisition because:
- 85.1 a number of strong and innovative competitors would remain following the Proposed Acquisition;
 - 85.2 there are few barriers to entry or expansion, and a number of international telematic solutions suppliers that could readily enter the New Zealand market and disrupt any potential coordination;
 - 85.3 telematics features/functions are highly differentiated and therefore not amenable to coordination;
 - 85.4 the telematic solutions industry is characterised by innovation and technological developments; and

⁸³ For more details on these features see Commerce Commission *Mergers and Acquisitions Guidelines* (July 2019) at [3.84].

⁸⁴ The Application at [217].

- 85.5 the Proposed Acquisition will not increase the merged entity's visibility of the other players' competitive positions.

Our view

86. We consider that the Proposed Acquisition is unlikely to make coordination more likely, complete, and sustainable in any market for the supply of telematic solutions (such as in the eRUC systems market).

Coordination on price, quality and innovation is unlikely

87. We consider that the relevant markets are not likely to be vulnerable to coordination on price, quality and innovation. We consider that the nature of the relevant markets mean that it may be hard to reach and sustain an agreement.⁸⁵

- 87.1 There is differentiation between the products suppliers offer, which is likely to make it more difficult to identify a level of price, quality or innovation to coordinate on. Although most telematic solutions share the same core functions (such as mapping and distance tracking) there are differences in how this functionality is offered.⁸⁶ The extent of these differences can vary based on:

87.1.1 the development resources a supplier has dedicated to the functionality;⁸⁷

87.1.2 a supplier's design choices which can affect ease of use;⁸⁸ and

87.1.3 the level of service and support offered.⁸⁹

- 87.2 Some elements of competition are not easily observable, which would make it difficult to monitor adherence to the agreement.⁹⁰ The prices offered to individual customers are not generally transparent.⁹¹ For many customers, telematic solutions suppliers are chosen following tenders in which price is one factor considered and negotiated bilaterally between the parties.⁹²

Coordination on customer allocation is unlikely

88. We consider that the relevant markets are not likely to be vulnerable to coordination through customer allocation. Such coordination might occur for example if the

⁸⁵ The main markets we have considered in these reasons is the eRUC systems market. However, the same principles would apply if other market definitions were used.

⁸⁶ See, for example, Attachment A.

⁸⁷ Commerce Commission interview with [].

⁸⁸ For example, [] noted the complexity of the Coretex functionality but the high degree of detail it offered. Commerce Commission interview with [].

⁸⁹ Commerce Commission interview with [].

⁹⁰ Some aspects of telematic solutions suppliers' offerings are made available via industry research publications such as the Berg Insight ANZ report. However, we have been told that the information in these reports is not likely to be complete. Commerce Commission interview with [].

⁹¹ Commerce Commission interview with [].

⁹² The Application at [87.3].

market participants reached an understanding to compete only for customers in certain verticals or similarly avoided competing for each other's customers.

89. Some features of the relevant markets may make it vulnerable to coordination through customer allocation. For example, some telematic solutions suppliers already appear to focus on particular verticals or types of customer.⁹³ It would be easy to monitor an understanding to allocate customers through observing which supplier a customer has chosen. However other features may make it hard to reach and sustain such an agreement.
- 89.1 It is unclear there would be an easy means to allocate customers. Customers are heterogenous, both in size (ranging from several thousand connections to a single connection) and their requirements (ranging from basic telematics to full functionality). This would make it hard to reach tacit agreement on a "fair" allocation among competitors.
- 89.2 The choice of a telematics supplier is made irregularly, and contracts tend to be for a duration of several years. Further, some customers issue RFPs and some contact selected suppliers directly. If a tacit agreement could be reached, these features may increase incentives to cheat and make it harder to monitor compliance with a tacit agreement and to punish cheating in a sufficiently timely manner to deter it.
- 89.3 There are asymmetries between telematics suppliers which makes it less likely that they will have a shared incentive to coordinate. For example, Navman and Picobyte introduced their eRUC systems more recently than EROAD and accordingly have fewer customers. Navman and Picobyte may therefore have less incentive to accept the status quo.

Coordination through standards and regulations is unlikely

90. We consider it unlikely that the Proposed Acquisition will materially affect the likelihood of coordination over standards or regulations. Suppliers of eRUC systems may have an incentive to lobby Waka Kotahi to raise or maintain barriers to entry via regulations and standards but the Proposed Acquisition would not affect that. Other industry participants, including telematics customers and telematics suppliers not providing eRUC solutions, are also involved in consultations with Waka Kotahi.

Summary on coordination

91. We are satisfied the Proposed Acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand due to coordinated effects.

⁹³ See, for example: the Application at [2], [3], [80]; Commerce Commission interview with []; Commerce Commission interview with [].

Vertical effects

92. A merger between suppliers (or buyers) who are not competitors but who operate in related markets can result in a substantial lessening of competition due to vertical effects. This can occur where a merger gives the merged entity a greater ability or incentive to engage in conduct that prevents or hinders rivals from competing effectively (which we refer to as “foreclosing rivals”).
93. We are satisfied the Proposed Acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand due to vertical effects. This is because:
- 93.1 The Proposed Acquisition will not result in increased vertical integration as the Parties compete at the same level of the supply chain.
- 93.2 There was limited evidence of the merging parties providing inputs to rivals. It is generally not cost effective or practical to provide components of telematic systems because this would require multiple devices to be placed within the customer’s vehicle and would result in multiple subscription fees. We are aware of one example where a telematic solutions supplier (that does not offer eRUC) sources an eRUC solution from one of the Parties to service a customer. However, this does not appear to be a common practice.

Conglomerate effects

94. A merger between suppliers (or buyers) who are not competitors but who operate in related markets can result in a substantial lessening of competition due to conglomerate effects. This can occur where the merging parties have complementary products. The merging parties may bundle (ie, provide together at a discount) or tie (ie, only provide one product if purchased with another) those complementary products, so that competitors are unable to provide a competitive constraint on the merged entity.
95. We are satisfied the Proposed Acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand due to conglomerate effects. Our investigation did not identify any features other than eRUC systems for which the merged entity may have market power. However, both parties already provide an eRUC system and normally sell that feature as part of a bundle. Bundling is already occurring within the market and the Proposed Acquisition would not create new opportunities to do so. To the extent that combining those bundles could create market power, we consider this in our assessment of the unilateral effects.

Overall conclusion – no likely substantial lessening of competition

96. We are satisfied that the Proposed Acquisition will not have, or would not be likely to have, the effect of substantially lessening competition in any of the relevant markets.

Determination on notice of clearance

97. Pursuant to section 66(3)(a) of the Act, the Commission determines to give clearance to EROAD Limited to acquire all the shares in Coretex Limited.

Dated this 17th day of November 2021

Dr Derek Johnston
Division Chair

Attachment A: Feature list of telematic solutions suppliers

Category	Function / feature	EROAD	Coretex	Navman	Smartrak	Blackhawk	Argus	Trackit	Sensium	Verizon	Cartrack	Ctrack	Spark	Voda-fone	Vehicle Technologies
Compliance / safety	Driver ID system	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓			✓
	Electronic logbook (Waka Kotahi approved)	✓	✓	✓				✓							
	Electronically-assisted RUC services (both electronic and paper)	✓			✓	✓	✓	✓		✓	✓				
	Electronic road user charging (eRUC) (Waka Kotahi approved)	✓	✓	✓								✓ (RUC Monkey)			✓ (RUCMonkey)
	In cab device monitoring driver behaviour	✓	✓	✓			✓	✓		✓	✓	✓	✓		✓
	Posted speed monitoring	✓	✓	✓	✓	✓								✓	
	FBT reporting (light vehicles)				✓		✓					✓			✓
	Cameras	✓	✓	✓					✓	✓	✓			✓	
Asset tracking / management	Paperless vehicle inspection	✓	✓	✓	✓	✓	✓	✓		✓					✓
	Mapping	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Precision distance tracking	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Geofencing	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Service alerts	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Fuel Management	✓			✓		✓	✓		✓	✓				✓
	Pool booking (real time location /booking)	✓			✓	✓	✓	✓							✓
Sensors and controls	Refrigeration		✓												
	Sensors and controls for concrete mixers		✓	✓											

Source: The Application except for Navman, Smartrak and Blackhawk.