

By email

Gavin McNeill
Principal Investigator
New Zealand Commerce Commission

FROM **Torrin Crowther**
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MATTER NO 405-7231
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Dear Gavin

ATC/Serato: Response to material released pursuant to undertakings

1. Executive Summary

1.1 As you know, we act for inMusic Brands, Inc. (**inMusic**). We set out below some comments in relation to certain material provided to us subject to undertakings.¹

1.2 While, naturally, it is difficult to respond fully as we cannot engage with our client, as an overarching comment [REDACTED]

1.3 [REDACTED] the Proposed Acquisition is likely to substantially lessen competition in a New Zealand market.

1.4 This submission refers to material received subject to confidentiality undertakings. In accordance with its undertakings, Bell Gully requests that this submission is treated as confidential in its entirety.

2. Horizontal aggregation – software

Market share

2.1 [REDACTED]

2.2 [REDACTED]

¹ inMusic has instructed Bell Gully to respond to the Commission, but it has not seen any aspect of it nor the underlying material subject to undertakings.

[REDACTED]

2.3 [REDACTED]

2.4 [REDACTED] As the Commission is aware, the market shares advanced in the Clearance Application have been critiqued in detail by inMusic as substantially underestimating the combined share. [REDACTED]

2.5 [REDACTED]

2.6 [REDACTED]

2.7 [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

[REDACTED]

2.8 The Commission also says that ATC “may” be a driver of Serato’s innovation.⁸ [REDACTED]

3. **Vertical issues: MIDI mapping**

3.1 [REDACTED]
[REDACTED]
[REDACTED] inMusic has previously submitted that MIDI mapping a controller to DJ software is extraordinary challenging, and cannot be accomplished by most end users.

3.2 [REDACTED]

3.3 [REDACTED]

(a) [REDACTED]

(b) [REDACTED]

4. **Vertical issues: ATC’s rationale**

4.1 inMusic has previously expressed concern about the level of commercially sensitive information that hardware providers must necessarily share with Serato as part of the critical pre-release integration process discussed above. [REDACTED]

4.2 The Commission considered this issue in detail in the Sol, and inMusic supports the Commission’s conclusion that the Proposed Acquisition raises concerns that the merged entity’s access to sensitive information of rivals could substantially lessen competition for the supply of DJ hardware.¹⁴

⁸ At [53] and [54].

⁹ [REDACTED]
¹⁰ [REDACTED]
¹¹ [REDACTED]
¹² [REDACTED]
¹³ [REDACTED]

¹⁴ At [137] of the Sol.

4.3 inMusic has also expressed concerns about the user data that ATC will receive post-transaction. [REDACTED]

5. **Conclusion**

5.1 [REDACTED]

5.2 [REDACTED]

Kind regards

[Torrin Crowther]

Torrin Crowther
Partner