# BELL GULLY

By email

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MATTER NO 405-7231 8 April 2024 DATE

**Gavin McNeill** 

Principal Investigator

**New Zealand Commerce Commission** 

Dear Gavin

## ATC/Serato: Response to material released pursuant to undertakings

#### 1. **Executive Summary**

- As you know, we act for inMusic Brands, Inc. (inMusic). We set out below some comments 1.1 in relation to certain material provided to us subject to undertakings.1
- While, naturally, it is difficult to respond fully as we cannot engage with our client, as an 1.2 overarching comment

1.3 the Proposed

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.

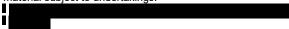
Acquisition is likely to substantially lessen competition in a New Zealand market.

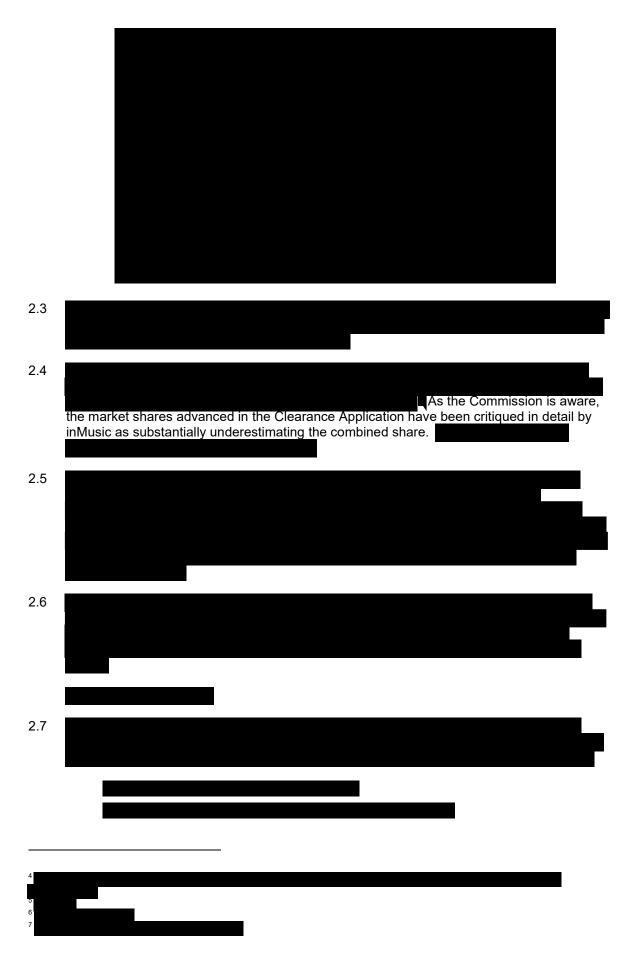
### 2. Horizontal aggregation - software

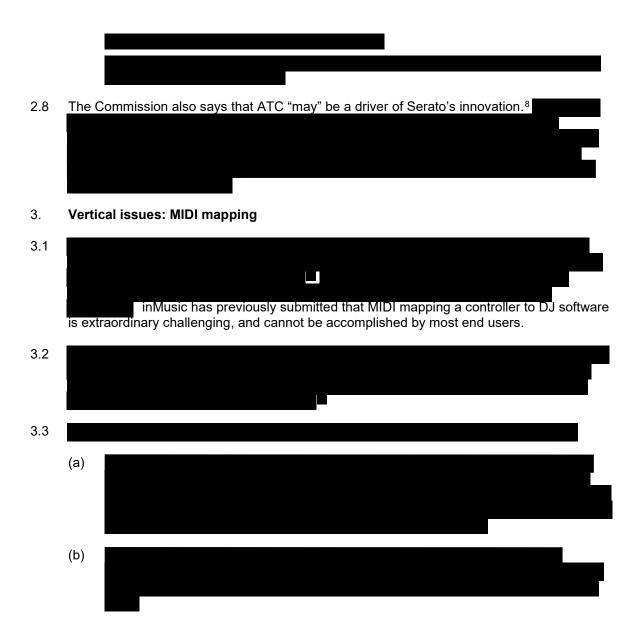
Market share

2.1 2.2

<sup>&</sup>lt;sup>1</sup> 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







### 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.
- 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

<sup>8</sup> At [53] and [54].
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14 At [137] of the Sol.

4.3 inMusic has also expressed concerns about the user data that ATC will receive post-transaction.
5. Conclusion
5.1
5.2

Kind regards

[Torrin Crowther]

**Torrin Crowther** 

Partner