

Determination

New Zealand Banking Association – Interim Authorisation [2025] NZCC 23

The Commission:	Dr John Small Bryan Chapple Nathan Strong (dissenting)
Summary of application:	The New Zealand Banking Association has applied for interim authorisation for itself and other defined participants to undertake certain activities relating to collective bargaining with Evergreen International NZ, LLC (Armourguard), until the Commission declines or grants its application for authorisation.
Determination:	The Commerce Commission has declined to grant interim authorisation as it is not satisfied that it is appropriate to do so.
Date of determination:	12 November 2025

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Determination

1. The Commerce Commission (the **Commission**) has declined to grant interim authorisation in respect of the application for interim authorisation lodged by the New Zealand Banking Association (**NZBA**) on 11 September 2025. The Commission is not satisfied that it is appropriate to grant the interim authorisation requested because:
 - 1.1 there would likely be some small benefits in granting interim authorisation for the relevant conduct; but
 - 1.2 the majority of Commissioners considering this matter were not satisfied that these potential benefits would outweigh the potential detriments of granting interim authorisation, and there was no other compelling reason in the public interest to grant interim authorisation;
 - 1.3 however, one Commissioner was satisfied that granting interim authorisation was appropriate, because he did not consider that the potential detriments of authorisation were likely and so only the benefits of authorisation remained. He considered there is a risk that those benefits may be lost by not granting interim authorisation and this is a compelling reason in the public interest to grant interim authorisation.
2. The Commission's decision to decline interim authorisation is based on our assessment of the evidence available at this time. In coming to this decision, the Commission has taken into account the factors set out in the Commission's *Authorisation Guidelines*.¹
3. The Commission's decision to decline to grant interim authorisation at this time should not be taken as an indication of what the Commission might ultimately decide in respect of NZBA's authorisation application.²

Proposed Arrangement for which Interim Authorisation is sought

4. On 11 September 2025, the Commission received an application from NZBA seeking authorisation, on behalf of itself and others (the **Participants**),³ to collectively bargain with Evergreen International NZ, LLC (trading as **Armourguard**) for the purchase of wholesale cash-in-transit (**CIT**) services, retail CIT services, ATM maintenance services, and ancillary guarding services for a period of up to 11 years (**Arrangement**).⁴

¹ Commerce Commission, *Authorisation Guidelines* (June 2023) (**Authorisation Guidelines**); see in particular [168]–[197].

² *Ibid*, at [175].

³ NZBA, ANZ, ASB, BNZ, Westpac, Kiwibank, SBS, TSB, the Co-operative Bank, The Warehouse Group, Woolworths New Zealand, and NCR Atleos New Zealand. See NZBA Amendment to Authorisation Application and Amended List of Participants (5 November 2025).

⁴ NZBA, "Notice Seeking Authorisation of a Restrictive Trade Practice pursuant to Sections 58(1), (2), (6B) and (6D) and Interim Authorisation pursuant to section 65AAA of the Commerce Act 1986" (11 September 2025) (**the Application**).

5. NZBA also applied for interim authorisation of certain related conduct under section 65AAA of the Commerce Act 1986 (the **Act**).⁵ NZBA applied for interim authorisation to:⁶
 - 5.1 collectively negotiate individual service contract extensions and the possible terms of such extensions [];
 - 5.2 undertake preparatory work necessary to support the Arrangement, including sharing competitively sensitive information about each Participant's respective CIT requirements;
 - 5.3 commence negotiations in relation to the Arrangement, excluding entry into any new contract with Armourguard; and
 - 5.4 facilitate discussions and exchange of information to the extent reasonably necessary to support the above,

(together, the **Interim Conduct**).
6. This determination only concerns that proposed interim authorisation.

Background

7. Armourguard is New Zealand's primary provider of CIT services after its acquisition of ACM (for which the Commission granted clearance last year).⁷ Those services include:⁸
 - 7.1 Wholesale CIT services, which involve movement of cash between the Reserve Bank of New Zealand (**RBNZ**) and commercial banks, and between commercial banks, through CIT centres owned by Armourguard. Armourguard is the sole provider of these critical services.
 - 7.2 Retail CIT services, which involve transportation of cash between CIT centres and consumers, merchants, independent ATM operators and mobile money providers.
 - 7.3 ATM maintenance/management services, which involve loading, clearing and maintaining ATMs nationwide.
 - 7.4 Guarding services which, for the purpose of this authorisation, are those related to provision of the CIT and ATM maintenance/management services listed above.

⁵ Ibid, at Section 9.

⁶ Ibid, at [9.2].

⁷ In October 2024, Evergreen NZ Holdings (trading as Armourguard) was cleared to acquire 100% of ACM New Zealand Ltd. See Commerce Commission, *Evergreen NZ Holdings and ACM New Zealand Limited* [2024] NZCC 23 (the **Evergreen Decision**). That acquisition completed in 2025.

⁸ Application at [1.3]–[1.4].

8. We understand that Armourguard faces limited competition in the provision of retail CIT, ATM maintenance/management and guarding services.
9. Commercial banks rely on Armourguard to provide wholesale CIT services, and large retailers rely on banks and Armourguard to meet their cash demands. Banks and large retailers make up more than half of Armourguard's customer base.⁹ There is, therefore, an inter-dependency among these industry sectors.
10. After its acquisition of ACM completed on 31 March 2025, Armourguard sought to review its arrangements with its major customers. In April-June 2025, Armourguard met with four of the five major banks to discuss its intended new contract terms.¹⁰ It offered similarly structured contracts to each bank, including a new pricing scheme.¹¹
11. That new pricing scheme introduced an Infrastructure Access Fee (**IAF**) and a new service fee/rate card. According to Armourguard, the IAF represents a fixed, non-transactional fee intended to recoup minimally required national fixed overhead costs,¹² whereas the volumetric service fee/rate-card pricing [].¹³ Armourguard's IAF is proposed to be \$[],¹⁴ allocated across [].¹⁵ It will not apply to non-bank customers.¹⁶
12. Armourguard considers the IAF a utility-style pricing model which it imposed on itself in an attempt to "self-regulate".¹⁷ It engaged the New Zealand Institute of Economic Research (**NZIER**) to review its proposed pricing mechanism.¹⁸
13. NZBA questions the validity of the IAF, noting it is allocated on the basis of []¹⁹ NZBA considers this approach []²⁰
14. NZBA states that []²¹ []

⁹ NZIER report presented to Armourguard (31 March 2025) (**NZIER Report**) at [1.4].
[]

¹⁰ Armourguard interim submission on Application (22 September 2025) Annex A at p 13.

¹¹ Ibid, at p 8, [46(b)].

¹² Ibid.

¹³ Armourguard cross-submission on submission by NZBA dated 23 October 2025 (26 October 2025) at [3] and [7]. []

¹⁴ NZIER Report at [1.4].

¹⁵ []. See the Application at [];
Armourguard interim submission on Application (22 September 2025) at [8].

¹⁶ Armourguard interim submission on Application (22 September 2025) at [8].

¹⁷ Ibid.

¹⁸ NZIER Report.

¹⁹ Application at [].

²⁰ Ibid.

²¹ NZBA response to RFI dated 17 October 2025 (28 October 2025) at [3].

Participants face near-term CIT contract expiration, prompting the request for interim authorisation to permit collective bargaining to start soon. Those contract deadlines are:

14.1 [] agreement ends on [].²²

14.2 [] agreement ends on [].²³

14.3 [] agreement ends on [].²⁴

14.4 [].²⁵

14.5 [] agreement ends on [].²⁶

14.6 [] agreement ends on [].²⁷

14.7 [] agreement ends on [].²⁸

How we assess applications for interim authorisation

15. The Commission may grant interim authorisation if it considers it appropriate to do so, under section 65AAA of the Act. As this is the first declined interim authorisation determination, and in light of a number of queries during our investigation from interested parties on the nature of the test for interim authorisation, we consider it appropriate to further clarify the Commission's existing guidance on the application of section 65AAA.
16. To grant interim authorisation, the Commission does not need to be satisfied that the Proposed Arrangement meets the "public benefit test" that applies when determining whether to grant final authorisation.²⁹ As set out in our *Authorisation Guidelines*, the Commission has a broad range of discretion as to what it can consider when deciding whether it is "appropriate" to grant interim authorisation.³⁰ This is necessary because interim authorisation is typically considered at the early stages of the process with limited available evidence and time meaning that it is not feasible to undertake the full "public benefit test" procedure and quantification analysis and assessment for final authorisation.

²² []
²³ [].
²⁴ []

²⁵ []
²⁶ []
²⁷ [].
²⁸ []

²⁹ Commerce Act, s 65AAA(2).

³⁰ Authorisation Guidelines at [177]–[178].

17. That being said, the overall assessment of whether to grant interim authorisation still involves balancing the potential benefits against the potential detriments, taking into account all relevant factors (including those listed in the *Authorisation Guidelines*). This ensures broad consistency in approach with the established public benefit test framework and balancing exercise applied when ultimately assessing the final authorisation, while also accommodating interim authorisation specific factors.
18. Accordingly, consistent with the above and the *Authorisation Guidelines*, we broadly apply the below framework when considering whether it is “appropriate” to grant interim authorisation:
 - 18.1 **Step 1: Consider all potential benefits and detriments that are likely and agreement specific.** Taking into account the interim authorisation specific factors (“other factors”) set out in the *Authorisation Guidelines*, which includes factors outside the standard Public Benefit test (such as urgency and any risk the conduct could significantly alter the competitive dynamics of the market); and
 - 18.2 **Step 2: Balance the likely potential benefits, detriments and interim authorisation specific factors to determine whether it is “appropriate”.**³¹ In doing so, we assign the discretionary interim authorisation specific factors’ weight in the same way as benefits and detriments under the full public benefit test.
19. The Commission will grant interim authorisation only if satisfied it is appropriate to do so. If it is not satisfied, or remains in doubt, we will not grant interim authorisation.³²
20. We consider the above approach balances: (i) the need for predictable and consistent outcomes: and (ii) the flexibility and discretion needed to address the wide variety of scenarios the Commission may be called upon to consider for interim authorisation.

Process followed

21. We registered NZBA’s application on 12 September 2025 and we published a Statement of Preliminary Issues (**SOPI**) on 22 September, which (amongst other things) set out the framework and issues we were considering in respect of the interim authorisation application.³³ We received and considered submissions on the SOPI in coming to this decision.
22. Given NZBA’s submission on the urgency of any interim authorisation decision, we prioritised our consideration of the interim authorisation application. In respect of

³¹ Following the broader test for authorisation set out in *Woolworths Ltd v Commerce Commission (No 2)* [2008] NZCCLR 10 (HC).

³² *NZME Ltd v Commerce Commission* [2018] 3 NZLR 715 (CA) (NZME) at [86(b)] where the Court referred to the applicant bearing a “practical burden of persuasion”.

³³ Commerce Commission “Statement of Preliminary Issues” (**SOPI**) (22 September 2025) <www.comcom.govt.nz>. Submissions are available online [here](#).

the interim authorisation, and in light of our *Authorisation Guidelines*, we engaged in further direct consultation with the Participants and Armourguard via targeted consultation letters and party-specific requests for information (which built upon other requests for information some of those parties had already responded to). During that targeted consultation, we interviewed and/or received substantive information from NZBA, Armourguard, RBNZ and a number of other bank and non-bank market participants.

Our assessment of the application for interim authorisation

23. The Commission has made its determination in this case following the framework set out above. This included, but was not limited to, a consideration of the potential benefits and detriments of granting interim authorisation. Based on the information available at the time of this decision, the Commission by majority does not consider it appropriate to grant interim authorisation. We have set out our reasoning below.

With and Without Interim Authorisation

24. In reaching our view, we have considered submissions and evidence received on the likely situation/s that would arise with and without interim authorisation being granted. We do this to identify the benefits and detriments resulting from interim authorisation.

Unaffected Situations

25. Benefits and detriments (and other factors) must be specific to the authorisation sought. In this case, we consider many of the benefits and detriments (and other factors) will occur with and without authorisation. Based on the evidence received to date, we consider such scenarios that are likely or not likely in both the factual and counterfactual are:
- 25.1 Banks are likely to offer cash to consumers, and to purchase CIT services to meet their banking and prudential obligations;
 - 25.2 Armourguard is likely to continue to provide CIT services to its customers under existing and executed contract terms;
 - 25.3 Because of the commercial pressures on Armourguard and the banks, and the existence of step-in rights,³⁴ it is not likely in the scenario with or without the authorisation that there is any substantial disruption to the supply of CIT services;
 - 25.4 Banks and Armourguard will continue to negotiate contracts for the purchase and sale of future CIT services;
 - 25.5 No new entrant nor material expansion is likely to occur in the supply of CIT services (in particular, wholesale CIT services) in the short to medium term.

³⁴ Contractual rights which grant banks the ability to take over the running of CIT services in particular circumstances.

The situation with interim authorisation

26. If we authorise the Interim Conduct requested, we consider it likely that the Participants would seek to collectively negotiate extensions of their existing contracts with Armourguard, as well as begin preparations for collective negotiation for a further collective agreement, as authorised. We also consider those parties may continue to negotiate individual contracts on a bilateral basis, including possible deadline extensions. We recognise that the Participants' bargaining power would likely increase to some extent with interim authorisation. In turn, as discussed below, Armourguard's investment confidence would likely decrease somewhat. We also consider it likely that some coordination would be possible in terms of negotiating non-price provisions []³⁵ as part of this Interim Conduct.

The situation without interim authorisation

27. If we decline to grant interim authorisation, we consider that at least [] Participants³⁶ will continue to bilaterally negotiate final individual contracts with Armourguard, with terms likely more favourable to Armourguard than if we granted interim authorisation. Armourguard's investment confidence will likely increase as contracts are signed.

Market definition

28. We have not yet reached views on the appropriate market definition to adopt in this case, which we will do when we publish our draft determination. For the purposes of the benefits and detriments analysis undertaken below, we adopt the market definition we used in Evergreen/ACM, in which we defined separate national markets for wholesale CIT services, retail CIT services, and ATM maintenance services.³⁷

Potential benefits and detriments of interim authorisation

29. The majority view of the Commission is that the benefits and detriments are marginal, with small likely benefits and detriments that ultimately balance each other out, such that there is no clear net benefit to authorisation.
30. Further, the Application made little attempt to quantify the benefits that were claimed for the interim authorisation period, and offered limited justifications that the orthodox inefficiencies (detriments) of cartel conduct would not be present in this case. While the Commission has made its own enquiries into these matters, we note that in authorisation matters the applicant bears the practical burden of persuasion.

³⁵ NZBA response to RFI dated 17 October 2025 (28 October 2025) Attachment A at [1.2].

³⁶ Being []

³⁷ Evergreen Decision at [26]–[31].

Potential benefits of authorising the Interim Conduct

31. We note here the absence of potentially significant benefits compared to other collective bargaining cases. These involve productive efficiency gains resulting from both sides avoiding the costs of large numbers of bilateral contract negotiations. These gains are counted in full under the total welfare standard. On the other hand, in this case, a smaller number of participants are negotiating contracts that are likely to need at least some bespoke terms and individual representation even if authorisation is granted.

Sustainability and certainty of CIT services; price effects

32. The application for interim authorisation seeks authorisation to negotiate terms of the final collectively negotiated contract (excluding executing the contract) and so we need to consider the potential benefits related to negotiation of the final collective contract.
33. NZBA submits CIT services remain essential infrastructure and that providing cash to bank customers is currently an indispensable service.³⁸ In the absence of competition, Armourguard's monopoly position threatens the sustainability, affordability and reliability of cash access. Collective bargaining will restore balance, eliminate bargaining inefficiencies and ensure that CIT services continue to operate sustainably, with incentives to innovate and invest in a quality service.³⁹
34. NZBA also submits that a competitively negotiated outcome, supported by proactive industry collaboration, creates greater public benefits than unilateral terms imposed by a monopoly provider.⁴⁰
- 34.1 NZBA considers that there is broad industry consensus that a utility-like pricing structure component is likely required to ensure the long-term sustainability and resilience of the CIT sector.⁴¹
- 34.2 NZBA submits that, notably, the NZIER report does not independently verify the cost assumptions or test the robustness of the revenue forecasts provided by Armourguard underpinning the IAF. Instead, it largely accepts Armourguard's figures at face value, without any form of independent verification.⁴²
- 34.3 A competitively negotiated outcome could address Armourguard's monopoly position by bringing competitive balance to the development of a transparent and sustainable model.⁴³ This could allow Armourguard to earn a fair return

³⁸ Application at [6.1]. []]

³⁹ Application at [6.1], [6.3(c)].

⁴⁰ NZBA response to RFI dated 17 October 2025 (28 October 2025) at Executive Summary.

⁴¹ NZBA cross submission on submission on SOPI by Reserve Bank of New Zealand (23 October 2025) at [7].

⁴² Ibid.

⁴³ Ibid, at [3(a)].

on their investment whilst minimising monopoly rents to ensure that cash remains accessible.⁴⁴

35. NZBA further submits that robust industry collaboration is essential to safeguarding access to cash and maintaining a stable, nationwide CIT network.⁴⁵ It considers:

35.1 [],⁴⁶
especially considering
[]⁴⁷

35.2 Participants have encountered considerable difficulties in reaching meaningful extensions on a bilateral basis and in some cases, have been required to [].⁴⁸

35.3 Interim authorisation gives all parties time to find a “workable and enduring” solution [], which brings greater certainty to the cash ecosystem.⁴⁹

36. Some Participants claim that the unilateral terms imposed by Armourguard expose their business to unreasonable financial and operational risks,⁵⁰ thereby threatening the continuity and sustainability of CIT services.

36.1 For instance, [], submits that, given the significant cost increases proposed by Armourguard, []. [] asserts that this would impact the public’s access to cash, particularly in regional and vulnerable communities [].⁵¹ [] expects that this would, in turn, affect Armourguard’s business through reduced volume of work, accelerating decline in cash usage and undermining the sustainability of Armourguard’s own operations.⁵²

36.2 NZBA also submits that, []⁵³ Also,

⁴⁴ Application at [8.21].

⁴⁵ Application at [4.16].

⁴⁶ NZBA response to RFI dated 17 October 2025 (28 October 2025) at Executive Summary.

⁴⁷ Application at [7.2(b)(vi)].

⁴⁸ NZBA response to RFI dated 17 October 2025 (28 October 2025) at [3].

⁴⁹ []

⁵⁰ [].] []

[]

⁵¹ [].]

⁵² []

⁵³ NZBA response to RFI dated 17 October 2025 (28 October 2025) at Executive Summary.

[]

[]⁵⁴

37. Armourguard considers that there are no evidenced public benefits, in particular because:

37.1 lower prices for banks which may result from collective bargaining is merely a wealth transfer and there is no evidence that any price impacts from the claimed conduct would result in a public benefit;⁵⁵

37.2 it has acted reasonably in developing and adopting the IAF and its proposed terms,⁵⁶ as:

37.2.1 a 10-year duration is the only commercially and operationally viable basis for recovering the substantial fixed investment necessary

[],⁵⁷ and
[],⁵⁸ and

37.2.2 its actions are the complete opposite of monopoly behaviour through its voluntary adoption of a utility-style pricing model that caps and regularly resets returns at benchmark levels, based on a model that was validated by external economists.⁵⁹ Armourguard noted [].⁶⁰

Commission's views

38. Based on the evidence we have gathered to date, we consider that the IAF imposed by Armourguard may be above the price that would be set in a workably competitive market, and collective bargaining by the Participants could potentially bring this price to a more competitive level.

39. However, it is important to note that in assessing the change in bargaining power resulting from authorisation, we are not comparing the pricing of contracts that were negotiated prior to the merger of CIT providers, with the IAF model.
[]. Rather we are comparing the much smaller difference in pricing between the IAF model in the counterfactual, and whatever price(s) the Participants could collectively negotiate in the factual. Further, it is only a smaller component of even *those* savings that are genuine efficiencies, being the avoiding of deadweight losses, that are relevant to

⁵⁴ [] []

⁵⁵ Armourguard interim submission on Application (22 September 2025) at [24].

⁵⁶ []

⁵⁷ Armourguard cross submission on NZBA cross submission (30 October 2025) at [2].

⁵⁸ Ibid.

⁵⁹ []

⁶⁰ []

the total welfare standard: neutral welfare transfers between the parties that are merely distributional are not likely to be relevant.

40. What this means is that any efficiency or total welfare benefits and detriments related to the change in price are likely to be small in quantum. This is particularly the case in the interim period, due to the relatively stable demand for cash services by the Participants. As such, we consider that this potential benefit during the interim period is likely small.
41. Furthermore, we consider the use of a two-part tariff for the banks in which the fixed fee portion (IAF) [] to reduce the scope for deadweight loss likely ascribed to the customer group. As such, there may be low scope for a large benefit from reducing deadweight loss through collective bargaining.
42. We considered the likelihood of ‘waterbed effects’, where an increase in bargaining power and a downward effect on price for wholesale customers results in those changes being recovered from retail customers, which price increases result in inefficiencies or a reduction of services purchased by retail customers. However, the CIT users in respect of which Armourguard faces the least competitive constraint are the Participants; so its ability to recover these losses via increased prices to other customer groups may be limited.
43. Lastly, we note that wealth transfers between parties are treated as neutral under the total welfare standard,⁶¹ further mitigating the possible magnitude of this potential benefit.

Coordination of Services

44. NZBA submits that collective negotiation would enable banks and Armourguard to identify operational efficiencies.⁶² If interim authorisation is not granted, [] Participants will be forced to enter into new bilateral contracts imposed by Armourguard, [] will expire before the Commission makes its final authorisation decision. In NZBA’s view, this could undermine the potential benefits of collective bargaining because, at the time of the final authorisation, the ability to negotiate collectively and identify synergies may diminish if [] Participants have entered into contracts.⁶³
45. Armourguard submits that the claimed efficiencies could be obtained in the counterfactual and that there is no evidence that these non-price benefits would flow through to consumers.⁶⁴

⁶¹ *NZME Ltd v Commerce Commission* [2018] 3 NZLR 715 (CA) (NZME) at [44].

⁶² Application at [8.9].

⁶³ Application at [9.4].

⁶⁴ Armourguard interim submission on Application at [25].

Commission's views

46. We consider that collective bargaining is likely to result in some efficiencies, but overall, there is likely to be a small or no additional net public benefit arising from the coordination of services with authorisation, at least in the interim period because:

46.1 We consider that Armourguard has an incentive to, and is likely able to, obtain some operational efficiencies from the coordination of services, without the need for collective bargaining by the Participants.

46.2 There is some force in the evidence from Armourguard that some of the 'efficiencies' that might arise with authorisation are, in fact, neutral wealth transfers between the parties, or in some cases public detriments.⁶⁵

Potential detriments of authorising the Interim Conduct

Information sharing

47. Armourguard submits that allowing the Participants to share information is detrimental to Armourguard,⁶⁶ particularly as coordination effects become irreversible once the Participants share competitively sensitive information with each other.⁶⁷ In this respect, it views granting interim authorisation as effectively equivalent to granting full authorisation.⁶⁸

48. RBNZ also submits that [].⁶⁹

49. NZBA submits, however, that the Participants are unlikely to need to share competitively sensitive information about their current arrangements with Armourguard in order to collectively bargain for an extension of their current arrangements and the development of the terms upon which an extension is granted.⁷⁰

Commission's views

50. In some cases, information sharing between competitors during collective bargaining would be of significant competition concern, especially if it is likely to facilitate or strengthen cartel behaviour or other forms of collusion that weaken the competitive constraint between parties. In our view, however, based on the evidence we have received to date, the information likely to be shared by Participants as part of any interim collective bargaining is not likely to be of high competitive value and is

⁶⁵ Armourguard gave evidence that []. We consider this could be affected by the difference in bargaining power with and without authorisation.

⁶⁶ []

⁶⁷ Armourguard interim submission on Application at [41].

⁶⁸ []

⁶⁹ []

⁷⁰ NZBA response to RFI dated 17 October 2025 (28 October 2025) Attachment A, at [1].

therefore less likely to lead to significant coordination concerns. In particular, we consider the relevant information has limited bearing on the core scope of competition between the Participants (particularly between the major banks).

51. Notwithstanding this, we nonetheless consider that there is likely to be some (albeit very small) competitive detriments resulting from the sharing of information as part of the Interim Conduct. In particular, we note that as a result of interim authorisation and the commencement of collective negotiations, the participants will know each others' negotiating position, and Armourguard's response to that position, which would likely affect the Participants' individual bargaining positions in any bilateral negotiations.

Potential for delayed investment

52. Armourguard submits that granting interim authorisation will impact its ability to invest:

52.1 it [] currently incurs monthly operating losses of approximately [] which will increase to approximately [] if interim authorisation is granted;⁷¹

52.2 its board of directors has []⁷² and []⁷³ and

52.3 interim authorisation will cause further uncertainty and delays in concluding contracts with the banks, and such delay in concluding contracts will further delay [] investment.⁷⁴ []⁷⁵

53. RBNZ submits that commencement of collective bargaining extends uncertainty for Armourguard, jeopardising further its investment and business continuity.⁷⁶

54. NZBA submits that in exchange for the contractual extensions, the Participants are also open to provide []⁷⁷

Commission's views

55. Our view is that granting interim authorisation would likely result in some (albeit small) detriment, in the form of potential for delays to some of Armourguard's

⁷¹ []]

⁷² []

⁷³ [] []]

⁷⁴ Armourguard letter to Commerce Commission (31 October 2025) at p 6.

⁷⁵ See, for example, []

⁷⁶ RBNZ submission on SOPI (10 October 2025).

⁷⁷ NZBA response to RFI dated 17 October 2025 (28 October 2025) Attachment A, at [1.1].

investment. This is because Armourguard's ability to invest is [].

56. We consider that a decision to grant interim authorisation would be likely to result in some delay in Armourguard's investment compared to the counterfactual, which may carry some resilience risks. Such delay in investment may be attributed in part to the uncertainty created by the Authorisation as a whole (to be resolved only following the decision on full Authorisation), rather than interim authorisation; but nonetheless we consider that Armourguard's confidence to invest sooner would be greater in the counterfactual than it would be in the factual (even if the ultimate quantum of investment in the longer-term is the same).

Consideration of other factors for interim authorisation

57. In addition to the total welfare potential benefits and detriments, and urgency discussed above, we have, in accordance with the *Authorisation Guidelines*, considered the following additional matters as part of our overall determination.

Urgency

58. As noted above, we adopt the reasoning in our first provisional authorisation determination, NZTGA, in relation to urgency: there must be some minimum reason to grant interim authorisation now rather than waiting for final authorisation.
59. As a general rule, we consider urgency in the context of interim authorisations is likely to arise where:
- 59.1 The need to avoid an imminent and substantial detriment in the period that the Commission requires to give due consideration to the full authorisation application is a factor that could weigh in favour of interim authorisation being granted. This is particularly the case where the detriment would affect the wider industry, public, or consumers as well as the applicant.⁷⁸
- 59.2 Similarly, the potential to realise a substantial benefit, particularly to the wider public, that could be unavailable if the applicant could not engage in the conduct until the Commission has given due consideration to the full authorisation application, could also weigh in favour of interim authorisation being granted.⁷⁹
60. NZBA submits that urgent action in the form of interim authorisation is required. [] Participants' contracts with Armourguard are due to expire [].⁸⁰ Given that Armourguard is a monopolist provider and all banks require reliable access to cash as a basic operational necessity, if interim authorisation is not granted, banks risk being

⁷⁸ *New Zealand Tegel Growers Association Incorporated* [2021] NZCC 26 at [67.2].

⁷⁹ *Ibid* at [67.3].

⁸⁰ Application at [7.2(b)].

forced into new [] contracts with Armourguard before authorisation is granted.⁸¹

61. However, Armourguard submits that the urgency claimed by the banks is self-created and that granting interim authorisation would effectively reward delay and strategic inaction, especially in light of the detriments caused by delay, discussed above at paragraphs 52 to 56.⁸² Armourguard also submits that the banks were aware of their contract expiry cycles, and the banks and the NZBA elected to defer meaningful engagement and are now asserting urgency of their own making.⁸³

62. Armourguard has also provided the Commission with [

].⁸⁴

However, [], so this does not entirely mitigate the timing matters mentioned above.

Commission's view

63. The Commission considers urgency of the first type noted above—the need to avoid a substantial detriment—is not relevant in this case because we do not consider it likely that there will be any disruption to CIT services with or without authorisation.
64. However, the Commission recognises the urgency of the second type noted above is potentially present in this case. In light of the Participants' [], there are potential detriments that may occur [] from the entry into of long-term bilateral contracts between Armourguard and the Participants. Importantly, entering into long-term bilateral contracts may result in the benefits of collective negotiation being lost if interim authorisation is not granted.
65. We note though, as is often the case, the weighting of urgency here is already accounted for in the balancing exercise, ie to the extent that interim authorisation would result in *net* benefits, interim authorisation would be appropriate if those net benefits would be lost prior to the final determination. However, that does not obviate the need for the likely benefits of authorisation to outweigh the likely detriments, taking into account other relevant factors to interim authorisation as appropriate. To count urgency as a further factor when benefits and detriments

⁸¹ NZBA response to RFI dated 17 October 2025 (28 October 2025), at Executive Summary.

⁸² Armourguard interim submission on Application (22 September 2025) at p 2, [7], and at p 6, [35]-[36].

⁸³ Armourguard interim submission on Application at p 3, [6b] and at p 6, [35].

⁸⁴ []

relating to timing have already been addressed, would be double counting. Accordingly, urgency is a present, but neutral factor in the overall analysis.

Granting or declining interim authorisation may cause irrevocable harm

66. We have not identified any irrevocable harm likely to be caused by declining authorisation. As part of our assessments of detriments (above), we have considered the possibility of lost efficiency caused by acceptance of a supra-competitive price for CIT services. To avoid double-counting we have not placed further weight on this factor in this case.

Extent to which markets may change if interim authorisation is granted or not granted

67. We have considered the impact of an interim determination on existing relevant markets. We are more likely to grant interim relief when it will “maintain the market status quo.”⁸⁵
68. This is not a case where our decision can preserve the status quo, as [] of the existing service contracts are currently set to expire. Those terms will likely change, whether or not we grant interim authorisation, and so we cannot preserve that material aspect of the market status quo.
69. Furthermore, we do not consider that interim authorisation will change the upstream market. There is no evidence that Armourguard’s position as the sole provider of wholesale services is likely to change, for instance by the addition of a new entrant. It is also likely that downstream bank and retail markets would remain unchanged as there is not strong evidence of exits or a substantial lessening of competition in those markets with or without interim authorisation.
70. Lastly, other changes to the markets have been addressed in our consideration of detriments above.

Consistency with the purpose of the Commerce Act 1986

71. We consider the purpose of the Commerce Act is achieved by balancing the benefits and detriments, and other factors. There is no reason to depart from the orthodox test for authorisation in this case, which is to grant authorisation if we are satisfied, after balancing the factors described above, that benefits outweigh detriments.

Overall balancing test

72. We describe the balancing test we must undertake at paragraphs 15 to 20 above.
73. We consider the benefits and detriments of authorisation are small, even marginal in this case. The benefits and detriments are finely balanced. The ‘other factors’ were not given substantial weight in the balancing exercise.

⁸⁵ Authorisation Guidelines at [178.4.1].

74. The majority consider that the evidence for benefits and detriments is evenly balanced: there is no reason to weigh the size or likelihood of the likely benefits as outweighing the likely detriments.
75. As a result, the majority of Commissioners did not consider that it is compelling in the public interest to enable collective negotiations in the interim period, as they were not satisfied that the benefits outweigh the potential detriments and, as a consequence, have determined that is not appropriate to grant interim authorisation.

Dated this 12th day of November 2025

.....

Dr John Small
Chair

Dissenting opinion of Associate Commissioner Nathan Strong

76. For the reasons given by Dr John Small and Bryan Chapple (the majority), I consider that granting interim authorisation for the participants to engage in the Interim Conduct is likely to result in some public benefit. In particular, the ability to engage in early collective bargaining with Armourguard is likely to increase the bargaining power of the Participants, which would result in some small allocative efficiency gains (linked to likely decreases in price and reduction in deadweight loss compared to the situation without collective bargaining).
77. However, unlike the majority, I do not consider that allowing the Interim Conduct is likely to result in any measurable public detriment. Accordingly, I am satisfied that it is appropriate for the Commission to grant interim authorisation for the Interim Conduct as there is a clear, although likely small, net public benefit from doing so. Further, granting interim authorisation would preserve this net benefit in the event that the Commission determines to grant authorisation for the Arrangement.

Potential detriments of the Interim Conduct

Sharing of competitively sensitive information

78. As part of the collective negotiations envisaged by the interim application (both for extensions of existing contracts and preparation for collective bargaining), the NZBA recognises that Participants' information will need to be shared, and that this information is likely to be commercially sensitive. This information is likely to include such things as the
- [] cost savings that could be achieved including through
- [].⁸⁶

79. However, the NZBA has asserted that "not all "commercially sensitive information" is "competitively sensitive information". The NZBA further notes that:⁸⁷

The Commission's assessment of the appropriateness of the proposed safeguards needs to be informed by the nature of the information that is likely to be disclosed as part of the process – in particular the extent to which any of the information could be reasonably regarded as being "competitively sensitive information".

80. In my view, the competitive importance of this information is likely to be low, for a number of reasons:
- 80.1 The provision of cash services is unlikely to be a significant part of the banks' competitive positioning and overall strategy in retail bank markets.
- 80.2 Cash is also likely to be a small part of any individual banking relationship in retail bank markets.

⁸⁶ NZBA response to RFI dated 17 October 2025 (28 October 2025) at [1].

⁸⁷ Ibid at [3].

- 80.3 Evidence provided by the Participants indicates that much of the information relevant to collective negotiations is already known via other, legitimate means,⁸⁸ so the likelihood of collusion is low.
- 80.4 Most relevantly, the Participants would not be permitted to share information on, let alone agree or constrain, how they would in turn set prices for the provision of cash-related services in retail bank markets. Such conduct would fall foul of the cartel provisions of the Commerce Act and would not be permitted under the interim authorisation.
81. The information we have gathered to date indicates that the services offered by Armourguard, and the terms under which they are being offered, are similar, and they are unlikely to differ between Participants with or without interim authorisation. This means that there is unlikely to be a substantive loss of competitive differentiation through collective bargaining compared to what could have been achieved without interim authorisation through bilateral arrangements.
82. Ultimately, the Participants are seeking to establish collective negotiations to purchase from a monopoly CIT provider. I do not consider that the sharing of information between Participants is likely to lead to anti-competitive detriments or provide a means or vehicle for collusion. In my view, the safeguards proposed by the Applicant to mitigate this risk (including reporting requirements and external legal oversight by an expert competition lawyer)⁸⁹ are likely to further reduce the risk of any competitive detriment arising from allowing collective negotiations during the interim period, and were we to have granted interim authorisation I would have proposed some or all these safeguards be imposed as conditions of that authorisation. Finally, should the Commission ultimately decline to grant authorisation to the Arrangement, the information shared in support of the collective negotiations would have been destroyed.

Potential for delayed investment

83. Armourguard submitted that granting interim authorisation would result in some degree of delayed, deferred or decreased investment.⁹⁰ However, in my view, any changes in Armourguard's investment strategy are unlikely to be linked to the granting of an interim authorisation. I consider Armourguard would likely continue to make essential investment in both the factual and counterfactual, and any material changes to its investment strategy would likely be linked to a lack of contractual and regulatory certainty which would likely not be fully resolved until the Final Authorisation is determined at the earliest. Armourguard stated
- []:

⁸⁸ For example, interview with [] - [].

⁸⁹ Application at [5.8].

⁹⁰ For example, [] []

[
].⁹¹

84. Accordingly, I would not characterise this as a public detriment from interim authorisation.

Preserving the benefits of a full authorisation

85. I also consider that not granting interim authorisation in this circumstance leads to a risk that some of the ultimate benefits of a full authorisation would be lost. This is because as set out above []; and the more [] the less scope there is for any full authorisation to have material benefits because [].

86. I would characterise this either as a benefit of granting interim authorisation, or alternatively as a risk of a change in markets if interim authorisation is not granted that militates towards granting interim authorisation.

Conclusion

87. Based on the information gathered to date, I consider that allowing the Participants to engage in collective negotiations during the interim period is likely to result in some public benefits and is not likely to result in any public detriments.
88. In my view, it is compelling in the public interest to enable collective negotiations in the interim period as I am satisfied that doing so would likely result in a net benefit to New Zealand. Should the Commission ultimately determine to grant authorisation to the Arrangement, that net public benefit could be at risk without interim authorisation.

⁹¹ Letter from [].