

## Statement of Unresolved Issues

### Rafting JV Co/Rotorua rafting operators

30 April 2026

#### Introduction

1. On 12 November 2025, the Commerce Commission (Commission) registered an application (the Application) from a yet to be incorporated joint venture company, referred to in the Application as Rafting JV Co<sup>1</sup> (the Applicant), seeking clearance to acquire the rafting and sledging assets of:
  - 1.1. Rotorua Rafting Limited trading as (t/a) Rotorua Rafting;
  - 1.2. Rotorua Raft & Sledge Limited t/a Kaitiaki Adventures; and
  - 1.3. Kaituna Rafting Limited t/a Kaituna Cascades (together, the Parties) (the Proposed Merger).<sup>2</sup>
2. To grant clearance for the Proposed Merger, we must be satisfied that it will not have, or would not be likely to have, the effect of substantially lessening competition in a New Zealand market.<sup>3</sup>
3. Since registering the clearance application from the Parties, we have published:
  - 3.1. a Statement of Preliminary Issues (SoPI) setting out the issues that we considered important at the start of our investigation in deciding whether or not to grant clearance;<sup>4</sup> and
  - 3.2. a Statement of Issues (Sol) setting out the potential competition issues that we had identified following our initial investigation.<sup>5</sup>
4. This Statement of Unresolved Issues (SoUI) sets out our further views on the potential competition issues that have not been resolved to date and that we therefore continue to test. The SoUI provides the Parties and other interested parties with an opportunity to comment and provide us with additional information to address these potential competition issues. This SoUI is focused on the issues that continue to concern us and is designed to be read in conjunction with the Sol, which

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<sup>1</sup> The working legal name for this company is currently Rotorua Rafting Holdings Limited, but the Applicant states this is likely to change. See the Application at [7].

<sup>2</sup> A public version of the Application is available on the [case register](#) on our website.

<sup>3</sup> Commerce Act 1986, s 66.

<sup>4</sup> The SoPI dated 13 November 2025 is available [here](#).

<sup>5</sup> The Sol dated 5 February 2026 is available [here](#).

sets out the relevant background and analysis in more detail and can be accessed [here](#).

5. In reaching the views set out in this SoUI, we have considered information provided by the Parties and other industry participants, as well as information we have gathered. We have not yet made any final decision on the issues outlined below (or any other issues) and our views may change, and new competition concerns may arise, as the investigation continues.

## Process and timeline

6. We are currently scheduled to decide whether or not to give clearance to the Proposed Merger by **18 June 2026**. Further extensions may be agreed between the Commission and the Parties.<sup>6</sup>
7. We invite submissions and supporting evidence from the Parties and other interested parties on the issues raised in this SoUI. We request submissions by close of business on **14 May 2026**, including a public version of any submission.
8. All submissions received will be published on our website with appropriate redactions.<sup>7</sup> All parties will have the opportunity to cross-submit on the public versions of submissions from other parties by close of business on **25 May 2026**.
9. If you would like to make a submission or cross-submission but face difficulties in doing so within the timeframe, please ensure that you register your interest with us at [registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) so that we can work with you to accommodate your needs where possible.

## Summary of unresolved issues

10. Based on the information currently before us, we are not currently satisfied that the Proposed Merger will not have, or would not be likely to have, the effect of substantially lessening competition in a market in New Zealand. Having considered submissions received and evidence gathered before and after the Sol, we have not reached substantially different views to those expressed in our Sol.
11. We are now proposing to assess the competitive effects of the Proposed Merger on a differentiated product market for adventure tourism in Rotorua. We remain concerned that the Proposed Merger may remove the constraint that the Parties impose on one another as their closest competitors, in circumstances where the remaining actual and potential constraints on the Parties would be insufficient to constrain the merged entity from profitably increase prices above (and/or reduce the quality) the level that would prevail without the merger.

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<sup>6</sup> We maintain a clearance register on our website at <https://www.comcom.govt.nz/case-register/> where we update any changes to our deadlines and provide relevant documents.

<sup>7</sup> Confidential information must be clearly marked (by highlighting the information and enclosing it in square brackets). Submitters must also provide a public version of their submission with confidential material redacted. At the same time, a schedule must be provided which sets out each of the pieces of information over which confidentiality is claimed and the reasons why the information is confidential (preferably with reference to the Official Information Act 1982).

12. In terms of the geographic dimensions of the market, there is no evidence to indicate that the Parties compete with rafting operators outside of Rotorua, or that guided rafting services of the Parties are supplied in a market that is geographically broader than Rotorua. While some visitors to Rotorua (and customers of the Parties) may also travel to other parts of New Zealand and could, in theory, undertake rafting activities in other locations, customers would incur significant costs to switch to other rafting operators in other regions in the North Island (eg, Turangi, Napier and Taihape) and South Island (eg, Queenstown) in the face of a price increase from the merged entity.
13. Our competitive effects assessment focused first on the fact that the Parties are the only rafting operators in Rotorua and compete closely to supply guided rafting services in Rotorua. The closeness of competition amongst the Parties is evidenced by relatively consistent pricing over time and the materially similar rafting experiences offered by the Parties. That competition would cease to exist with the Proposed Merger.
14. We are continuing to consider the extent to which other adventure activities in Rotorua provide an effective competitive constraint on the Parties, but it remains unclear which adventure activities would likely effectively constrain a price increase, or service quality decrease by the Parties following the Proposed Merger. This is because:
  - 14.1. from a demand-side perspective, there is likely a degree of substitution between rafting and other adventure tourism activities in Rotorua, as consumers choose between alternative experiences when allocating limited discretionary spending, but adventure activities are differentiated across multiple dimensions, including price, duration and thrill level;
  - 14.2. some adventure activities are priced similarly to rafting (so compete for the same discretionary tourism budget), but they often differ materially in duration and thrill level (and vice versa), which makes it challenging to assess the competitive constraint they may impose;
  - 14.3. at least some adventure tourism operators appear to take the presence, pricing, and positioning of other adventure tourism activities and pricing into account to some extent when setting prices, even where those operators offer distinct and differentiated activities;
  - 14.4. we have received very limited evidence to support the proposition that other non-rafting activities would impose sufficient competitive constraint on the Parties to offset the loss of close competition between them following the Proposed Merger; and
  - 14.5. in the absence of further evidence, it is not possible to reliably identify which, if any, adventure activities are likely to be close substitutes for rafting, given the multiple dimensions that are relevant to tourists' decision-making.
15. Given this, the merged entity may face some constraint from other Rotorua adventure tourism activities. However, we do not currently have sufficient evidence

to be satisfied that other Rotorua adventure tourism operators compete with the Parties closely enough to constrain the merged entity and to prevent a substantial lessening of competition. Against that we have clear evidence that the Parties are each other's closest competitors and this constraint would be lost post-merger.

16. The merged entity is unlikely to be constrained by the threat of new entry to supply guided rafting services in Rotorua in the future. Even if additional concessions were available, we have not received any evidence to suggest that entry or expansion by existing or new tourism operators to offer guided rafting services in Rotorua would be likely, sufficient in extent, and timely in response to an exercise of market power by the merged entity.
17. We are continuing to investigate the extent to which the merged entity would be constrained by countervailing power. At present we are not persuaded that any such countervailing power would be a meaningful constraint because:
  - 17.1. While some wholesalers, agents, resellers and tour operators may theoretically have countervailing power, it would not protect tourists who buy through different channels (such as directly from the Parties). Evidence shows that a significant portion ([ ]%) on average for the Parties) of bookings are direct, indicating that these customers may not benefit from any countervailing power of wholesalers/resellers.
  - 17.2. We have received some evidence suggesting that wholesalers/resellers have not pushed back on any prices offered by suppliers and this may be an indication that wholesalers/resellers have limited/no countervailing power.

## **The relevant markets**

18. We discuss below the relevant markets for assessing the competitive effects of the Proposed Merger.

## **Our approach to market definition**

19. As stated in the Sol, the conceptual framework we use when defining the relevant market in a merger involves a 'hypothetical monopolist test'. We ask whether a hypothetical monopolist could profitably impose a small, but significant, non-transitory increase in price (a SSNIP) of at least one of a merged firm's products or services. This will be the case when there are few good substitutes to the product or service in question.<sup>8</sup>
20. We consider substitution by both customers and suppliers and ask, if prices increased, whether:<sup>9</sup>
  - 20.1. customers would switch sufficient purchases to alternative products, services or locations so that a SSNIP is not profitable (customer or demand-side substitution); and/or

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<sup>8</sup> Mergers and Acquisitions Guidelines (May 2022) at [3.17]-[3.18].

<sup>9</sup> Mergers and Acquisitions Guidelines above n8 at [3.16].

- 20.2. rival firms (having observed an increase in price) would easily, profitably and quickly (generally within one year) switch production to the products, services or locations in question without significant cost so that a SSNIP is not profitable (supplier or supply-side substitution).
21. Regardless of the boundaries of any relevant markets, what ultimately matters is that we consider all relevant competitive constraints within those markets, and the extent of those constraints. If we define a market narrowly, we will consider competitive constraints from outside that market. If we define a broad market, we will consider how closely different suppliers compete within that broad market. A substantial lessening of competition in a significant section of a broad market could still amount to a substantial lessening of competition in that market overall.<sup>10</sup>

### Initial submissions on market definition

22. In the Application, the Parties submit that the relevant markets for assessing the competitive effects of the Proposed Merger are:<sup>11</sup>
- 22.1. at its broadest, a market for all the tourism experiences available to tourists visiting Rotorua (the Rotorua tourism experiences market); or, alternatively,
- 22.2. at its narrowest, a market for all adventure tourism activities available to tourists visiting Rotorua (the Rotorua adventure tourism market). That would include the rafting and sledging activities offered by the Parties.
23. The Parties further submit that, in relation to rafting:<sup>12</sup>
- 23.1. the relevant market is broader than a market for rafting experiences in Rotorua – a narrow Rotorua rafting market would not accord with the evidence that is available, or with commercial common sense;
- 23.2. rafting in Rotorua does not enjoy iconic status (especially when compared to geothermal and Māori culture attractions in Rotorua) and is therefore not a “must do” activity;
- 23.3. the typical tourists attracted to rafting skew younger and are those who tend to be more price sensitive and have a lower spend overall compared to other demographics. In addition, younger people tend to engage in a more diverse group of outdoor activities;
- 23.4. activities that deliver a similar adventure experience are likely to be the most closely substitutable for rafting, and Rotorua offers a range of other adventure activities that offer a similar kind of experience, and at a similar price point; and

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<sup>10</sup> A lessening of competition that adversely affects a significant section of the market may be enough to amount to a substantial lessening of competition: see the Mergers and Acquisitions Guidelines above n8 at [2.25] and *Dandy Power Equipment Pty Ltd v Mercury Marine Pty Ltd* (1982) 64 FLR 238; ATPR 40-315, 43,888.

<sup>11</sup> The Application at [40].

<sup>12</sup> The Application at [39], [45], [52], [54]-[58] and [62].

- 23.5. given the primary reason that tourists visit Rotorua is to experience geothermal or Māori cultural experiences, all Rotorua adventure tourism operators – including the Parties – are not only competing with each other, but also competing to win tourists’ time and attention away from Rotorua’s “must do” geothermal and Māori cultural experiences, and other types of tourism experiences in Rotorua.
24. The Parties also submit that activities that deliver a similar adventure experience are likely to be the most closely substitutable for rafting. In addition to rafting, Rotorua offers a range of other adventure activities that offer a similar kind of experience, and at a similar price point. These include activities such as:<sup>13</sup> jetboating, mountain biking, luge, Canopy Tours (Zipline), Zorb, Redwoods Treewalk and Zipline, 4WD tours, Velocity Valley and Drift Kartz.

### **What we said in the Sol and submissions received**

25. In the Sol, we expressed the preliminary view that the competition issues that may arise from the Proposed Merger would be best assessed by defining a market for the supply of guided rafting trips in Rotorua. While we noted the possibility there may be a market that is broader than just rafting trips, we considered that the unclear bounds of that broader market meant we could not clearly identify what competitive effects it would have.<sup>14</sup>
26. That view was based on the mixed evidence received from market participants about demand-side substitution between guided rafting trips and other tourism activities, and the absence of reliable evidence on the likelihood and extent of customer switching in response to changes in price or quality. While we acknowledged in the Sol the possibility that the relevant market could be broader than guided rafting trips, we commented that the boundaries of any broader market were unclear. We noted that this uncertainty limited our ability to assess competitive effects with confidence in a wider market and supported us focusing the competitive analysis in the Sol on the narrower rafting market.<sup>15</sup>

### *The Parties’ submission on relevant markets in response to the Sol*

27. In response to the Sol, the Parties submit that:
- 27.1. Our framing of market definition assessment and implicitly its assessment of competitive constraints – around whether some tourists would not switch away from rafting in the event of a relative price increase is not the correct test (inframarginal vs marginal customers).<sup>16</sup>

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<sup>13</sup> The Application at [58].

<sup>14</sup> The Sol at [53].

<sup>15</sup> The Sol at [53].

<sup>16</sup> Submission on the Sol from the Parties (4 March 2026) at [22]-[30]. Marginal customers are those consumers whose purchasing decisions are sensitive to small changes in price or quality and are therefore most likely to switch to an alternative product or supplier in response to a SSNIP or a quality reduction. On the other hand, inframarginal customers are consumers who would continue to purchase the product even after a SSNIP or moderate quality reduction.

- 27.2. The evidence cited in the Sol as supporting a separate rafting market does not do so and we mischaracterised this evidence and placed disproportionate weight on some evidence over other evidence.<sup>17</sup>
- 27.3. Evidence in the Sol supports the view that rafting competes with all other tourism experiences.<sup>18</sup>
- 27.4. Surrounding evidence from third parties also supports rafting competing with all other tourism experiences.<sup>19</sup> For instance:
- 27.4.1. MBIE International Visitor Survey (IVS) data shows how international tourists engage with various tourism activities while in New Zealand;
- 27.4.2. Campermate data – reflects the choice a camping site by around [ ] campervan users who visited Rotorua. The Parties submits that only [ ] campervan users were recorded in the Kaitiaki Adventures carpark (presumably closer to one of the Parties) indicating rafting in Rotorua is not a must-do activity with inelastic demand;
- 27.4.3. Rotorua i-Site feedback (procured on behalf of the parties by Rotorua NZ) – we understand from the Parties that [ <sup>20</sup> ]].
- 27.4.4. Rotorua NZ research – the Applicant provided some research conducted for Rotorua NZ which asked New Zealanders and Australians, among other things: what is the first thing that comes to mind when you think about Rotorua? Rafting appears for both New Zealanders and Australians, but not often.<sup>21</sup>
- 27.4.5. Booking lead times – the Applicant submits that if rafting in Rotorua was a “must-do” activity or demand was price inelastic, then it could be expected that a significant proportion of tourists would book well in advance to ensure they had a place on the trip and that it was locked in in their itinerary. The Parties submit that a significant number of bookings are made within a few days of the actual rafting trip.

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<sup>17</sup> Submission on the Sol from the Parties (4 March 2026) at [27].

<sup>18</sup> Submission on the Sol from the Parties (4 March 2026) at [44]-[47].

<sup>19</sup> Submission on the Sol from the Parties (4 March 2026) at [49]-[60]

<sup>20</sup> [ ]

<sup>21</sup> Submission on the Sol from the Parties (4 March 2026) at [61]-[63].

*Backpacker Youth Adventure Tourism Association of NZ (BYATA) response to our Sol*

28. BYATA submits that the preliminary market definition in the Sol is too narrow and fails to reflect actual visitor decision-making and substitution patterns.<sup>22</sup>

**Our response to Sol submissions on market definition**

29. We carefully considered the submissions received in response to the Sol. However, none of the submissions provided sufficient reliable evidence on the market definition issues raised to enable us to reach a definitive view about the boundaries of the relevant market. We address the key issues below.
30. In response to criticism of our market definition approach, particularly the suggestion that our approach improperly focuses on inframarginal customers in defining a narrow rafting market, we consider that:
- 30.1. The Sol applied the standard hypothetical monopolist (SSNIP) framework and expressly sought evidence on demand-side substitution, including evidence of actual or likely customer switching behaviour. The SSNIP framework inherently focuses on marginal customers, specifically whether switching by a sufficient number of customers would render a price increase (or quality decrease) unprofitable. We explicitly reflected this by referring to “sufficient switching” in the Sol.
- 30.2. Consistent with this framework, the information and evidence sought in the Sol were directed entirely at assessing marginal switching, and we explicitly requested any evidence of diversion or substitution. The preliminary view expressed in the Sol was that reliable evidence of such switching was lacking, such that we could not be satisfied that switching would occur at a scale sufficient to defeat a SSNIP.
- 30.3. Neither the Parties nor other market participants (including non-tourism operators such as Rotorua NZ) provided additional information that addressed our explicit concerns in the Sol—namely, whether a sufficient number of customers would switch from rafting to alternative tourism activities in response to a SSNIP. In addition, no evidence was provided identifying customer segments that could reasonably be characterised as marginal, or estimating the proportion of customers falling within such segments.
- 30.4. Notwithstanding the criticisms raised, the Parties themselves acknowledge that no direct empirical data on substitution is available.<sup>23</sup> As set out in the framework section, the burden of persuasion lies with the Parties to satisfy the Commission, on the balance of probabilities, that the Proposed Merger will not, or is unlikely to, substantially lessen competition in any market.

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<sup>22</sup> Submission on the Sol from BYATA (20 February 2026) at 12.

<sup>23</sup> Submission on the Sol from the Parties (4 March 2025) at [5], [44] and [67] and e-mail from A&B Lawyers (on behalf of the Rafting JV Co) to the Commerce Commission (1 April 2026).

31. In relation to the updated<sup>24</sup> MBIE data submitted by the Parties, we note that:
- 31.1. while MBIE’s IVS data is robust for national/regional-level expenditure trends and broad tourism participation rates, it does not enable assessment of substitution between specific tourism activities within a single destination such as Rotorua;
  - 31.2. the IVS data does not provide insight into how tourists may respond to a relative price increase in rafting compared to other tourism activities. In particular, it does not inform us as to whether a sufficient portion of tourists would switch to alternative tourism activities in response to a SSNIP such that the price increase would be unprofitable;
  - 31.3. the IVS data also excludes domestic tourism, which we understand from interviews with tourism operators accounts for between approximately 40-80% of visitors to Rotorua for different Rotorua tourism operators.<sup>25</sup> Even if the domestic tourism data were included, it would not address the core issue of whether customers would switch at sufficient scale away from rafting in response to a SSNIP; and
  - 31.4. apparent participation by tourists in multiple activities may not necessarily reflect substitution between those activities. IVS data may show bundling of tourism activities but it cannot distinguish complements from substitutes, limiting the conclusions that can be drawn about demand-side substitution.
32. In relation to the Campermate data,<sup>26</sup> similar limitations to MBIE’s IVS data apply. The data reflects the behaviour of campervan users, who are likely to represent only a subset of tourists visiting Rotorua. More fundamentally, the data does not provide insight into substitution involving rafting. At most, it reflects camper parking choices, which may be influenced by a range of factors unrelated to tourism activity selection, such as parking fees, scenery, or access to amenities.
33. In relation to the Rotorua i-Site survey [ ],<sup>27</sup> we note that i-SITE visitors represent a subset of tourists who actively seek advice from visitor information centres. Other tourist groups—such as pre-booked package tourists or repeat visitors—are therefore likely to be under-represented. It is unclear what proportion of tourists primarily rely on i-Site to make booking or switching decisions. Accordingly, any reported “switching” may reflect advisory interactions

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<sup>24</sup> In the Application, the Parties submit MBIE’s IVS data for the period July 2024 to June 2025 and in response to the Sol submit similar data for 12 months to 30 September 2025. See the Application at [55]-[56] and submission on the Sol from the Parties (4 March 2026) at [51].

<sup>25</sup> Commerce Commission interview with [ ], Commerce Commission interview with [ ], Commerce Commission interview with [ ], Commerce Commission interview with [ ] and Commerce Commission interview with [ ].

<sup>26</sup> Submission on the Sol from the Parties (4 March 2026) at [53].

<sup>27</sup> E-mail from A&B Lawyers (on behalf of Rafting JV Co) to the Commerce Commission (1 March 2026) and submission on the Sol from the Parties (4 March 2026) at [59].

rather than the behaviour of marginal consumers responding to relative price changes.

34. In relation to the Rotorua NZ research, which sought to identify what first comes to mind when tourists think of Rotorua,<sup>28</sup> we agree with the Parties that this information does not address whether tourists would substitute between rafting and other tourism experiences in response to a relative price increase.
35. With respect to short booking lead times, we do not consider these to be determinative of rafting not being a “must-do” activity. Booking lead times may be influenced by a range of factors, including weather conditions, the availability of multiple booking channels, and frequent departure times. These factors may themselves incentivise shorter booking lead times.
36. Overall, we consider that the submissions from the Parties and market participants did not provide reliable evidence on the key market definition questions we posed in the Sol.

#### **Our current view on the relevant market**

37. For the purposes of assessing the likely competitive effects of the Proposed Merger it is not necessary to reach definitive conclusions on the precise boundaries of the relevant market(s).
38. However, rather than defining a rafting market as we indicated in the Sol, we now consider rafting within a broader differentiated adventure tourism market, recognising that some adventure activities may represent more feasible alternatives for customers than others (we discuss this further below). While this market is broader than guided rafting trips alone, the current evidence is insufficient to identify with precision which specific adventure tourism activities exert the strongest competitive constraints on rafting, or which are the closest substitutes for guided rafting trips.
  - 38.1. Therefore, rather than defining the precise boundaries of the relevant market(s), we consider it appropriate to assess the Proposed Merger with respect to the closeness of competition between the Parties within a broader differentiated Rotorua adventure tourism market.
  - 38.2. The Rotorua adventure tourism market is differentiated along dimensions such as price, duration, and the level of thrill or adventurousness. These characteristics mean that some adventure tourism activities may be weak substitutes to guided rafting services, while others may be closer substitutes, reflecting tourists’ diverse and individual preferences.
  - 38.3. In differentiated product markets, a product may compete more closely, and therefore be a closer substitute with some products than with others.<sup>29</sup> This is particularly relevant in adventure tourism, where product offerings vary

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<sup>28</sup> Submission on the Sol from the Parties (4 March 2026) at [61]-[63].

<sup>29</sup> Mergers and Acquisitions Guidelines above n8 at [3.11].

materially along dimensions of price, duration and level of thrill or adventurousness.

39. For completeness, our competition analysis considers the strength of competitive constraints on the merged entity from all sources, both within and outside the relevant market(s). This includes any competitive constraints imposed by other adventure tourism activities and by rafting operators located outside of Rotorua.
40. We discuss, in turn below, our current views on the product dimension of the relevant market(s), the geographic scope of the relevant market(s) and the customer dimension of the relevant market(s), with reference to the evidence before us.
41. We invite submissions on our current approach to market definition and, in particular, invite the Parties and other interested parties to provide any further relevant evidence on the extent to which guided rafting trips are substitutable with other adventure tourism activities.

### **Product dimension**

42. As set out in the Sol, our assessment of the product dimension of the relevant market has focused primarily on demand-side substitution rather than supply-side substitution. This is because we consider that suppliers of other tourism activities would not be able to switch easily, profitably or quickly to supplying guided rafting trips in response to a SSNIP, particularly given the uncertainty associated with obtaining the necessary Department of Conservation (DOC) concession.
43. In assessing the product dimension of the market(s) and the extent of demand-side substitutability between different tourism activities, we have been considering:
  - 43.1. Whether a sufficient number of marginal customers would regard other tourism activities as close substitutes for guided rafting, rather than complements, in response to a price increase or quality decrease taking into account differences in individual customer preferences; and
  - 43.2. how visitors to Rotorua would consider substituting between different tourism activities in response to a price increase or quality decrease, and the relative importance of factors such as cost, time, type of experience and nature of the activity (ranging from relaxed or scenic through to high adrenaline or extreme adventure) in determining the degree of substitutability between different activities.

### *Our current view*

44. Adventure tourism offerings in Rotorua are highly differentiated. Although alternative adventure activities compete to some degree for visitors' time and discretionary spending, this does not necessarily imply close demand-side substitution with guided rafting trips to defeat a SSNIP.
45. For the purposes of this SoUI, we have not reached any definitive conclusions on the product dimension. We have been unable to obtain reliable evidence on switching patterns of visitors to Rotorua across different tourism experiences in response to

relative price increases. The broad range of individual customer preferences has also made it challenging to define the scope of the relevant markets. Therefore, rather than defining the precise boundaries of the relevant market, our competition analysis focuses on the closeness of competition between the Parties, and the competitive constraints that the merged entity would face from other tourism operators, in particular adventure tourism activities.

46. While we have not reached any definitive conclusions on the precise product dimension, we do not consider it to be as broad as a market for all tourism experiences as submitted by the Parties. A thrilling rafting experience on a grade 5 rapid on the Kaituna River is unlikely to be a close substitute for more relaxed or less adventurous activities (such as the thermal pools), which offer fundamentally different experiences. We acknowledge, however, that tourist perceptions of adventurousness and substitutability vary depending on individual preferences and that activities may be viewed as more or less adventurous or scenic depending on personal preferences.
47. At the same time, we consider that the relevant market is likely broader than a narrow market for guided rafting trips on the Kaituna River. This is because tourists seeking high adrenaline or thrill-based activities in Rotorua appear to have some broadly comparable alternatives to rafting on the Kaituna River, including activities such as jet boating or ziplining. Consistent with this, most industry participants we engaged with did not consider that there was a narrow market limited to rafting activities on the Kaituna River.
48. Based on the data provided by the Parties in the Application,<sup>30</sup> our analysis of the price variance<sup>31</sup> between rafting and other tourism activities in Rotorua (as a proxy for potential substitution, all other things being constant) indicates that only a small number of activities are priced within 10% of a rafting trip. These include Zorb, Redwood's combo (zip and walk), and the Skyline combo (gondola, Skyswing and three luge rides).<sup>32</sup> However, when we examine substitution from a duration perspective (again holding other factors constant), a different set of activities appear comparable. There is no consistent overlap between activities that are similar to rafting in price and those that are similar to rafting in duration. In other words, activities that are price-comparable are not necessarily comparable in terms of time commitment (duration). For instance:
- 48.1. while Zorb and rafting are similarly priced (within a 10% price variance), a tourist with only one hour available is unlikely to view rafting—which typically

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<sup>30</sup> The Application at [59].

<sup>31</sup> Price variance measures how much prices differ across firms, products, customers, or time. In theory, low price variance may suggest that firms compete more closely on price and high price variance may be consistent with weak price competition. Tourism activities with lower price variances are therefore likely to compete more closely with the rafting activities of the Parties. However, we recognise price variance is a weak and potentially inconclusive indicator of competitive closeness between the Parties and their competitors. This is because prices vary for many reasons (eg, duration of the trip and thrill level of the activity). We also understand from economic theory that close competitors may still exhibit high price variance in circumstances where they target different customer segments.

<sup>32</sup> Commerce Commission's calculation based on the Application at [59].

takes around two and a half hours including travel time—as a viable alternative;

- 48.2. similarly, Katoa Jet differs materially from rafting in terms of duration. While its price differs by approximately 20% relative to rafting, the experience lasts around 30 minutes, compared with rafting which requires two and half hours including travel time. This material difference in time commitment may limit its attractiveness as a substitute;
  - 48.3. by contrast, the Original Canopy Tour is more closely aligned with rafting in terms of duration (with an estimated 17% difference). However, it is priced approximately 36% higher than rafting. This price differential may limit substitution, particularly for more price-sensitive tourists, even if they have sufficient time available.
49. Overall, given the multi-dimensional factors that tourists consider when selecting activities—such as price, duration, and thrill level—it remains unclear which alternative activities a sufficient number of tourists would regard as viable substitutes for rafting to defeat a SSNIP. As a result, we are unable to identify a clear and consistent set of tourism activities that would meaningfully constrain rafting demand through substitution.
  50. Our current view is therefore that the Parties operate within a differentiated market for adventure tourism services, in which rafting competes more closely with some adventure activities than with others. On this basis, we consider it appropriate to assess the Proposed Merger within a broader adventure tourism market, rather than a market limited solely to rafting. However, consistent with the differentiated nature of that market, the available evidence does not allow us to identify with confidence which particular adventure tourism activities impose the most significant competitive constraints on rafting or represent the closest substitutes for guided rafting experiences.
  51. We seek further evidence from industry participants relevant to assessing demand side substitution under a hypothetical monopolist (SSNIP) framework for the product dimension of the relevant market(s). In particular, we invite submissions and evidence:
    - 51.1. on whether, and to what extent, tourists would switch from guided rafting experiences to other tourism activities (including the actual alternative activities) in response to a small but significant non-transitory increase in the price of guided rafting trips, and whether any such switching would occur at a scale sufficient to render the price increase unprofitable;
    - 51.2. on whether, and to what extent, rafting operators take account of the prices, quality, or marketing strategies of other tourism activity providers when setting their own pricing or promotional strategies, as an indicator of competitive constraint at the product-market level; and
    - 51.3. demonstrating whether rafting operators have historically gained or lost customers or revenue to other tourism activity providers following relative

price increases or decreases, and whether such responses reflect substitution between rafting and other tourism products.

### **Geographic dimension**

52. Consistent with the approach taken in the Sol, we currently consider the competition issues arising from the Proposed Merger are best assessed and isolated by defining the geographic scope of the market as Rotorua. This reflects both the location of the Parties and the area in which their rafting operations are undertaken.
53. In assessing the geographic scope of the market, we have been investigating the extent to which customers would switch between rafting in Rotorua and rafting or other tourism activities in alternative locations outside Rotorua in response to a relative change in price or quality. In particular, we have been considering:
- 53.1. whether location materially affects the closeness of competition between rafting operators and whether rafting operators in Rotorua compete more closely with each other than with tourism operators located elsewhere;
  - 53.2. the proportion of tourists who visit Rotorua exclusively compared with those who travel to other parts of New Zealand where alternative guided rafting experiences may be available; and
  - 53.3. the extent to which the merged entity's offering(s) differ from rafting and adventure tourism offerings available in other locations, and whether any such differences influence the degree of substitution between regions.

### *The Parties' submissions on geographic market*

54. In response to the Sol, the Parties submit that the Sol overlooks the constraint that tourism experiences outside of Rotorua impose on tourism experiences in Rotorua, in the competitive effects analysis. Further, the Parties submit that the Sol misunderstands tourism markets and how they differ from other markets in the economy.<sup>33</sup>
55. The Parties submit that the evidence in the Sol gathered by the Commission demonstrates that:<sup>34</sup>
- 55.1. competition between tourism experiences is national, not regional;
  - 55.2. tourists substitute between activities in different regions; and
  - 55.3. Queenstown (as the adventure capital of New Zealand) is a direct constraint on Rotorua, especially for adventure activities.

### *Our current view*

56. Similar to our assessment of the product dimension, it is not necessary to reach definitive conclusions on the precise boundaries of the relevant geographic market.

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<sup>33</sup> Submission on the Sol from the Parties (4 March 2026) at [81].

<sup>34</sup> Submission on the Sol from the Parties (4 March 2026) at [90].

For the purposes of identifying and isolating any potential competitive effects of the Proposed Merger, our analysis has focused on Rotorua (see Figure 1 in our Sol). In our view, the relevant geographic market is unlikely to extend beyond Rotorua. While the Parties have submitted that rafting operations elsewhere in New Zealand, specifically in Queenstown, are close competitors to rafting in Rotorua, feedback from rafting operators located outside of Rotorua does not support this position.<sup>35</sup>

57. There is currently no evidence before us to indicate that the Parties compete with rafting operators located outside of Rotorua, or that their guided rafting services are supplied in a market that is geographically broader than Rotorua. While some visitors to Rotorua may also travel to other parts of New Zealand and could, in theory, undertake rafting activities in other regions, customers would likely incur significant costs in switching to rafting operators in other North Island locations (eg, Turangi, Napier and Taihape) or South Island locations (eg, Queenstown) in response to a price increase or quality decrease by the merged entity.
58. To assess whether other adventure tourism activities (including rafting) in different regions may be considered as viable alternatives to each other, we compared prices across regions as a proxy for determining whether tourists could reasonably switch locations in response to a price increase or quality reduction. A guided rafting trip in Tongariro is approximately 47% more expensive than in Rotorua, and prices in Queenstown are up to 120% higher (for the Shotover Jet). Similar pricing differentials are observed for other adventure activities such as Zipline, off-road 4x4 driving and Skyline Gondola, with Rotorua offerings generally priced significantly below comparable activities in Queenstown.
59. Overall, this evidence suggests that for tourists seeking adventure activities, particularly those available in both regions, Rotorua represents a substantially lower-cost option relative to Queenstown, making it unlikely that tourists would respond to a price increase by switching to another region. In addition, tourist decision-making is influenced by a range of factors beyond price alone. Rotorua and Queenstown each offer distinct and non-replicable attractions (for example, Rotorua's geothermal and Māori cultural experiences that are not present in Queenstown). The reverse is also true (for example, HydroAttack). As a result, the degree of substitutability between adventure tourism activities in different regions is likely to be limited.
60. We received feedback from rafting operators based outside of Rotorua confirming that they do not compete with operators in Rotorua:
- 60.1. [ ] indicated that it does not explicitly monitor the pricing of other operators including rafting trips offered by the merging parties.<sup>36</sup>

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<sup>35</sup> Commerce Commission interview with [ ], Commerce Commission interview with [ ], Commerce Commission interview with [ ] and Commerce Commission interview with [ ].

<sup>36</sup> Commerce Commission interview with [ ]

- 60.2. [ ] indicated that its pricing decisions are based on the affordability of its offering given the grade and duration of the trip, rather than on the prices charged by competitors.<sup>37</sup>
- 60.3. [ ] indicated it considers operating costs and does not go through the price of competitors; it did note that if it was too expensive people would not raft with it as there needs to be value there.<sup>38</sup>
- 60.4. [ ] told us that it does not compete with any tourism operators in Rotorua and that its competitive focus is limited to Queenstown-based operators.<sup>39</sup>
- 60.5. [ ] indicated that its closest competitors are in Queenstown and it does not compete with rafting operators in Rotorua “at all”.<sup>40</sup>

61. Taken together, this evidence indicates that rafting operators located outside of Rotorua are not viable substitutes for, and do not impose a meaningful constraint on Rotorua-based rafting operators. Accordingly, any potential competitive effects of the Proposed Merger are appropriately assessed with a focus on Rotorua.
62. We seek further evidence from industry participants relevant to assessing whether a small but significant non-transitory increase in the price of guided rafting in Rotorua would prompt sufficient customer switching to guided rafting or other tourism activities in other regions to render the price increase unprofitable.

### Customer dimension

63. Consistent with our view in the Sol, we have not concluded on the existence or scope of any separate customer markets. Instead, we have considered the Proposed Merger in a single market including all sales channels. This is because we do not have any evidence indicating that the Parties have the either the ability or incentive to engage in price discrimination across distinct customer groups.
64. We have not received any submissions or evidence on this point in response to the Sol and therefore we have no basis to alter our preliminary views expressed in the Sol. However, we still welcome submissions on the customer dimension of the market.

### With and without scenarios

65. Assessing whether a substantial lessening of competition is likely requires us to:
- 65.1. compare the likely state of competition if the Proposed Merger proceeds (the scenario with the merger, often referred to as the factual) with the likely

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<sup>37</sup> Commerce Commission interview with [ ]

<sup>38</sup> Commerce Commission interview with [ ].

<sup>39</sup> Commerce Commission interview with [ ].

<sup>40</sup> [ ] response to RFI (7 April 2026).

state of competition if it does not (the scenario without the merger, often referred to as the counterfactual); and

- 65.2. determine whether competition is likely to be substantially lessened by comparing those scenarios.

### **With the Proposed Merger**

66. With the Proposed Merger, the Parties would combine the assets and operations of their rafting and sledging activities in Rotorua under a new company, Rafting JV Co.<sup>41</sup> Absent new entry, the merged entity would be the only provider of guided rafting trips in Rotorua.

### **Without the Proposed Merger**

67. The Parties submit that absent the Proposed Merger, the Parties would continue to operate their businesses independently, and that they would each need to develop a strategy to deal with the dual challenge of increased DOC concession fees and the less predictable revenue flows associated with climate-related closures.<sup>42</sup>
68. We consider that under a counterfactual in which three rafting companies remain in the relevant market, any price increases that reflect increasing costs are likely to be lower than would be expected in a scenario in which the market is reduced to a single supplier of rafting services in Rotorua. Currently the Parties are the only three suppliers of rafting services in Rotorua, and we consider they compete closely, as discussed below.
69. Our current view is that it is appropriate to assess the Proposed Merger against a status quo counterfactual where the Parties continue to compete separately. There is no evidence currently before us of any other likely counterfactuals.

### **Horizontal unilateral effects**

70. Horizontal unilateral effects arise when a firm merges with a competitor that would otherwise provide a significant competitive constraint (particularly relative to remaining competitors) such that the merged firm can profitably increase prices above (and/or reduce quality below) the level that would prevail without a merger.<sup>43</sup>

### **Summary of what we said in Sol**

71. In the Sol, we were not satisfied that the Proposed Merger would not substantially lessen competition in a market for guided rafting trips in Rotorua due to unilateral effects, whereby:<sup>44</sup>
- 71.1. the merged entity would have the ability to increase the price of rafting trips and/or reduce the quality of the offering; and

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<sup>41</sup> The Parties' current working legal name for Rafting JV Co is Rotorua Rafting Holdings Limited and it is intended that the Parties will operate Rafting JV Co's business under a single brand. See the Application at [7].

<sup>42</sup> The Application at [36]-[37].

<sup>43</sup> Mergers and Acquisitions Guidelines above n8 at [3.62].

<sup>44</sup> The Sol at [75].

- 71.2. the Proposed Merger (being a merger to monopoly in a narrow rafting market) could also in and of itself deter potential new entrants from entering the market. In a market characterised by high barriers to entry, a monopoly position may make entry less attractive by increasing the risk of strategic responses by the merged entity such as leveraging market power through engaging in retaliatory pricing or targeted discounts. These factors may discourage entry and entrench a monopoly position. Although monopoly rents may, in principle, create an incentive for new entry, the high barriers to entry and relatively small size of the rafting market in Rotorua may not provide sufficient scale for a new entrant to compete against the only rafting provider in Rotorua.
72. We concluded that based on the evidence gathered by the date of the Sol:<sup>45</sup>
- 72.1. the Parties are each other's closest competitors and impose significant competitive constraint on one another. With the Proposed Merger, the existing competitive constraint that each of the Parties provide on each other, would be lost;
- 72.2. other existing rafting operators outside of Rotorua would not be likely to materially constrain the merged entity and prevent a substantial lessening of competition due to the differentiation in their offerings, and geographic focus;
- 72.3. while the Parties likely face a degree of competitive constraint from other tourism operators in Rotorua (more so, adventure tourism operators), the extent and strength of this constraint is unclear, and our preliminary view is that constraint from other tourism operators in Rotorua is unlikely to materially constrain the merged entity;
- 72.4. there may be barriers to entry, in particular due to a restriction on the number of DOC concessions available for operators on the Kaituna River under DOC concessions;
- 72.5. even if concessions for additional Kaituna River rafting operations were available, we have not identified any appetite amongst other existing rafting operators outside of Rotorua or other tourism operators (both in and outside of Rotorua) to expand or otherwise enter the market to start offering rafting trips on the Kaituna River; and
- 72.6. it is unclear whether wholesalers, agents, resellers and tour operators have countervailing power, and if they do, whether they would have the ability and/or incentive to use it to constrain the merged entity.

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<sup>45</sup> The Sol at [76].

### The Parties' submissions

73. In the Application, the Parties submit that the Proposed Merger would not be likely to substantially lessen competition due to unilateral effects because, in a broad adventure tourism or tourism market:<sup>46</sup>
- 73.1. the merged entity would be constrained by the variety of tourism experiences available to tourists in Rotorua, especially given that rafting accounts for 1% of visitor days and revenue in the Rotorua tourism market (or 20% in a narrower Rotorua adventure tourism market);
  - 73.2. the merged entity would also be constrained by the ability of tourists to switch to other adventure tourism offerings throughout New Zealand, even if these fall outside of the market;
  - 73.3. this out of market constraint includes 29 other rafting operators in New Zealand; and
  - 73.4. even if the Parties are wrong and the merged entity was able to raise prices without being constrained by other tourism experiences, then a new operator (either a new entrant or an existing rafting operator expanding to Rotorua) could be expected to enter and compete away those price increases as there are no significant barriers to entry.
74. In response to the Sol, the Parties further submit that the Sol understates the constraints the merged entity would face from other tourism operators in Rotorua. The Parties submit that the reasoning in the Sol is limited to the assertion that these other activities are differentiated experiences, and therefore unlikely to materially constrain the merged entity with no further analytical basis provided.<sup>47</sup> The Parties submit further that:<sup>48</sup>
- 74.1. differentiation does not preclude strong demand-side substitution;
  - 74.2. evidence from non-experience operators (ie, industry participants like [ ] confirm that providers are competing with each other to win tourists, despite their differentiation. The Parties submit that these non-experience operators have an element of distance away from how each provider is trying to position themselves in the market and provide an insight into tourist behaviour;
  - 74.3. the Sol overstates the evidence which suggests a lack of competition. The absence of evidence that other providers view themselves as close competitors to rafting, does not mean that other providers do not impose a material competitive constraint. When all the evidence is viewed in totality, it is consistent that from a supply side perspective, providers try to differentiate themselves in a highly competitive marketplace. All providers confirm they are competing for tourist's time and money against all other tourism

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<sup>46</sup> The Application at [68]-[69], [71], [75] and [79]-[86].

<sup>47</sup> Submission on the Sol from the Parties (4 March 2026) at [70].

<sup>48</sup> Submission on the Sol from the Parties (4 March 2026) at [71] and [75]-[80].

activities. The Parties add that, from a demand side perspective, none of this suggests that tourists would not substitute between activities when price and service quality changes; and

- 74.4. the Sol does not consider operators' ability to reposition or new entry. The Parties note that Rotorua NZ advised us that barriers to entry in Rotorua are low. The Parties submit that these conditions would enable existing providers to adjust their offering to shift perceived differentiation in response to competitive pressure, the Sol does not assess this ability despite its relevance to understanding competitive constraint in a differentiated market.

### **Current view**

75. We continue to explore the issues set out in this SoUI. However, having considered submissions and evidence received both before and after the Sol, we are currently not satisfied that the Proposed Merger would not substantially lessen competition due to horizontal unilateral effects. In particular, we have remaining concerns that the Proposed Merger may lead to higher prices or a reduction in quality or customer choice. This is because:

- 75.1. we consider that the Parties are each other's closest competitors and currently impose a significant degree of constraint on each other. With the Proposed Merger, this constraint would be lost;
- 75.2. there may be barriers to entry, in particular due to a restriction on the number of DOC concessions available for operators on the Kaituna River. We consider that the merged entity is unlikely to be meaningfully constrained by the threat of new entry into guided rafting services in Rotorua;
- 75.3. while the Parties compete more closely with each other, the evidence suggests that the merged entity would likely face a degree of competitive constraint from other tourism operators in Rotorua. However, we currently have insufficient evidence to identify which, if any, of these operators compete closely enough with guided rafting services to constrain the merged entity, or to be satisfied that any such constraints would be sufficient to prevent the merged entity from increasing prices or decreasing quality;
- 75.4. we consider that existing rafting operators outside of Rotorua are unlikely to materially constrain the merged entity and prevent a substantial lessening of competition due to the differentiation in their offerings, and geographic focus; and
- 75.5. it is unclear whether wholesalers, agents, resellers and tour operators have countervailing power, and if they do, whether they would have the ability and/or incentive to use it to constrain the merged entity.

### *Closeness of competition*

76. In assessing the closeness of competition between the Parties and the competition that would be lost with the Proposed Merger, we have been investigating the degree

of constraint that the Parties impose on one another. In doing so we have considered:

- 76.1. the degree of similarity and differentiation between the Parties' offerings; and
- 76.2. pricing patterns and similarities over time.

#### What we said in the Sol and submissions received

- 77. In the Sol we expressed the view that the Parties offer very similar, if not identical products (ie, grade 5 guided rafting down the same part of the Kaituna River). The offerings are of a similar, if not identical duration and the Parties appear to service broadly the same types of customers including families, school groups and tour groups.<sup>49</sup>
- 78. We also considered that the Parties currently, and have historically, priced their offerings at similar levels.<sup>50</sup>
- 79. The Parties did not submit on this point in response to the Sol.

#### Our current view

- 80. The Parties compete closely in the supply of guided rafting services in Rotorua, as evidenced by their broadly aligned pricing and the materially similar rafting experiences they offer. This existing competitive rivalry between the Parties would be eliminated as a result of the Proposed Merger.
- 81. The Parties are the only rafting operators in Rotorua. With the Proposed Merger, the merged entity would have no other existing competitors in the supply of guided rafting services in Rotorua.
- 82. We are continuing to assess the degree of competition between the Parties and invite submissions on this point. In particular, we welcome submissions on:
  - 82.1. how the Parties have historically responded to each other's competitive actions, following price increases and/or decreases in quality of the offering; and
  - 82.2. the extent of competition between the Parties that would be lost with the Proposed Merger, compared to a counterfactual where the Parties continue to supply guided rafting trips on the Kaituna River, independently and in competition with each other.

#### *Entry by new rafting operators in Rotorua is unlikely*

- 83. To constrain an exercise of market power by the merged entity, entry or expansion in response to a price increase or other exercise of market power by the merged entity has to be likely, sufficient in extent, and in a timely fashion, satisfying what is

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<sup>49</sup> The Sol at [78]-[79].

<sup>50</sup> The Sol at [81].

termed the 'LET test'.<sup>51</sup> While we look at evidence of whether parties are already planning to enter or expand (and consider the impact of that entry or expansion), what matters for our analysis is whether entry and expansion in addition to that already planned would be likely if prices increased post-acquisition.<sup>52</sup>

84. We have considered both the conditions of entry and expansion, and also whether entry or expansion is likely.

What we said in the Sol and submissions received.

85. In the Sol we expressed the view that there appear to be material barriers to obtaining a DOC concession to supply commercial rafting trips on the Kaituna River. We also noted that we were not aware of any likely new entrants.<sup>53</sup>
86. In the Application, the Parties submit that the supply of tourist rafting trips on the Kaituna River requires rafts and associated equipment, leasing a location to operate from, marketing, employing or contracting rafting guides (who need to hold a National Raft Guide qualification), a DOC concession to operate on the Kaituna River and registration with WorkSafe as an adventure activity operator under the Health and Safety at Work (Adventure Activities) Regulations 2016. The Parties further submit that a rafting operation with four rafts could be established for less than \$100,000 and very little of which would be sunk costs.<sup>54</sup> The Parties further submit that:<sup>55</sup>
- 86.1. while entering the market would be a non-trivial undertaking, a new operator would not need to incur upfront sunk capital costs to enter;
- 86.2. although there would be competition for raft guides, they can switch operators easily and so access to raft guides is unlikely to be a barrier to entry – raft guides tend to work by season and can be sponsored from overseas to work in New Zealand;
- 86.3. there are currently four concessions for rafting on the Kaituna River and the Parties have no reason to believe that a concession would not be granted to an appropriate operator post-merger;<sup>56</sup> and

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<sup>51</sup> Mergers and Acquisitions Guidelines above n8 at [3.95]-[3.96].

<sup>52</sup> Ibid at [3.99].

<sup>53</sup> The Sol at [96].

<sup>54</sup> The Application at [71]-[86].

<sup>55</sup> The Application at [80]-[81] and [83]-[84].

<sup>56</sup> Post-merger, the Parties expect to continue operating under their existing concessions (subject to any approvals required). The Parties  
[

]. See e-mails from A&B Lawyers (on behalf of Rafting JV Co) to the Commerce Commission (12 December 2025) and (3 February 2026).

- 86.4. the presence of numerous adventure tourism operators in New Zealand suggests that the health and safety requirements do not pose a significant barrier to entry.
87. In response to the Sol, the Parties submit that they acknowledge our focus in assessing a potential new entrant's ability to gain consent to operate on the Kaituna River. However, the Parties note that they have a different perspective on the ease of entry and consider it more feasible than suggested in the Sol. The Parties submit they are willing to surrender the [ ] DOC concession if necessary to obtain clearance.<sup>57</sup>
88. The Parties also submit that the Sol does not sufficiently consider the potential for repositioning by existing operators or the prospect of new entry. The Parties note that Rotorua NZ advised us that barriers to entry in Rotorua are low. On this basis, the Parties submit that existing tourism providers may be able to adjust or reposition their offering in response to competitive pressure, thereby reducing perceived differentiation. The Parties consider this ability is relevant to assessing competitive constraint in a differentiated market and has not been assessed in the Sol.<sup>58</sup>

#### Our current view

89. In assessing the constraint from new entry or expansion by rafting operators, we are considering:
- 89.1. the conditions of entry/expansion; and
- 89.2. the likelihood of entry/expansion, including in response to an exercise of market power by the merged entity.
90. Based on the evidence currently before us (discussed below) we consider that the merged entity is unlikely to be constrained by new entry into the supply of guided rafting services in Rotorua. There is currently no evidence to suggest that entry or expansion by existing or new tourism operators would be likely, sufficient in extent, and timely in response to an exercise of market power by the merged entity.
91. To the extent relevant, we have considered expansion by other tourism operators as part of our assessment of the constraint provided by such operators.

#### Conditions of entry/expansion to offer rafting

92. As set out in the Sol, rafting is an adventure activity governed by the Adventure Activities Regulations.<sup>59</sup> As such, any commercial rafting business is required to register with WorkSafe as an 'adventure tourism operation' and becomes subject to the Health and Safety and auditing requirements under the Health and Safety at Work Act 2015. One condition of entry is therefore a need to comply with Worksafe registration requirements.

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<sup>57</sup> Submission on the Sol from the Parties (4 March 2026) at [14].

<sup>58</sup> Submission on the Sol from the Parties (4 March 2026) at [80].

<sup>59</sup> Health and Safety at Work (Adventure Activities) Regulations 2016.

93. Another condition of entry is the need to have a DOC concession to commercially raft on the Kaituna River.<sup>60</sup> The Parties currently hold all of the concessions for Kaituna River rafting,<sup>61</sup> which they intend to continue using post-merger.<sup>62</sup>
94. Our investigation has revealed that the Lake Rotoiti Scenic Reserve Board (the Board) consider the Kaituna River to be at capacity and that additional concessions granted by DOC/in consultation with the Board are unlikely to be available, over and above the concessions already held by the Parties. In addition, we understand that a concession cannot be assigned as of right to a third party, and would require the consent from DOC.
95. In considering an application for a new concession or on being approached for permission to transfer an existing concession, DOC consults with relevant stakeholders. For rafting on the relevant section of the Kaituna River, within the Okere Falls Scenic Reserve, the Board would be consulted.<sup>63</sup> We understand that concessions on the Kaituna River are generally granted for 10 years, with three yearly 'rent reviews' for assessment of the DOC fee.<sup>64</sup>
96. Evidence before us indicates that there may be restrictions around the number of commercial operators that may be granted concessions on the Kaituna River.<sup>65</sup> The Board has indicated that under its new Reserve Management Plan (which is due to be finalised in 2027), it would likely limit its approval to five concessionaires being able to operate on the Kaituna River at any one time. This is based on the following:<sup>66</sup>
- 96.1. five concessionaires is the number of operators that it is able to comfortably manage and monitor;
- 96.2. its strong preference reflects a tikanga-based limit informed by mātauranga Māori, generations of observation by mana whenua, and long-standing experience of cumulative impacts on the river system - the limit seeks to

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<sup>60</sup> Commerce Commission interview with DOC (24 November 2025) and Commerce Commission interview with Lake Rotoiti Scenic Reserve Board (2 December 2025).

<sup>61</sup> Currently held concessions can be assigned to a new party (the assignee). The Assignee would then be granted the benefits of each concession enabling them to operate under the terms and conditions of each concession assigned. The assignment process would not merge the five concessions into one though, therefore the Assignee would be operating the 5 concessions individually (with the associated fees for five concessions). An assignment does not sever the liability for the Assignor. This is to ensure that the terms and conditions of the concession are met throughout the term of the concession. Alternative to an assignment, the original concessions can be surrendered, and a new application can be made by the new party. This way there is no liability for the current concession holders. E-mail from DOC to the Commerce Commission (29 January 2026).

<sup>62</sup> The Parties have told us that the concession previously held by River Rats has been reassigned/transferred to Rotorua Rafting as part of the completed acquisition, subject to DOC approval and timing. E-mails from A&B Lawyers (on behalf of Rafting JV Co) to the Commerce Commission (9 December 2025) and (3 February 2026).

<sup>63</sup> As per the Māori Purposes Act 1931 and the Reserve Act 1977.

<sup>64</sup> Commerce Commission interview with DOC (24 November 2025).

<sup>65</sup> As outlined earlier, following the acquisition of River Rats concession/operating rights by Rotorua rafting, the merged entity would hold all of the active concessions for rafting on the Kaituna River.

<sup>66</sup> Commerce Commission interview with Lake Rotoiti Scenic Reserve Board (2 December 2025) and e-mail from Lake Rotoiti Scenic Reserve Board to the Commerce Commission (7 January 2026).

protect the mauri, wairua, and whakapapa of the river, while also upholding manaakitanga by ensuring safety, quality experiences, and respect for both people and the environment;

- 96.3. capacity assessments draw on mana whenua mātauranga, the practical knowledge of guides who work daily on the river, ecological science, and long-standing community experience; and
  - 96.4. conditions of existing concessions (ie, limits on frequency of trips, party size, and seasonal operations) are central to its assessment of river pressure and will continue to guide future decision-making and are reviewed through monitoring of river use, cultural safety considerations, incident and near-miss information, environmental indicators, and feedback from hapū, iwi, DOC, community groups, local community boards, and regional and district councils.
97. The Board noted that any application for an additional concession would:<sup>67</sup>
- 97.1. require exceptional justification;
  - 97.2. need to demonstrate how it reduces overall pressure on the river, adds cultural value, and strengthens the wellbeing of Te Awa o Ōkere, rather than simply increasing competition; and
  - 97.3. be required to include demonstrable alignment with kaitiakitanga and tikanga, clear support from hapū and iwi with mana whenua, tangible environmental enhancement, and meaningful community benefit.
98. In turn, we expect that those factors would likely influence any decisions by DOC on whether to issue any further concessions or give consent to the transfer of a concession.<sup>68</sup>

#### Likelihood of entry/expansion to offer rafting

99. The current evidence does not allow us to be satisfied that entry or expansion would be likely, and sufficient in extent and timeliness to constrain the merged entity. As indicated in our Sol, there is no real indication that any existing tourism operators in Rotorua would seek to capitalise on any potential increase in price or reduction in quality by the merged entity and expand into offering guided rafting trips.<sup>69</sup> Further, we have not seen any evidence to indicate that rafting operators based elsewhere in New Zealand would seek to capitalise on any potential increase in price or reduction in quality by the merged entity and expand existing operations into Rotorua.
100. Based on the factors listed above, we cannot be satisfied given our understanding of the regulatory framework that consent for a transfer or for any new concessions is

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<sup>67</sup> E-mail from Lake Rotoiti Scenic Reserve Board to the Commerce Commission (7 January 2026).

<sup>68</sup> DOC indicated that in any situation where it receives an application for a new concession that it would work with the Board to assess a new application in alignment with any limits in the statutory planning documents. E-mail from DOC to the Commerce Commission (29 January 2026).

<sup>69</sup> The Sol at [103].

likely to be granted, particularly in a manner that is sufficiently timely to constrain the merged entity.

101. Even if further concessions (or the transfer of an existing concession) were available, there may be an additional condition of entry relating to resource consents. The Parties told us that they do not require a resource consent to operate commercial rafting trips on the Kaituna River.<sup>70</sup> Conversely, we have received some information to suggest that resource consents could be required in the future.<sup>71</sup> We are continuing to consider these points and whether resource consents could be a barrier to entry/expansion in the future.
102. We acknowledge the Parties' willingness to surrender the [ ] concession if that is necessary to obtain clearance.<sup>72</sup> However, even if there were an available concession, we currently still have insufficient evidence that the LET test would be satisfied.
103. We are continuing to assess and invite submissions on the barriers to entry for new rafting operators and the extent to which existing rafting operators may have the ability and/or incentive to expand their operations. This includes the extent to which other tourism operators might be incentivised to start offering guided rafting trips in Rotorua in response to the merged entity raising its price or reducing the quality of its services.

*Constraint from other Rotorua adventure tourism operators*

104. We are considering the level of constraint that other tourism operators currently impose and would likely impose on the merged entity in the future, including through potential expansion of their operations.
105. Although evidence indicates that the Parties compete more closely with each other than with any other adventure tourism operators (that is, the Parties are each other's closest competitors), they also appear to compete, to some degree, with other adventure tourism operators in Rotorua for tourist spend, and take some of those operators into account when setting prices. As a result, the merged entity may face some competitive constraint from other Rotorua-based adventure tourism activities. However, we currently have insufficient evidence to identify which, if any, of these operators compete closely enough with guided rafting services to constrain the merged entity, or to be satisfied that such constraints would be sufficient to prevent the Parties from increasing prices or decreasing quality.

What we said in the Sol and submissions received

106. In the Sol we considered that that there is likely some degree of competitive constraint imposed by other tourism operators in and around Rotorua. Evidence to date indicates that the Parties may compete with other tourism activities that are

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<sup>70</sup> E-mail from A&B Lawyers (on behalf of Rafting JV Co) to the Commerce Commission (19 November 2025).

<sup>71</sup> E-mail from Rotorua Lakes Council to the Commerce Commission (6 January 2026).

<sup>72</sup> Submission on the Sol from the Parties (4 March 2026) at [14].

similar in terms of duration, price, level of adventurousness and physical effort, customer demographic and accessibility of the offering. For example:

- 106.1. [ ] sees itself competing most closely with other [ ], but indicates its offering substitutable for a rafting trip alongside Redwoods Treewalk, Velocity Valley, Skyline Rotorua, and mountain biking for example.<sup>73</sup>
- 106.2. [ ] sees itself as competing against the Parties who fall within the same adventure set which includes the likes of Bungy and Velocity Valley's offerings for example.<sup>74</sup>
- 106.3. Tourism Industry Aotearoa submits that visitors typically choose between a range of activities, including rafting, ziplines, jet boating, mountain biking, scenic tours, and cultural experiences.<sup>75</sup>
- 106.4. [ ] sees itself as competing with other adventure related activities including rafting, Zorb and the Luge which have an adrenaline focus and are all competing with each other for a tourist to come to their activity.<sup>76</sup>
- 106.5. [ ] considers that [ ] competes with rafting to a point, although considers [ ] and [ ] to be its direct competitors based on the type of ride.<sup>77</sup>
- 106.6. [ ] considers that Zipline operators, Velocity Valley, Zorb, Adventure Playground, 4x4, Katoa Jet, rafting, Skyline, Tree Walks, Hells Gate, and Wonder World form part of the same adventure/soft adventure product set as part of a continuum, and are all competing for the same pool of customers, for peoples' time. It considers that rafting competes with all other adventure tourism operators.<sup>78</sup>
- 106.7. Contiki NZ submits that guests actively choose between a wide range of comparable adventure experiences throughout their journey; such as jetboating, bungy jumping, ziplining, skydiving, and geothermal sightseeing, depending on personal interest, price, and timing.<sup>79</sup>
- 106.8. [ ] considers that customers have limited budgets and are willing to substitute rafting for other activities such as Zorb, Skyline, Luge, or kayaking, noting that operators compete for inclusion in itineraries and for customers' limited budgets.<sup>80</sup>

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<sup>73</sup> Commerce Commission interview with [ ].

<sup>74</sup> Commerce Commission interview with [ ].

<sup>75</sup> Submission from Tourism Industry Aotearoa (26 November 2025).

<sup>76</sup> Commerce Commission interview with [ ].

<sup>77</sup> Commerce Commission interview with [ ].

<sup>78</sup> Commerce Commission interview with [ ].

<sup>79</sup> Submission from Contiki NZ (10 November 2025).

<sup>80</sup> Commerce Commission interview with [ ].

107. Conversely, some Rotorua-based tourism operators do not consider they compete closely, or at all with rafting operators in Rotorua. For example:
- 107.1. [ ] sees itself as competing with tourism activities of a similar price point and duration albeit does not consider that it competes with rafting products in Rotorua.<sup>81</sup>
- 107.2. [ ] sees itself as competing more closely with activities with the same 'hands on'/level of excitement and boutique product offerings with a higher price point such as Skydiving.<sup>82</sup>
- 107.3. [ ] sees itself as competing with every other tourism business in Rotorua for a tourist's time and money and considers the likes of [ ] in setting its prices. It does not view rafting in Rotorua as a direct competitor.<sup>83</sup>
- 107.4. [ ] sees itself as competing most closely with other land-based adventure activities including [ ] and distinguishes competition on rafting on the basis of it being a water-based activity.<sup>84</sup>
108. In the Sol we noted that while the Parties likely face a degree of competitive constraint from other tourism operators in Rotorua, the extent of this constraint was unclear based on the evidence we had received to date. At the time of the Sol, we were not satisfied that the constraint from other tourism operators in Rotorua would be likely to materially constrain the merged entity and prevent a substantial lessening of competition, including because tourism operators offer activities that are highly differentiated in terms of price, level of thrill and duration of activity.
109. In the Application, the Parties submit that the Proposed Merger would not be likely to substantially lessen competition due to unilateral effects because, in a broad adventure tourism or tourism market, the merged entity would be constrained by the variety of tourism experiences available to tourists in Rotorua, especially given that rafting accounts for 1% of visitor days and revenue in the Rotorua tourism market (or 20% in a narrower Rotorua adventure tourism market).<sup>85</sup>
110. As indicated in [74], in response to the Sol, the Parties submit that the Sol understates the constraints the merged entity would face from other tourism operators in Rotorua. The Parties submit that the reasoning in the Sol is limited to the assertion that these other activities are differentiated experiences, and therefore unlikely to materially constrain the merged entity with no further analytical basis provided.<sup>86</sup>

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<sup>81</sup> Commerce Commission interview with [ ].

<sup>82</sup> Commerce Commission interview with [ ].

<sup>83</sup> Commerce Commission interview with [ ].

<sup>84</sup> Commerce Commission interview with [ ].

<sup>85</sup> The Application at [68]-[69], [71], [75] and [79]-[86].

<sup>86</sup> Submission on the Sol from the Parties (4 March 2026) at [70].

Our current view

111. Based on the evidence before us (discussed below), we are currently not satisfied that competition from other adventure tourism operators would be sufficient to constrain the merged entity from profitably raising prices or decreasing quality. We consider that the Parties compete most closely, and face the greatest competitive constraint from, each other. By contrast, we currently consider that the Parties face a lower degree of competitive constraint from other adventure tourism operators.

112. We acknowledge that tourism operators that have similar characteristics to rafting are likely to provide more constraint on the merged entity. There is some evidence of general monitoring of a handful of other tourism activities by the Parties.

113. We also recognise that different tourists will also have a diverse range of individual preferences. We agree to some extent with the Parties submission that product differentiation does not preclude some degree of demand-side substitution, however current evidence indicates that the Parties face a greater degree of competitive constraint from tourism activities that:

113.1. are offered at a similar price point to a rafting trip on the Kaituna River;

113.2. involve similar time commitment to a rafting trip on the Kaituna River (duration);

113.3. target, or are suitable for a similar demographic to a grade 5 rafting trip on the Kaituna River (ie, families, school groups and/or tour groups);

113.4. offer a comparable level of adventure or adrenaline, or broadly similar experience to a grade 5 rafting trip on the Kaituna River; and/or

113.5. involve a similar level of physical effort or exertion on the part of the tourist to that required for a grade 5 rafting trip on the Kaituna River.

114. There is evidence that the Parties take into account the pricing of other tourism operators, as an input into setting the prices of their rafting trips, although this is anecdotal and not found in contemporaneous documentation.<sup>87</sup> However, there is insufficient evidence before us that the Parties have lost business to other tourism operators, or that they would do so in response to a price increase post-merger.

114.1. [

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114.2. [

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<sup>87</sup> PND meeting with the Parties (3 November 2025).

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114.2.1. [ ];

114.2.2. [ ]; and

114.2.3. [ ].

114.3. [ ].

115. There is mixed evidence with regards to whether Rotorua adventure tourism operators compare prices with other adventure tourism operators. Further, only two parties that we spoke with indicated that they consider rafting prices, for example:

115.1. [ ] indicated that it considers [

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115.2. [ ] indicated that it considers the pricing of [

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116. Conversely, other parties that we spoke with indicated that they did not consider rafting prices when setting their prices, for example:

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<sup>88</sup> E-mail from A&B Lawyers (on behalf of [ ]) to the Commerce Commission (1 April 2026).

<sup>89</sup> Commerce Commission interview with [ ] and e-mail from [ ].

<sup>90</sup> Commerce Commission interview with [ ].

116.1. [ ]

].<sup>91</sup>

116.2. [ ] indicated that it considers the pricing of [ ]  
[ ]<sup>92</sup>

116.3. [ ] indicated that [ ]<sup>93</sup>

116.4. [ ] indicated that it [ ]  
[ ]<sup>94</sup>

117. We have also considered whether the pricing of other tourism operators relative to the Parties tells us anything about the constraint provided by other tourism operators. While [ ] the Parties may have regard to the pricing of some select tourism operators, we note that the standard adult pricing of other adventure tourism operators is generally lower than that of the Parties.
118. As indicated in [48], our analysis of price and duration differences<sup>95</sup> between rafting and other tourism activities in Rotorua (used as a proxy for potential competitive constraints) indicates that some activities may be comparable to rafting in terms of price, while others are comparable in terms of duration. Given that tourists' choices are influenced by multiple dimensions—such as price, duration, and thrill level—it is not clear which activities would meaningfully constrain rafting.
119. As noted above, the Parties submit that evidence from entities that are not directly involved in providing tourism experiences (for example, [ ]) should be given more weight than evidence from other industry participants because those parties are further removed from competitive dynamics. While we accept that impartial evidence may in some circumstances be more informative than others, we ultimately do not consider that this evidence is determinative in assessing the competitive constraint tourism operators place on the rafting companies.
120. We are continuing to explore and invite submissions on the extent to which other tourism operators in/around Rotorua would impose a competitive constraint on the merged entity. In particular, we invite submissions and evidence on:

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<sup>91</sup> Commerce Commission interview with [ ] and e-mail from [ ].

<sup>92</sup> Commerce Commission interview with [ ].

<sup>93</sup> Commerce Commission interview with [ ].

<sup>94</sup> Commerce Commission interview with [ ].

<sup>95</sup> As discussed in market definition section – low price/duration variance can be a weak and potentially inconclusive indicator on the strength of competitive constraint between rafting and other adventure tourism activities.

- 120.1. the factors considered by visitors to Rotorua when choosing and switching between different tourism activities;
- 120.2. how rafting operators have historically reacted to changes in product offerings of other tourism operators (or vice versa); and
- 120.3. the degree of constraint provided by other tourism operators on the Parties, including if the degree of constraint is greater for operators who offer activities that are most similar to rafting in terms of price, duration and thrill level.
  - 120.3.1. If it is true that the degree of constraint is different for operators that are more similar to rafting in terms of price, duration and thrill level, specifically which operators would most closely compete with/provide more constraint on the merged entity and why.

*Constraint from rafting operators outside of Rotorua*

- 121. The Parties submit that they are constrained by other rafting operators outside of Rotorua.

What we said in the Sol and submissions received

- 122. In the Sol, we considered whether other rafting operators that are based within the broader North Island region constrain the Parties. We also noted that rafting across different regions is differentiated (ie, different rivers, grades and geographic locations) and unlikely to constrain the Parties.
- 123. In the Application, the Parties submit that the Proposed Merger would not be likely to substantially lessen competition due to unilateral effects because, in a broad adventure tourism or tourism market the merged entity would also be constrained by the ability of tourists to switch to other adventure tourism offerings throughout New Zealand, even if these fall outside of the market. This out of market constraint includes 29 other rafting operators in New Zealand.<sup>96</sup>
- 124. In response to the Sol, the Parties submit that the evidence demonstrates three consistent themes:<sup>97</sup>
  - 124.1. competition between tourism experiences is national, not regional;
  - 124.2. tourists substitute between activities in different regions; and
  - 124.3. Queenstown – the adventure capital of New Zealand – is a direct constraint on Rotorua, especially for adventure activities.

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<sup>96</sup> The Application at [68]-[69], [71], [75] and [79]-[86].

<sup>97</sup> Submission on the Sol from the Parties (4 March 2026) at [90].

### Our current view

125. We received feedback from rafting operators based outside of Rotorua confirming that they do not compete with operators in Rotorua and are therefore unlikely to constrain the merged entity in case of relative price increase or quality decrease.<sup>98</sup>
126. As indicated at [61], we do not consider rafting operators outside of Rotorua sufficiently constrain the Parties.

### *Countervailing power of wholesalers, agents, resellers and tour operators*

127. A merged entity's ability to increase prices profitably may be constrained by the ability of certain customers to exert substantial influence on negotiations. Countervailing power is more than the ability of customers to switch from a merged entity to competing suppliers. The size and importance of a customer is also not sufficient by itself to amount to countervailing power. Countervailing power exists when a customer possesses a special ability to substantially influence the price the merged entity charges.<sup>99</sup> This may be the case if a customer:
- 127.1. can switch or credibly threaten to switch to suppliers of the same product in other geographic markets where competitive conditions are different;
  - 127.2. can switch or credibly threaten to switch to suppliers of other products it acquires from the merged entity;
  - 127.3. can take action to reduce the merged entity's sales (eg, by promoting less or giving less favourable placement to the merged entity's products); and/or
  - 127.4. can feasibly sponsor new entry or expansion.
128. The above are distinct from the ability of customers to leverage existing options to secure better prices and/or terms of trade.

### What we said in the Sol and submissions received

129. In the Sol, we noted that tour operators may have some degree of countervailing power where they are able to switch between different types of tourism experiences or to rafting operators in other regions outside of Rotorua when in deciding what they choose to include in their tours.<sup>100</sup>
130. Wholesalers, agents and resellers who generate a significant share of bookings for the Parties could also potentially have some countervailing power. For instance, while the direct sales channel accounts, on average, for the [ ]<sup>101</sup> of the

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<sup>98</sup> Commerce Commission interview with [ ], Commerce Commission interview with [ ], Commerce Commission interview with [ ] and Commerce Commission interview with [ ].

<sup>99</sup> Mergers and Acquisitions Guidelines above n8 at [3.113]-[3.115].

<sup>100</sup> Albeit Contiki NZ submits that rafting in Rotorua is an optional add-on in its national tour itineraries, rather than a core inclusion. Submission from Contiki NZ (10 November 2025).

<sup>101</sup> [ ]%.

Parties' revenue, agents have also generated a [ ]<sup>102</sup> of sales.<sup>103</sup> In addition, separate to the bundle or combo offerings that the Parties put together themselves (whether that be with their other complementary offerings or with other tourism operators) wholesalers, agents and resellers arrange bundle deals of tourism activities with different activity providers.<sup>104</sup> However, some evidence we have received indicates that these intermediaries may have limited ability to influence customer bookings.

130.1. One online travel agent told us that tourist bookings for rafting only accounts for around [ ]% of its total bookings.<sup>105</sup>

130.2. [ ] indicated that rafting is not considered a top-tier activity for its customers and that all operators are competing for a customer's time and inclusion in their itinerary.<sup>106</sup>

131. However, we do not consider it likely that wholesalers, agents, resellers and tour operators would self-supply or sponsor entry of new rafting operators.

132. The Parties did not provide a submission on this point in response to the Sol.

#### Our current view

133. We are continuing to investigate the extent to which the merged entity would be constrained by countervailing power. While some wholesalers, agents, resellers and tour operators may theoretically possess some countervailing power, any such constraint would not extend to tourists who purchase guided rafting services through other channels such as direct bookings with the Parties. Evidence indicates that a significant portion ([ ]% on average for the Parties) of bookings are made directly, suggesting that a substantial portion of customers are unlikely to benefit from any countervailing power exercised by wholesalers/resellers. We have received some evidence suggesting that wholesalers/resellers have not resisted prices set by suppliers. In our view, this suggests that any countervailing power exercised by these intermediaries is likely to be limited or absent.

134. We are continuing to explore and invite submissions on the countervailing power of customers. In particular, we invite submissions and evidence:

134.1. from tourism operators on instances where wholesalers, agents, resellers or tour operators have exercised countervailing power, particularly against rafting operators;

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<sup>102</sup> [ ]%

<sup>103</sup> The Application at Attachment A.

<sup>104</sup> For example, EverythingNZ offers bundles that include a Rotorua rafting trip, zipline, Hot Pool, Mud Bath and sledging. <https://www.everythingnewzealand.com/category/rafting/rotorua-activities/>.

<sup>105</sup> E-mail from [ ].

<sup>106</sup> Commerce Commission interview with [ ].

- 134.2. from wholesalers, agents, resellers or tour operators to provide further evidence of their negotiating power (or lack thereof) with tourism operators, in particular, the Parties; and
- 134.3. on the incentives of wholesalers, agents, resellers and tour operators to use any countervailing power to constrain the merged entity.

### **Next steps**

135. As mentioned above, we are currently scheduled to make a decision on whether or not to give clearance to the Proposed Merger by **18 June 2026**. However, this date may be extended with agreement of the Parties if the material before us at that time does not allow us to be satisfied that the Proposed Merger will not have, or be likely to have, the effect of substantially lessening competition in a market in New Zealand.
136. As part of our investigation, we will continue to identify and contact parties that we consider will be able to help us assess the issues identified above. In **Attachment A**, we summarise the matters that we are interested in receiving submissions on.

### **Making a submission**

137. We are continuing to undertake inquiries and seek information from industry participants about the impact of the Proposed Merger. We welcome any further evidence and other relevant information and documents that Viridian or any interested parties are able to provide regarding the issues identified in this SoUI.
138. If you wish to make a submission, please send it to us at [registrar@comcom.govt.nz](mailto:registrar@comcom.govt.nz) with the reference 'Rafting JV Co' in the subject line of your email. Please do so by close of business on **14 May 2025**.
139. All information we receive is subject to the Official Information Act 1982 (OIA), under which there is a principle of availability. We recognise, however, that there may be good reason to withhold certain information contained in a submission under the OIA, for example in circumstances where disclosure would be likely to unreasonably prejudice the commercial position of the supplier or subject of the information.

**Attachment A:**

<b>Market/issue</b>		<b>Matters/questions</b>
<b>Market definition</b>	<i>General</i>	<ul style="list-style-type: none"> <li>• Our current approach to market definition and, in particular, invite the Parties and other interested parties to provide any further relevant evidence on the extent to which guided rafting trips are substitutable with other adventure tourism activities.</li> </ul>
	<i>Product market</i>	<ul style="list-style-type: none"> <li>• The extent to which tourists would switch from guided rafting experiences to other tourism activities (including the actual alternative activities) in response to a small but significant non-transitory increase in the price of guided rafting trips, and whether any such switching would occur at a scale sufficient to render the price increase unprofitable.</li> <li>• The extent to which rafting operators take account of the prices, quality, or marketing strategies of other tourism activity providers when setting their own pricing or promotional strategies, as an indicator of competitive constraint at the product-market level.</li> <li>• Information demonstrating whether rafting operators have historically gained or lost customers or revenue to other tourism activity providers following relative price increases or decreases, and whether such responses reflect substitution between rafting and other tourism products.</li> </ul>
	<i>Geographic market</i>	<ul style="list-style-type: none"> <li>• The extent to which a price increase for guided rafting in Rotorua would prompt sufficient customer switching to guided rafting or other tourism activities in other regions, for example Queenstown.</li> </ul>
<b>Unilateral effects</b>	<i>Closeness of competition</i>	<ul style="list-style-type: none"> <li>• How the Parties have historically responded to each other's competitive actions, following price increases and/or decreases in quality of the offering.</li> </ul>

		<ul style="list-style-type: none"> <li>• The extent of competition between the Parties that would be lost with the Proposed Merger, compared to a counterfactual where the Parties continue to supply guided rafting trips on the Kaituna River, independently and in competition with each other.</li> </ul>
	<i>Barriers to entry</i>	<ul style="list-style-type: none"> <li>• The barriers to entry for new rafting operators to enter the market in Rotorua.</li> <li>• The extent to which existing rafting operators may have the ability and/or incentive to expand their operations. This includes the extent to which other tourism operators might be incentivised to start offering guided rafting trips in Rotorua in response to the merged entity raising its price or reducing the quality of its services.</li> </ul>
	<i>Constraint from other tourism operators</i>	<ul style="list-style-type: none"> <li>• The extent to which other tourism operators in/around Rotorua would impose a competitive constraint on the merged entity.</li> <li>• The factors considered by visitors to Rotorua when choosing and switching between different tourism activities.</li> <li>• How rafting operators have historically reacted to changes in product offerings of other tourism operators (or vice versa).</li> <li>• The degree of constraint provided by other tourism operators on the Parties, including if the degree of constraint is greater for operators who offer activities that are most similar to rafting in terms of price, duration and thrill level.</li> <li>• If it is true that the degree of constraint is different for operators that are more similar to rafting in terms of price, duration and thrill level, specifically which operators would most closely compete with/provide more constraint on the merged entity and why.</li> </ul>

	<i>Countervailing power of wholesalers, agents, resellers and tour operators</i>	<ul style="list-style-type: none"><li>• Instances where wholesalers, agents, resellers or tour operators have exercised countervailing power, particularly against rafting operators.</li><li>• Instances where wholesalers, agents, resellers or tour operators to provide further evidence of their negotiating power (or lack thereof) with tourism operators, in particular, the Parties.</li><li>• The incentives of wholesalers, agents, resellers and tour operators to use any countervailing power to constrain the merged entity.</li></ul>
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