

2 November 2018

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To whom it may concern,

**RE: Openn Negotiation**

We have been engaged by PP Valley Pty Ltd ACN 612 338 477 (trading as 'Openn Negotiation') to:

- (a) provide legal advice in relation to the sale and auction of Victorian real estate on the Openn Negotiation App, and, in particular, in relation to whether the Openn Negotiation App complies with the *Estate Agents Act 1980* (Vic) (**Legislation**);
- (b) attend Consumer Affairs Victoria (**CAV**) to present to members of the legal team on the Openn Negotiation App;
- (c) review and settle 'Annexure A – Agreement to use the Openn App' and 'Schedule 1 – Openn Negotiation Terms and Conditions' (**Contracts**); and
- (d) provide advice and guidance in relation to the preparation of Contracts of Sale of Real Estate in circumstances where a property is being sold on the Openn Negotiation App.

When we met with members of the legal team at CAV, they were receptive and did not raise any concerns about the legality of the App. However, please note that it is not the function or practice of CAV to provide "sign off" or legal advice.

It is our view that an agent will not be in breach of the Legislation *by virtue of* their use of the Openn Negotiation App or the Contracts, provided each are used as intended and in accordance with instructions provided at the training sessions and the Openn Negotiation Terms and Conditions. The App will not prevent an agent from breaching the Legislation or the Australian Consumer Law, however an agent will not be in breach as a result of facilitating the sale of real estate via the App.

Further, it is our view that displaying a current bid on an internet advertisement does not constitute underquoting or a breach of the *Estate Agents Act 1980* (Vic), provided that the price is clearly expressed as a **current bid**.

Agents should ensure that they understand their obligations in relation to the *Estate Agents Act 1980* (Vic) and the Australian Consumer Law. It is the responsibility of the agent to comply with these laws. Agents should seek legal advice if they do not understand their obligations.

Yours faithfully



**JOHN TURNBULL**  
**PARTNER**  
**BUSINESS AND PROPERTY LAW ACCREDITED SPECIALIST**