

2 October 2019

Australian Competition and Consumer Commission
By email: loyaltyschemes@acc.gov.au

Dear Sir/Madam,

CUSTOMER LOYALTY SCHEMES – DRAFT REPORT

Thank you for the opportunity to provide a submission in relation to the Australian Competition and Consumer Commission's (ACCC's) Draft Report on Customer Loyalty Schemes published on 5 September 2019 (**Draft Report**).

HOYTS is the largest single-brand exhibitor in Australia and New Zealand. It owns and operates 50 cinemas, with over 433 screens and 62,000 seats across its network. HOYTS is committed to continuing to give its customers a positive and enjoyable experience and welcomes the additional guidance provided by the ACCC in the Draft Report that may assist it to deliver on this commitment.

Given that the Draft Report contains specific references to the HOYTS loyalty program, we would like to take this opportunity to provide some context and additional detail about these references and HOYTS' practices in relation to its customer loyalty program. We submit that there are sections of the Draft Report containing references to HOYTS that would benefit from further clarification and explanation to ensure they are accurate and fair.

HOYTS recognises that the expectations of its customers are continually changing. Customers want and expect added value in return for loyalty and more meaningful engagement from the businesses they deal with. HOYTS is tasked with operating a loyalty program that delivers relevant benefits to its members, and rewards loyalty by offering additional value to its customers, whilst adhering to the legal requirements regarding consumer protection and the collection, use and disclosure of customer data.

Hoys has recently updated its customer loyalty program

Both the Draft Report and the related report commissioned by the ACCC and prepared by Loyalty & Reward Co (**Commissioned Report**) refer to an outdated HOYTS customer loyalty program. HOYTS launched a new loyalty program on 6 August 2019 (**HOYTS Rewards**). This replaced the pre-existing program which has been referred to in the Draft Report and Commissioned Report. Existing members of the pre-existing loyalty program were migrated to HOYTS Rewards, and entitled to the benefits that are now included in that program. As such, some of the information regarding the HOYTS loyalty program in the Commissioned Report and Draft Report is outdated and no longer correct. We submit that this should be updated prior to finalising the report.

Case Study

The Draft Report contains a case study involving HOYTS. First we note that this case study is not connected to HOYTS' customer loyalty program. Further the case study included is from 20 March 2018 but includes references to HOYTS' privacy policy dated 10 July 2019. This is not the privacy policy that applied on 20 March 2018 when this case study occurred.

We submit that failing to specifically point these issues out gives an incomplete picture, and that this case study is not an accurate reflection of HOYTS' current practices.

The case study and accompanying screenshots (in figure D.2) are more than 18 months old. In our opinion this is relevant and requires greater emphasis in the Draft Report. It is without question that attitudes by consumers and companies to privacy issues and personal information have changed significantly in recent years and particularly since early 2018.

As with many Australian companies, HOYTS reviewed and updated its privacy policy and practices relating to collection, use and disclosure of personal information in mid-2018. This was largely prompted by the increased focus on privacy laws in Australia and internationally at the time of the introduction of the European Union General Data Protection Regulation on 25 May 2018.

The HOYTS related case study used in the Draft Report includes advertising by Ladbrokes through the Rokt widget. This example is not indicative of HOYTS' current practices and even at the time of the offer, in March 2018, was identified as an error and quickly rectified. The Draft Report notes that HOYTS no longer allows gambling advertising to be displayed through the Rokt platform. This is correct in that gambling advertising is a category that HOYTS has opted to exclude, but it is not correct in giving the impression that this is a result of a change in policy by HOYTS. HOYTS had also elected to exclude the category of gambling advertising at the time of the case study, and the specific Ladbrokes advertisement was displayed in error at that time. In addition, since March 2018 HOYTS has reviewed its practices regarding these post-purchase advertisements on its own accord and has made amendments aimed at ensuring customers are better informed regarding these offers and the opt-in wording. We submit that the Draft Report should include this context in relation to the HOYTS case study.

Commissioned Report

We note that the Commissioned Report was written by Philip Shelper, Stacey Lyons and Max Savransky of Loyalty & Reward Co. HOYTS has previously engaged Loyalty & Reward Co to provide services relating to its loyalty programs between June-December 2016. Further, we note that Max Savransky was employed by HOYTS as Loyalty and CRM Officer during August 2016 – May 2018, immediately prior to joining Loyalty & Reward Co. His employment covers the time of the HOYTS case study included in the Draft Report. We submit that in the interests of transparency, these prior dealings and relationships should be disclosed in the ACCC Draft Report.

HOYTS continually develops and reviews its business practices to deal with competitive pressures and business demands, and to address consumer concerns. HOYTS will review its customer loyalty program in light of the recommendations in the Draft Report to ensure we continue to deliver valuable benefits and that we communicate clearly and fairly with our customers.

Yours faithfully,



Alison Robinson
General Counsel
The HOYTS Group