

SUBMISSION IN SUPPORT OF "GENERAL" NOTIFICATIONS

1. PUBLIC BENEFITS IN STAGING EVENTS

Live entertainment is a professional and intensely competitive industry. One key activity in the live entertainment industry is ticketing. Ticketing providers such as Ticketek are the primary direct contact point with customers and commonly work closely with event promoters and venues to bring a live event to fruition. The material presented in this Section 1 is drawn from Ticketek's experience undertaking that work.

Entertainment is an inherently risky business because the tastes and moods of audiences are fickle. Consequently, for all events, the promoter bears significant risks including:

- that in aggregate audiences are less enthusiastic about the event than was anticipated;
- for the most popular events that the house will be full but that insufficient revenue will be earned to cover the costs of attracting the event to Australia as opposed to other countries;
- for more marginal events that patronage will be insufficient to cover the costs of the event; and
- that the promoter will have wrongly assessed whether the event is of the first or second character.

For many events for which there is a core audience of "fans", the challenge is to compete to successfully attract sufficient additional patrons to make the event viable and to sufficiently fill the house to create the live performance atmosphere.

For the live entertainment business to be viable, some shows must be sufficiently profitable to cover the inevitable smaller profits or even losses on other shows.

An important part of attracting as broad an audiences as possible and raising the necessary revenue to stage an event is to provide as wide a variety of value propositions as possible including variations and combinations of the following:

- (a) pre-sale tickets (which, in particular, assist the event promoter to reduce the above risk);
- (b) premium tickets (which, in particular, raise additional revenue from the most dedicated fans);
- (c) generally available tickets (which, in particular, attract the largest volumes of audience);

- (d) tickets marketed through diverse channels (by which audiences that otherwise would not have been attracted to an event may be attracted to the event);
- (e) discounted tickets (which, in particular, attract audiences who may not have been sufficiently interested or well resourced to attend).

Corporate sponsorships are integral to create broad awareness of live entertainment events. They also assist in providing the necessary revenue to attract highly popular events to Australia or the necessary revenue to make other events viable.

Ticketing providers work with event promoters to "build" the event and create a variety of offers relating to that event (including providing different seating positions at different price points). "Building" the event primarily involves maximising the different value propositions made available to consumers.

At least to some extent, ticketing providers or events promoters can provide the offers in (a) to (e) comprised solely of direct sales of tickets to the public. However, to provide the maximum possible promotion and variety of value propositions to consumers ticketing providers may need to work with other organisations to promote, package and tickets for sale as described in (a), (b), particularly (d) and (e), above.

It is submitted that extensive and sufficient public benefits arise from the conduct notified in that it contributes to each of:

- (i) making a broad range of value propositions available to consumers as possible;
- (ii) attracting more high profile live international events to Australia; and
- (iii) making viable events that may otherwise not be viable.

Particularly in respect of (ii) above, it is important to note Australian event promoters' competitors in other countries and their ticketing providers are not generally subject to a prohibition against third line forcing (unless such conduct substantially lessens competition or fails the "rule of reason" test).

There is no third line forcing prohibition in the other jurisdiction in which Ticketek operates, New Zealand and nor, to Ticketek's knowledge, is there a third line forcing prohibition in Hong Kong, Japan, Singapore, Canada, US, UK or at the EU level. An anti-competitive distortion would arise if all other countries' event promoters and their ticketing providers were able to package tickets and other goods and services together from different companies while Australian event promoters and their ticketing providers could not. That would tend to hamper Australian

event promoters' ability to attract international events with the potential that Australian audiences may be deprived of the opportunity to attend some events.

2. PUBLIC BENEFITS IN ENHANCED COMPETITION

An important public benefit of the conduct is that it is pro-competitive.

In the first instance, the proposed Ticketek Offers will provide VISA Cardholders, who are not an insubstantial percentage of the public and a high proportion of Cardholders generally, with benefits associated with ticketing to entertainment events and performances.

Other consumers may also benefit by buying other tickets to events some of which may not otherwise have been attracted to Australia or be viable to stage as set out in Section 1.

However, it is also important to include the second round effects of the notified conduct. Providing the above benefits to VISA card holders who choose to attend certain Ticketek events is a pro-competitive initiative in each of the respective relevant markets for live entertainment, ticketing and payments systems.

VISA faces competition from MasterCard, American Express, Diners Club and others, each of whom make similar types of offers to their cardholders. The Ticketek Offers are a pro-competitive response by VISA (in conjunction with Ticketek) to the similar offers made by its competitors.

Ticketek faces competition from Ticketmaster, Red Tickets, BASS, Ticketdirect, Showbiz and others.

Just as this initiative by Ticketek and VISA is a competitive response to the offers of its competitors, competitors of both Ticketek and VISA can, of course, be expected to respond with other pro-competitive responses.

Thus a further public benefit of the notified conduct to all consumers of live entertainment provided with the input of ticketing service providers and of payments system service providers is that the notified conduct contributes to the benefits of competition to provide consumers with products and services of value.