

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY
10 FEB 2006

BLAKE DAWSON WALDRON
L A W Y E R S

Level 36
Grosvenor Place
225 George Street
Sydney NSW 2000
www.bdw.com

Tel + 61 2 9258 6000
Fax + 61 2 9258 6999

DX 355 Sydney

Locked Bag N6
Sydney NSW 1225
Australia

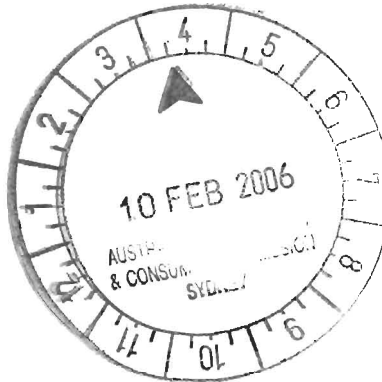
Partner
Peter Armitage
Telephone (02) 9258 6119

Contact
Amanda Taggart
Telephone (02) 9258 5696

Our reference
PJA.AJT.02-1383-8501

10 February 2006

Mr Scott Gregson
General Manager
Adjudication Branch
ACCC
Level 7
123 Pitt Street
SYDNEY NSW 2000



Dear Mr Gregson

Form G Notifications of Exclusive Dealing Conduct

We act for Visa International Service Association.

We enclose a form G Notification of Third Line Forcing Conduct on behalf of the following entities:

- (a) Visa International Service Association; and **N31540**
- (b) Dainty Consolidated Entertainment Pty Ltd. **N31541**

We also enclose a cheque in the amount of \$1,100.00, comprising filing fees for Visa International (\$1000.00), as well as \$100.00 for Dainty Consolidated Entertainment Pty Ltd.

If you have any queries, please do not hesitate to contact Peter Armitage on (02) 9258 6119 or Amanda Taggart on (02) 9258 5696.

Yours faithfully

SYDNEY
MELBOURNE
BRISBANE
PERTH
CANBERRA
LONDON
PORT MORESBY
JAKARTA
SHANGHAI



FORM G

Commonwealth of Australia

Trade Practices Act 1974 - Sub-section 93(1)

EXCLUSIVE DEALING NOTIFICATION

N31540

N31541

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct, or of proposed conduct, of a kind referred to in sub-sections 47(6) and (7) of that Act in which the person giving notice proposes to engage.

1. (a) **Name of persons giving notice:**

- (i) Dainty Consolidated Entertainment Pty Ltd (The **Promoter**) in his own capacity and on behalf of agent(s) appointed by him to sell tickets.
- (ii) Visa International Service Association (**VISA**)

(b) **Short description of businesses carried on by those persons:**

(i) **Dainty Consolidated Entertainment Pty Ltd** - N31540

The Promoter is in the business of producing and managing major concerts in Australia. Tickets to those events are sold to the public through the Promoter's ticketing agents.

(ii) **VISA** - N31540

VISA is an association of financial institutions which operates a world-wide payment system in which member financial institutions offer a wide range of card-based and non-card-based payment products and services to consumers and other entities, and payment acceptance capabilities to merchants, all of which utilise VISA payment processing systems.

(c) **Address in Australia for service of documents on those persons:**

c/o - Peter Armitage
Partner
Blake Dawson Waldron
Level 35
225 George Street
SYDNEY NSW 2000

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

The Promoter will provide, through its ticketing agent(s), preferential ticket booking services to individuals that are holders of a payment card (either a debit card or a credit card) bearing the VISA acceptance mark (**VISA Card**).

Cardholders will be able to acquire tickets to the forthcoming Rolling Stones concert to be held in Melbourne.

(b) **Description of the conduct or proposed conduct:**

Background

On 11th April 2006, the Rolling Stones will commence a concert tour of Australia. They will hold a Melbourne concert at Flemington Racecourse on 13 April 2006 (the **Concert**).

Tickets for the Concert will be made available to the general public at box offices, over the telephone and via the internet from 28th February 2006.

Proposed conduct

The Promoter and VISA have established a marketing relationship in Australia to jointly promote the Concert and to provide a benefit to consumers holding VISA Cards by providing advanced access to tickets for the Concert.

Under this arrangement, VISA will enter into an arrangement with the Promoter whereby VISA Cardholders have 4 days 'exclusive' access to tickets for the Concert prior to tickets going on general release on 28th February 2006. VISA Cardholders will be able to purchase advance tickets over the internet via a VISA-hosted website which will click through Ticketing Agents website on condition that the Cardholder pays for the tickets using his or her VISA Card. The purchase price of the tickets will be debited by the member financial institution that issued the relevant card to the Cardholder's account with that financial institution.

There are about 7.6 million VISA credit cards on issue in Australia. Approximately 70% of individuals in Australia that hold a credit card hold a VISA-branded credit card. 3.9 million individuals hold VISA-branded debit cards.

The 'exclusivity' period proposed may constitute third line forcing pursuant to sections 47(6) and/or 47(7) of the *Trade Practices Act* (Cth). This is because it may be argued that tickets will only be sold to consumers during the exclusivity period if the consumers acquire the payment services of VISA.

After the 4 day exclusivity period for the Concerts, the public will be able to purchase tickets to the Concert using cash and other credit and charge cards.

(c) **Effects of the proposed conduct**

The effect of any third line forcing will be insignificant for the following reasons:

- (i) Approximately 70% of credit card holders in Australia have a VISA card 3.9 million individuals in Australia have a VISA debit card. The proposed conduct will provide these VISA Cardholders with a benefit if they choose to purchase tickets during the exclusivity period using their VISA Cards;
- (ii) The public sale will still start over five weeks before the concert tour giving the public ample opportunity to obtain tickets to the Concert. The

exclusivity period will only run for a proportionately very short period of time and the proposed conduct will not impose any material restriction on access to tickets by the general public.

- (iii) A maximum limit has been set of 30% of tickets to the Concert to be sold during the VISA pre-sale period. This means that with 35,000 tickets to be sold for the Concert, a maximum threshold of 10,500 will be set for VISA Cardholders. The Promoter may be willing if demand outstrips supply to put on additional concerts once the public box office opens;
- (iv) The type of tickets available to VISA Cardholders in the pre-sale period will represent a proportionate allocation of each "level" (i.e. price) of tickets available. As a result, seats of every level/price will still be available to the general public.
- (v) Following expiration of the pre-sale period for VISA Cardholders, all remaining tickets will go on sale to the general public (including those which may have formed part of the VISA pre-sale offer.

(d) **Benefits of the proposed conduct:**

The proposed exclusivity arrangements will provide VISA Cardholders, who are not an insubstantial percentage of the public and a high proportion of Cardholders generally, with advanced access to tickets to the Concert, prior to the tickets becoming available to the general public.

Other members of the public will also have ample opportunity to purchase tickets to the Concert after the limited exclusivity period and these can be purchased by cash and by other credit cards and charge cards.

VISA Cardholders will have no obligation to take advantage of the proposed arrangements. Any person who wishes to obtain tickets to the production without using a VISA Card will be able to do so from 28th February 2006.

For the reasons above, there is no significant detriment to the public as a result of the proposed conduct. Any minimal detriment is substantially outweighed by the public benefits outlined above.

3. (a) **Class or classes of persons to which the conduct relates:**

VISA Cardholders.

(b) **Number of those persons:**

(i) **At present time:**

Approximately 70% of the eligible population of credit card holders holds a VISA-branded card. When added to numbers of VISA debit card holders, there are approx 11.5 million VISA cards on issue in Australia.

(ii) **Estimated within the next year:**

The number of VISA Cardholders is estimated to grow by 6.9% in the next year.

(c) **Where the number of persons stated in items 3(b) is less than 50, their names and addresses**

Not applicable.

4. **Name and address of persons authorised by the person giving this notice to provide additional information in relation to this notice**

Peter Armitage
Partner
Blake Dawson Waldron
Level 35
225 George Street
SYDNEY NSW 2000

Telephone: (02) 9258 6119
Facsimile: (02) 9258 6999
Email: peter.armitage@bdw.com

Dated: 10 February 2006

Signed by/on behalf of the person giving this notice



Peter Armitage
.....
(Signature)

Peter James Armitage
(Full Name)

Partner, Blake Dawson Waldron
(Description)



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N 31540 (VISA)
N 31541 (Daily)