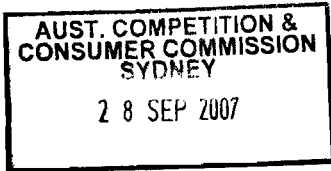


MALLESONS STEPHEN JAQUES



FILE No:
DOC:
MARS/PRISM:

28 September 2007

Mr Scott Gregson
General Manager, Adjudication
Australian Competition and Consumer Commission
C/- Level 7
Angel Place
123 Pitt Street
SYDNEY NSW 2000
By hand

Dear Mr Gregson

Notification of exclusive dealing

Please find enclosed a notification of exclusive dealing under section 93(1) of the *Trade Practices Act 1974* (Cth) lodged by British Airways ABN 74 725 650 354.

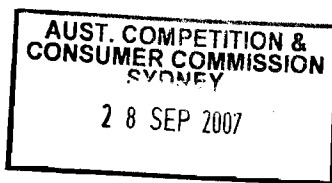
We also enclose a cheque in the amount of \$100, being the required lodgement fee.

Yours sincerely



for
Roger Featherston
Partner
Direct line +61 3 9643 4101
Direct fax +61 3 9643 5999
Email roger.featherston@malleons.com

Encl 2



FORM G
Commonwealth of Australia
Trade Practices Act 1974 – subsection 93(1)
NOTIFICATION OF EXCLUSIVE DEALING

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(2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

1. Applicant

(a) **Name of person giving notice:**

British Airways ABN 74 725 650 354 ("BA"). N93128

(b) **Short description of business carried on by that person:**

BA operates an international airline service.

(c) **Address in Australia for service of documents on that person:**

Level 7, 141 Walker Street, North Sydney NSW 2060, Australia.

2. Notified arrangement

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

Offer of reduced airfares on BA operated flights, as part of a promotional campaign, to persons who book their flight through a closed user group on the BA website (ba.com) using a MasterCard credit card. The offer is a \$250 discount off airfares from Australia when booked on ba.com/mastercardoffer.

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

BA proposes to run a promotional campaign from 13 October to 31 October 2007, offering reduced airfares for certain flights to consumers for travel originating in Australia from 13 October 2007 to 31 October 2008 on the condition that the consumer books such flights through the BA website (ba.com/mastercardoffer) using a MasterCard credit card ("BA Campaign").

BA may refuse to offer the reduced airfares to customers who do not wish to book the flights through the BA website using a MasterCard credit card.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

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

Persons who are or may be booking BA flights to which the BA Campaign applies.

- (b) **Number of those persons:**
- (i) **At present time:**
- Not applicable.
- (ii) **Estimated within the next year:**
- 1000
- (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:**
- Not applicable.

4. **Public benefit claims**

(a) **Arguments in support of notification:**

BA submits that its proposed conduct does not give rise to any public detriment and, moreover, will result in clear public benefits.

The conduct will be of benefit to the public as it will:

- promote competition in the relevant markets by exerting pressure on competitors to offer similar reduced prices for air travel; and
- encourage competitors to improve the value and quality of services that they provide to consumers.

(b) **Facts and evidence relied upon in support of these claims:**

The conduct will not lessen competition in the markets for the relevant products and services or result in any conceivable detriment to the public because:

- the BA Campaign will only be available for a short and limited period of 3 weeks;
- the BA Campaign will only apply to flights to certain destinations during a limited period;
- there is substantial competition in the international airline markets; and
- it will promote competition in the relevant markets by exerting pressure on competitors to offer similar reduced prices.

5. **Market definition**

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

BA considers the relevant markets to be the Australian markets for the sale of air transport and consumer credit products.

6. **Public detriments**

- (a) **Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:**

BA submits that the likely public benefits from the conduct, as outlined above, will outweigh any possible public detriment and that the conduct will not result in a substantial lessening of competition in relation to any of the relevant markets for the services in question.

- (b) **Facts and evidence relevant to these detriments:**

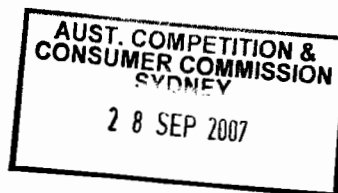
Competition in the relevant markets for the services in question is vigorous and intense. There are a large number of alternative participants who compete with BA to provide customers with air travel, and a large number of alternative participants who compete with MasterCard to provide consumer credit products, to whom consumers could readily turn.

7. **Further information**

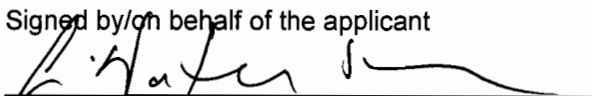
- (a) **Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:**

Nicole Morello
British Airways
Level 7, 141 Walker Street
North Sydney
NSW 2060
Phone. 02 9927 4850

Dated: 28 September 2007



Signed by/on behalf of the applicant

for

Roger Featherston
Partner
Mallesons Stephen Jaques