

AUST COMPETITION &
CONSUMER COMMISSION
BRISBANE

30 OCT 2007



26 October 2007

Australian Competitor & Consumer Commission
PO Box 10048
Adelaide Street Post Office
BRISBANE QLD 4000

Dear Sir/Madam

Please find **attached** Form G for the Virgin Blue Airlines and American Express promotion.

An electronic copy was emailed to you on 26 October 2007 and payment of \$100 was deposited into your account by way of electronic transfer.

Yours faithfully

Emily Bird
Legal Counsel
Virgin Blue Airlines



VOTED
WORLD'S
BEST LOW
COST
AIRLINE
2004
& 2005.

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 subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:

(Refer to direction 2)

Virgin Blue Airlines Pty Ltd
ABN 52 090 670 965

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

(Refer to direction 3)

Virgin Blue Airlines Pty Ltd (**Virgin Blue**) operates an airline and other associated services – including airport lounge facilities in selected Australian domestic airports called “The Lounge”

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

Emily Bird
Legal Counsel
Virgin Blue Airlines
Level 12, 131 Barry Parade
Fortitude Valley QLD 4006
Fax (07) 3295 3996

2. Notified arrangement

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

This notice relates to the provision of:

- payment card products and services provided by American Express to customers in Australia (“**American Express Products**”); and
- Airline travel and airport lounge facilities provided by Virgin Blue (“**Virgin Blue Air Travel**”).

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

(Refer to direction 4)

The proposed conduct is to offer during November to eligible American Express customers who receive the relevant offer via direct mail:

- 5 bonus reward points for every \$1 spent on Virgin Blue Air Travel; and

- discounted joining fee for the Virgin Blue lounge of \$49 (normally \$199).

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

- (a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)
Eligible American Express customers who purchase Virgin Blue air travel, or join The Lounge during the promotional period.
- (b) Number of those persons:
- (i) At present time:
Nil
- (ii) Estimated within the next year:
(Refer to direction 6)
It is expected that there will be approximately 5,000 within the next year.
- (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:
(Refer to direction 7)
The proposed conduct offers significant benefits to eligible American Express customers by giving them the opportunity to obtain a benefit from American Express if they intend to purchase Virgin Blue Air Travel or join the Virgin Blue lounge.
- (b) Facts and evidence relied upon in support of these claims:
The proposed conduct results in eligible American Express customers receiving 5 additional rewards points when they purchase Virgin Blue Airline Travel or receive a discount when they join The Lounge.

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):
(Refer to direction 8)

The market for the provision of payment card products and services in Australia is highly competitive. Retail customers have a significant number of product options available to them, including charge and credit cards provided by Diners Club and American Express and credit or debt cards offered by all financial institutions on the Visa and MasterCard networks.

Payment card issuers compete in relation to a broad range of product dimensions including:

- card fees;
- interest rates;
- interest free periods;
- transaction fees;
- member services; and
- reward programs.

The market for domestic airline travel is competitive. Airline travel is offered by Qantas, Jetstar, Virgin Blue and other regional airlines. There are a large number of competitive offers available to the public in respect of the provision of airline travel at any given time.

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:

(Refer to direction 9)

Virgin Blue submits that there is no likely detriment to the public resulting from the proposed conduct, and that the proposed conduct would have a negligible effect on competition in the markets noted above in clause 2(a).

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

The proposed conduct:

- in no way limits the genuine choice of customers in choosing whether to obtain a payment card from American Express or any other payment card issuer, and the proposed conduct does not otherwise affect other qualities of the card, such as pricing.
- will not lessen competition as customers will be under no obligation to acquire card services from American Express and customers will be able to purchase Virgin Blue Air Travel at the same prices without acquiring any products or services from American Express and can still join The Lounge at the standard joining fee.

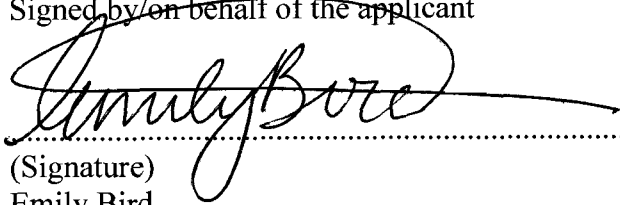
7. Further information

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

Emily Bird
Legal Counsel
Virgin Blue Airlines
Level 12, 131 Barry Parade
Fortitude Valley QLD 4006
Fax (07) 3295 3996
Tel: (07) 3295 3019
Email: Emily.Bird@virginblue.com.au

Dated 26 October 2007

Signed by/on behalf of the applicant

A handwritten signature in black ink, appearing to read "Emily Bird", written over a horizontal dotted line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

(Signature)

Emily Bird

(Full Name)

Virgin Blue Airlines Pty Ltd

(Organisation)

Legal Counsel

(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.