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AUST. COMPETITION & CONSUMER COMMISSION SYDNEY
25 OCT 2007

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.

1. Applicant

- (a) Name of person giving notice:

Ticketek Pty Limited ABN 92 010 129 110 N93185

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

Ticketek is in the business of providing ticketing arrangements at venues across Australia.

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

Level 18, 66-68 Goulburn Street, Sydney

2. Notified arrangement

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

Ticketek will provide a number of offers to individuals who are new and existing Optus Consumer customers of Optus telephony, internet, subscription TV and mobile telephone products and who have registered in the Optus 'yes' Tickets program. Registration is free of charge.

In this Notification, "**Optus**" means Optus Networks Pty Limited ("Optus Networks") (ACN 008 570 330), Optus Internet Pty Limited ("Optus Internet") (ACN 083 164 532), Optus Vision Pty Limited ("Optus Vision") (ACN 066 518 821), and Optus Mobile Pty Limited ("Optus Mobile") (ACN 054 365 696).

The offers relate to the acquisition of certain tickets to entertainment events sold by Ticketek, and other non-ticket products and services.

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

Ticketek and Optus have established a marketing relationship in Australia to jointly promote the Ticketek Offers (described below), to provide benefits to Optus Consumer customers.

Under this arrangement, Ticketek and Optus will offer Optus Consumer customers the opportunity to join the 'yes' Tickets program.

Access to the Ticketek Offers will be via the Optus website. Optus Consumer customers can click through to the 'yes' Tickets page and, from there, review the Ticketek Offers once they have entered their password (issued upon signing up to the 'yes' Tickets program). Customers wishing to participate in the Ticketek Offers will then be transferred to the Ticketek website to make their purchases and are provided with a customised price plan link.

The types of offers to be made available to Optus Consumer customers are:

- i. Discounted tickets: inventory will be offered to Optus 'yes' Tickets members at a discount from prices advertised to the general public. For example, obtain a \$20 discount off the standard ticket price to see Crosby, Stills and Nash.
- ii. Packages: bundles of tickets and other non-ticket products and services will be made available by Ticketek to Optus 'yes' Tickets members. For example, buy tickets to see Shannon Noll and receive an opportunity to win one of three "meet and greets" with him; or buy tickets to Spamalot and receive a complimentary glass of wine at the event.
- iii. Priority booking service: a limited number of tickets will be available to Optus 'yes' Tickets members in a priority booking period before such tickets are available for sale to the general public.
- iv. Premium seating offers: Optus 'yes' Tickets members will be able to purchase a limited number of more desirable seats at Ticketek events for a premium. These tickets will usually be available in the priority booking period.
- v. Discounted "Last Minute" Ticket Pricing: Optus 'yes' Tickets members will be able to access discounted tickets to Ticketek events, generally well after the commencement of the onsale period.

For convenience, the offers specified in sub-paragraphs (i) to (v) above are referred to in this Notification as the Ticketek Offers.

The proposed Ticketek Offers may constitute third line forcing pursuant to sections 47(6) and/or 47(7) of the *Trade Practices Act 1974* (Cth). This is because it may be argued that the Ticketek Offers will only be available to consumers who are customers of Optus.

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:
Persons who acquire, or will acquire, landline and mobile telecommunications, internet and PayTV products and services from Optus.
- (b) Number of those persons:
- (i) At present time there are approximately 6 million existing Optus Consumer customers.
- (ii) Estimated within the next year, approximately 6 million plus any new Optus Consumer customers.
- (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:
N/A

4. Public benefit claims

- (a) Arguments in support of notification:
- The proposed Ticketek Offers will provide Optus Consumer customers registered in the 'yes' Tickets program a range of benefits associated with ticketing to entertainment events.
- In addition, an important part of attracting broad audiences to entertainment events and ensuring the commercial viability of events, is to provide a wide variety of value propositions to consumers, including discounts, package deals and value-adds.
- The Ticketek Offers provide a public benefit to consumers of entertainment events in general by contributing to making a broad range of value propositions available to consumers. The Ticketek Offers provide a public benefit to those involved in staging events such as venues, hirers and promoters, and ultimately also the consumer of entertainment events, in contributing to making commercially viable events that may otherwise not be viable.
- Customers of other providers of landline telephony services, internet products and services, subscription television services and mobile telecommunications services are also likely to benefit indirectly from the Ticketek Offers as a result of increased competitive responses from Optus' competitors.

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

The proposed conduct offers benefits to Optus Consumer customers by giving them a range of offers including discounts on tickets, advance access to tickets, and special offers with tickets.

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):

Optus Networks, Optus Internet, Optus Vision and Optus Mobile are wholly owned subsidiaries of Singtel Optus Limited.

Optus Networks is a supplier of landline telephony services. Optus Internet is a supplier of internet products and services. Optus Vision is a supplier of subscription television services. Optus Mobile is a supplier of mobile telecommunications services.

In Australia there are three main providers of local and long distance telephony services to residential (consumer) customers – Telstra, AAPT and Optus; they all compete vigorously for customers. Consequently, competitive packages are available to the public in respect of local and long distance telephony services at any given time, and each provider seeks to deliver value added benefits to enhance their competitive edge and reward loyal customers.

Internet services in Australia are provided to residential (consumer) customers by five main internet service providers – Telstra, AAPT, inet, TPG and Optus Internet. There is a great deal of competitive activity in this market and each provider strives to provide competitive service packages and value added benefits for existing customers.

Australian Subscription TV services are provided by three main suppliers and a number of smaller suppliers of the service – Foxtel, Austar and Optus are the main platforms with Transact as one example of a smaller provider. Competition in this market is very strong and providers make strong value offers to customers with added benefits for existing customers

The Australian Mobile market has four main competitors – Telstra, Vodafone, Hutchison Three (3), and Optus Mobile. Competition is fiercest in this market with a variety of competitive packages available to residential customers. Each provider also strives to secure a competitive edge by providing its existing customer base strong added value benefits, over and

above their pricing packages, to secure loyalty and minimise churn within the market.

Optus wishes to enhance its competitive position in that part of the telecommunications market that deals with the provision of local and long distance telephone services, mobile services internet products and services to residential or individual customers, excluding business customers, referred to by Optus as “Consumer” customers. It has therefore developed the offer with Ticketek to make its services attractive to its Consumer customers.

Ticketek is a supplier of ticketing services to venues throughout Australia. It competes with other ticketing service providers including Ticketmaster, BOCS, Bass, Venue*Tix, Qtix, Moshtix, Tickets.com, Ticketlink and TICKETS PLUS.

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:

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.

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

Any detriment is likely to be insignificant for the following reasons:

- The proposed conduct will provide Optus Consumer customers with a benefit if they choose to take advantage of the Ticketek Offers.
- The majority of Ticketek Offers are expected to run for no more than 3 months.
- Where a ‘Priority Booking Period’ is offered to Optus Consumer Customers, the general public who are not Optus Consumer customers will continue to have access to tickets outside that period.
- The number of tickets made available to Optus Consumer Customers during the Priority Booking Period will be limited, as follows:
 - If Ticketek is responsible for selling between 60 and 100% of the available tickets to the event (across all venues and performances), no more than 30% of the Ticketek seats to

each concert/event would be available pursuant to a Priority Booking Period.

- If Ticketek is responsible for selling between 30 and 59% of the tickets (across all venues and performances), no more than 50% of those tickets will be available pursuant to the Priority Booking Period.
- Where a 'Premium Seating Offer' is offered to Optus Consumer Customers, the general public will be able to purchase Premium Seating at these events through competitors such as ticket resellers where available.
- The number of tickets made available to Optus Consumer Customers through a Premium Seating Offer will be limited in the same manner as tickets made available during the Priority Booking Period.
- Before Discounted Ticket Pricing is offered to Optus Consumer customers registered for 'yes' Tickets, the general public will generally have been able to purchase these tickets for some time. Discounted tickets are generally "distressed inventory" and are priced for "last minute" sale.
- Ticketek may offer similar discounts and offers through different channels, for example via its online My Ticketek program (however not via similar affiliate programs with competitors of Optus).
- The total proportion of Premium Tickets and Priority Booking Tickets offered through all programs will be capped at the proportions set out above.

7. Further information

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

Kate Cooper, General Counsel, Ticketek Pty Limited

GPO Box 1610, Sydney 2001

Phone 02 9266 4013 email katec@ticketek.com.au

Dated..... 25 October 2007

Signed by/on behalf of the applicant

..... K Cooper

(Signature)

..... Kate Cooper

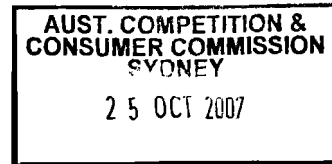
(Full Name)

..... Ticketek Pty Limited

(Organisation)

..... General 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.