

AUST. COMPETITION &
CONSUMER COMMISSION
MELBOURNE
16 JUN 2010

Allens Arthur Robinson

16 June 2010

Mr Richard Chadwick
The General Manager
Adjudication Branch
Australian Competition and
Consumer Commission
Level 35, 360 Elizabeth Street
Melbourne Central
Melbourne Vic 3000

RECEIVED

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By Hand

Dear Mr Chadwick

Form G Notification of Exclusive Dealing Conduct

We act for Ticketmaster Australasia Pty Ltd (ABN 49 089 258 837) (the **Applicant**).

We enclose:

- An exclusive dealing notification Form G for lodgement on behalf of the Applicant; and
- A cheque for the applicable lodgement fee of \$100.00.

Please contact me if you have any queries relating to this matter.

Yours sincerely



Helen Anness
Senior Associate
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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)

N99729 Ticketmaster Australasia Pty Limited ACN 089 258 837

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

(Refer to direction 3)

Ticketmaster provides ticketing services to venues and promoters across Australia.

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

Level 12, Freshwater Place, 2 Southbank Boulevard, Southbank VIC 3006

2. Notified arrangement

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

Ticketmaster will from time to time provide offers to individuals who are American Express credit or debit cardholders (*Amex members*) to purchase tickets for particular events, tours or venues across the Ticketmaster distribution network.

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

(Refer to direction 4)

Ticketmaster proposes to:

- (a) Give or allow, or offer to give or allow, exclusive sale periods for Amex members to purchase tickets across the Ticketmaster network between a nominated start and finished date and time, and on the condition that the customer is paying for the tickets with an American Express credit or debit card.

- (b) Refuse to give or allow, or offer to give or allow, an exclusive sale period to purchase tickets across the Ticketmaster network between a nominated start and finished date and time if the customer is not paying for the tickets with an American Express credit or debit card.

The proposed exclusive period may constitute third line forcing pursuant to sections 47(6) and/or 47(4) of the *Trade Practices Act 1974 (Cth)*. This is because it may be argued that the exclusive sale period offer will only be available to consumers who are Amex members.

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)

Persons who are or who become American Express credit or debit card holders

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

- (i) **At present time:**

Substantially more than 50.

- (ii) **Estimated within the next year:**
(Refer to direction 6)

Substantially more than 50.

- (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:**
(Refer to direction 7)

The proposed exclusive sale periods allow Amex members access to tickets between a nominated start and finish date. Members of the general public wanting to purchase tickets holding credit or debit cards from other financial institutions will receive access to tickets via all points of sales across the Ticketmaster network outside of the exclusive sale periods.

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

The proposed conduct offers benefits to Amex members by enabling them to purchase tickets to a particular Ticketmaster event, tour or venue and to take advantage of exclusive sales offers. It does not compel Amex members to purchase 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):

(Refer to direction 8)

The relevant markets are the markets for the provision of entertainment ticketing services and for the issue of card services in Australia. Competition in both markets is vigorous.

Ticketmaster is a supplier of ticketing services to venues and promoters throughout Australia. It competes with a number of other ticketing service providers such as Ticketek, BOCS Ticketing, Bass, Venue*Tix, Moshtix, Qtix, Tickets.com and Ticket Direct.

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)

There is no known detriment to the public as a result of the proposed conduct, and significant public benefits as outlined above. Amex members are free to choose whether or not to take advantage of the Ticketmaster offers.

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

The proposed conduct will provide Amex members with a benefit if they choose to take advantage of the Ticketmaster offers. Amex customers are not obliged to purchase any tickets from Ticketmaster. The general public who are not Amex customers will have access to tickets to events outside of the exclusive sales period. The number of customers potentially affected by the proposed conduct is insignificant compared to the total number of consumers who acquire tickets from Ticketmaster and other ticket services.

7. Further information

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

Chris Forbes
Chief Executive Officer, Ticketmaster
Freshwater Place, Level 12
2 Southbank Boulevard
Southbank, 3006
VIC Australia
+61 (0)3 8632 2900

Dated..... 16 JUNE 2010

Signed by/on behalf of the applicant

.....
(Signature)

CHRISTOPHER JOHN FORBES
.....
(Full Name)

TICKETMASTER AUSTRALASIA PTY LTD
.....
(Organisation)

CHIEF EXECUTIVE OFFICER
.....
(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.