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Our ref SHS:1011774



LAWYERS

1 February 2011

By courier

Richard Chadwick
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
Level 7
123 Pitt St
Sydney NSW 2000



FILE No:
DOC:
MARS/PRISM:

Dear Richard

Notification under section 93(1) of the Competition and Consumer Act 2010

Please find enclosed:

- Form G Exclusive Dealing Notification in relation to potential third line forcing conduct by The Greater Union Organisation Pty Limited (**GUO**) and Birch Carroll & Coyle Limited (**BCC**); and
- Cheque in favour of the Australian Competition and Consumer Commission in the amount of \$200 comprising filing fees for each of the above entities.

GUO and BCC are proposing to enter into a promotional agreement with PayPal Pte Ltd (**PayPal**), an on-line payments company. The promotion concerns the advertising and marketing of "Pocket Cinema" and PayPal. Pocket Cinema is a free iPhone and iPad application that allows customers to browse session times, find cinemas, watch trailers and buy movie tickets to GUO's and BCC's cinemas in Australia.

As part of that promotion, GUO and BCC are proposing to offer discounted \$8 movie tickets (plus online booking fees) to non Gold Class screening sessions at any Event, Greater Union or BCC cinema in Australia to persons who purchase the ticket using PayPal through Pocket Cinema during a one week promotion period (from 28 March to 3 April 2011).

The proposed promotion will result in clear benefits to the public: it will enable cinema customers who take advantage of the promotion to acquire movie tickets at a substantial discount off the standard ticket price; it will add to competition in the supply of visual entertainment by making attendance at Event, Greater Union and BCC cinemas more competitive during the promotion period; and it will potentially encourage competing suppliers to offer customer discounts through similar promotions.

There will be no detriment to the public from the proposed conduct. Persons who purchase movie tickets under the promotion will not be prevented from seeing movies at a cinema other than Event, Greater Union or BCC cinemas during the promotion period. Members of the public who do not take advantage of the promotion will not be materially affected by this arrangement as they are free to purchase movie tickets in the normal manner at the usual price. The proposed conduct is not likely to adversely affect (increase) the prices of the goods or services in any markets.

ALLIANCES:

BLAKISTON & CRABB
LAWYERS

金杜律师事务所
KING & WOOD
P R C LAWYERS

SYDNEY + MELBOURNE + PERTH

PERTH

CHINA

Please contact either of us if you have any questions.



Yours sincerely

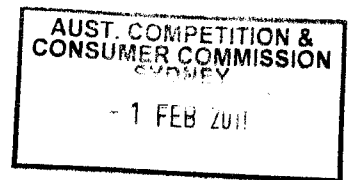
A handwritten signature in black ink that reads "Simon Snow".

Simon Snow
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ssnow@gtlaw.com.au

A handwritten signature in black ink that reads "Cassie O'Rourke".

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LAWYERS



Form G

Commonwealth of Australia

Competition and Consumer Act 2010 -- 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 *Competition and Consumer Act 2010*, 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:

N95245 The Greater Union Organisation Pty Limited ABN 99 000 024 439 (**GUO**).

N95246 Birch Carroll & Coyle Limited ABN 40 009 659 643 (**BCC**).

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

GUO and BCC own and operate cinemas in Australia. GUO/BCC's cinema complexes trade under the names Event Cinemas, Greater Union and Birch Carroll & Coyle.

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

c/o Simon Snow
Partner
Gilbert + Tobin
Level 37
2 Park St
Sydney NSW 2000

2 Notified arrangement

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

The supply of movie tickets to customers at Event Cinemas, Greater Union and BCC cinemas in Australia.

(b) Description of the conduct or proposed conduct:

The proposed conduct is:

- (i) the supply by GUO and BCC of a discounted movie ticket to a non Gold Class screening session which is set up and on sale from Monday 28 March to Sunday 3 April 2011 to a person who purchases that movie ticket using PayPal through Pocket Cinema, a free iPhone and iPad application, during the one week promotion period (from 28 March to 3 April 2011); and

- (ii) the refusal by GUO and BCC to provide a discounted movie ticket to a person for the reason that the person has not purchased the ticket by taking the steps referred to in 2(b)(i) above.

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:

All potential customers of Event, Greater Union or BCC cinemas in Australia who purchase tickets through Pocket Cinema during the one week promotion period, ie from 28 March to 3 April 2011.

(b) Number of those persons:

(i) At present time:

Not applicable.

(ii) Estimated within the next year:

All potential customers of Event, Greater Union or BCC cinemas in Australia who purchase tickets through Pocket Cinema during the one week promotion period will be affected by the proposed conduct. It is difficult to estimate the number of people who will be affected by the proposed conduct, but it will be substantially more than 50.

(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:

The proposed conduct will:

- (i) provide customers who take advantage of the promotion with the benefit of receiving discounted goods or services, ie a reduced price movie ticket;
- (ii) add to competition in the supply of visual entertainment by making attendance at Event, Greater Union, and BCC cinemas more competitive during the promotion period; and
- (iii) potentially encourage competing suppliers to offer customer discounts through similar promotions.

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

- (i) Customers who take advantage of the promotion will obtain the benefit of receiving discounted goods or services, ie an \$8 movie ticket (plus online booking fees). This is a significant price reduction. By reducing the ticket price, the promotion allows more people to go the cinema at a cheaper price.
- (ii) Other members of the public (that is cinema attendees who do not take advantage of the promotion) will not be materially affected by this arrangement as they are free to purchase movie tickets in the normal manner and at the usual price.
- (iii) The proposed conduct may increase competition in the supply of movie tickets, by making a visit to Event, Greater Union, and BCC cinemas more competitive during the promotion period.

- (iv) The promotion may encourage competitors to offer similar discounted movie tickets (or other discounted substitutes in entertainment such as DVDs, theatre or sports tickets) promoting competition in the visual entertainment market.

For the reasons above, the promotion will provide benefits to the public as described, and it is submitted the promotion will result in no significant detriment to the public. Any detriment is substantially outweighed by the public benefits outlined above.

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):

GUO and BCC consider that cinemas compete not only with other cinemas (eg Hoyts, AMC, Dendy, Reading) but also other forms of visual entertainment, including modes of supply of movies such as DVD sale and rental, streaming services which allow movies to be downloaded via a broadband internet connection, online film rental subscription services and video on demand services such as FOXTEL Box Office.

As GUO and BCC are subject to significant competitive constraint from other forms of visual entertainment, GUO and BCC consider the relevant market is wider than cinema exhibition.

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 detriment to members of the public as a result of the notified conduct.

The notified conduct is not likely to adversely affect (increase) the prices of the goods or services described at 2(a) above or prices in other markets.

(b) Facts and evidence relevant to these detriments:

- (i) The promotion period is for a limited time (1 week).
- (ii) Persons who purchase promotional movie tickets are free to purchase movie tickets at Event, Greater Union, and BCC cinemas at the usual price during the promotion period.
- (iii) Persons who purchase promotional movie tickets are not prevented from seeing movies at a cinema other than Event, Greater Union, or BCC cinemas during the promotion period.
- (iv) Other members of the public (that is cinema attendees who do not take advantage of the promotion) will not be materially affected by this arrangement as they are free to purchase movie tickets in the normal manner and at the usual price.
- (v) The proposed conduct will likely have little or no effect on the prices of movie tickets in Australia generally. However, the proposed conduct may increase competition in the supply of movie tickets, by making a visit to Event, Greater Union, and BCC cinemas more competitive during the promotion period.

The benefits associated with the proposed conduct are likely to outweigh any public detriments.

In these circumstances, the Applicants submit that the Commission should allow the notification to stand.

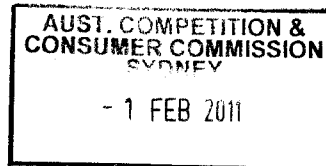
7 Further information

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

Simon Snow
Partner
Gilbert + Tobin
Level 37
2 Park St
Sydney NSW 2000

Dated..... 1 February 2011

Signed by/on behalf of the applicant:
..... [Signature]



Simon Snow, Partner, Gilbert + Tobin

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 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 *Competition and Consumer Act 2010* 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