



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(s) giving notice:

- N96382 Nine Entertainment Co. Pty Limited ACN 122 205 065 (**NEC**) and the following related bodies corporate of NEC:
- N96383 • Nine Network Australia Pty Ltd ACN 008 685 407 (**Nine**);
- N96384 • Ticketek Pty Limited ACN 010 129 110 (**Ticketek**);
- N96385 • ninemsn Pty Ltd ACN 077 753 461 (**ninemsn**); and
- N96386 ACP Magazines Limited ACN 053 273 546 (**ACP**),
- (together, the **Notifying Parties**).

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

NEC is a media and entertainment group, and its business includes the supply of advertising, event and promotional services.

Nine is a commercial television broadcaster and supplies television advertising services, sponsorship services, creative and strategic marketing services and related services.

Ticketek is an event ticketing company and supplies event and promotional services sponsorship services, creative and strategic marketing services and related services.

Ninemsn is a digital media company offering publishing, online services (including online advertising services, promotional services and sponsorship services), data strategies, consumer insights and advertising technologies, creative and strategic marketing services and related services.

ACP is a print and digital media company and supplies magazine and digital publishing and distribution services, including the supply of advertising services, promotional services, sponsorship services, creative and strategic marketing services and related services.

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

Simon Snow
Partner
Gilbert + Tobin
Level 37, 2 Park Street
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

Advertising services, promotional services, event services, sponsorship services, creative and strategic marketing services and related services.

(b) Description of the conduct or proposed conduct:

See Attachment A.

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

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

Advertisers who acquire, will acquire or will be offered advertising services, promotional services, event services, sponsorship services, creative and strategic marketing services and related services provided by NEC (and its related bodies corporate including ninemsn) and ACP.

(b) Number of those persons:

(i) At present time: unknown, but greater than 50.

(ii) Estimated within the next year: unknown, but greater than 50.

(c) Where number or classes of persons stated in item 3(b)(i) is less than 50, their names and addresses:

Not applicable.

4. Public benefits claims

(a) Arguments in support of notification

See Attachment A.

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

See Attachment A.

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)

The markets in which advertising services, promotional services, event services, sponsorship services, creative and strategic marketing services and related services are supplied.

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:

See Attachment A.

(b) Facts and evidence relevant to these detriments:

See Attachment A.

7. Further information

(a) Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

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



Dated: 28/11/12.

Signed on behalf of the applicants giving notice:

A handwritten signature in blue ink, appearing to read "Simon Snow". The signature is written in a cursive style and is positioned above a horizontal dotted line.

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 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 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.

ATTACHMENT A

1 Proposed conduct

Each of the Notifying Parties proposes to offer to supply, and supply, some or all of the following services: advertising services, promotional services, event services, sponsorship services, creative and strategic marketing services and related services (**Services**) to advertisers at a discount off the rates at which it would otherwise offer them (**Bundle Discount**) on the condition that the advertiser also acquires particular Services from one or more other Notifying Parties.

The Notifying Parties may refuse to offer or provide the Bundle Discount to advertisers who do not agree to acquire particular Services from another Notifying Party.

There is an argument (not necessarily accepted by the Notifying Parties) that the proposed conduct (**Proposed Conduct**) may amount to a contravention of s 47(6) and s 47(7) of the *Competition and Consumer Act 2010* (Cth) (**Act**).

2 Public benefit and competition issues

The relevant test is set out in s 93(3A)(b) of the Act. For the reasons noted below, the likely benefit to the public from the Proposed Conduct will be outweighed by any likely detriment to the public.

2.1 Public benefits for advertisers, potential advertisers and the industry

The Proposed Conduct will provide advertisers with the benefit of the Bundle Discount, thereby reducing the cost to those advertisers of acquiring the Services. Advertisers will be offered a bundle of some or all of the Services from NEC (and/or its related bodies corporate) and ACP at a discount off the sum of the prices at which they would be able to acquire such Services separately. It is anticipated that at least part of such savings are likely to be passed on to consumers of the goods and/or services supplied by those advertisers.

Further, it is expected that the Proposed Conduct will also promote a competitive response from other providers of the Services.

2.2 Public detriment

There will be no public detriment resulting from the Proposed Conduct.

There will be no lessening of competition as a result of the Proposed Conduct. The Services are supplied under highly competitive conditions and NEC, Nine, Ticketek, ninemsn and ACP face a large number of competing suppliers.

Advertisers will remain free to acquire some or all of the Services and services similar to the Services from NEC, Nine, Ticketek, ninemsn and ACP on an unbundled basis or to acquire some or all of the Services and services similar to the Services from other suppliers.

2.3 Conclusion

Due to the public benefits that will flow from the Proposed Conduct and the absence of any public detriment, the Notifying Parties request that the ACCC allow the notification to stand.