

5 June 2012

Our Ref: BKE:90552

Adjudication Branch
Australian Competition & Consumer Commission
Level 20
175 Pitt Street
SYDNEY NSW 2000

FILE No:
DOC:
MARS/PRISM:

BY HAND

Dear Sir / Madam

Expedia, Inc. and Expedia Australia Pty Limited – Notification of Exclusive Dealing

We act for both Expedia, Inc and Expedia Australia Pty Limited.

Please find **enclosed** the following:

1. Form G – Notification of Exclusive Dealing; and
2. Cheque in the amount of \$100 as payment of the lodgement fee.

If you wish to discuss this matter further please do not hesitate to contact us.

Yours faithfully
TRUMAN HOYLE

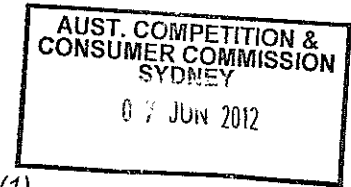


Bridget Edghill
Senior Lawyer
Email: bedghill@trumanhoyle.com.au
Responsible Partner: Shane Barber

Level 11, 68 Pitt Street
Sydney NSW 2000
Telephone (02) 9226 9888
Facsimile (02) 9226 9899
DX 263 Sydney
www.trumanhoyle.com.au

Legal and Regulatory Advisers to the New Economy

Form G
Commonwealth of Australia
Competition and Consumer Act 2010 — sub-section 93(1)



EXCLUSIVE DEALING NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Competition and Consumer Act 2010* of particulars of conduct or of proposed conduct of a kind referred to sub-sections 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:

Expedia, Inc ARBN 138 063 573 (**Expedia**) and Expedia Australia Pty Limited ACN 101 694 946 (**Expedia Australia**).

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

Expedia operates the travel services website located at www.expedia.com.au (**Website**).

Expedia Australia is a wholly owned subsidiary of Expedia and provides certain marketing and back-office services to Expedia in connection with the Website.

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

Truman Hoyle
Lawyers
Level 11, 68 Pitt Street
Sydney NSW 2000
Ref: BKE:90552

2. NOTIFIED ARRANGEMENT

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

This notification relates to:

- (i) the travel related goods and services supplied by Expedia via the Website;
- (ii) the conduct of promotions by Expedia Australia as a service provider to Expedia; and
- (iii) the supply of credit cards, payment processing systems and related services by certain third-party banks and financial services providers in Australia (**Banks**).

(b) Description of the conduct or proposed conduct:

Expedia proposes to, from time to time:

- (i) supply or offer to supply entry into promotions or competitions to customers who acquire Expedia services; or
- (ii) give, allow or offer a discount, allowance, rebate or credit to customers who acquire Expedia services,

on the condition that the customer also acquires one or more credit card or payment processing services of a specified Bank.

Expedia proposes to refuse, from time to time to:

- (i) supply or offer to supply entry into promotions or competitions to customers who acquire Expedia services; or
- (ii) give, allow or offer a discount, allowance, rebate or credit to customers who acquire Expedia services,

for the reason that the customer has not acquired, or agreed to acquire, credit card or payment processing services of a specified Bank.

By way of example, Expedia proposes to offer entry into a competition or promotion to a customer who acquires services on the Website on the condition that they pay for those services using the payment services on the Commonwealth Bank.

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:

Customers and potential customers of Expedia in connection with the Website.

(b) Number of those persons:

(i) At present time:

Not available.

(ii) Estimated within the next year:

Not available.

(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 provide the following benefits to the public:

- (i) current and potential customers of Expedia will be provided with the opportunity to obtain additional benefits (in the form of prizes, discounts, allowances or rebates), at no additional cost when purchasing travel goods and services through the Website during a promotion;
- (ii) the proposed conduct will not require consumers to purchase travel goods and services through the Website other than on a normal commercial basis and will not result in increased prices to consumers;
- (iii) the proposed conduct will not result in any restriction or limitation on the ability for consumers to purchase travel goods and services through the Website from other travel companies who sell the same or similar travel goods and services
- (iv) competition in the relevant travel industry markets will be encouraged and promoted by encouraging competitors to offer similar promotions to consumers.

- (v) encouragement of competitive pricing for goods and services; and
- (vi) promotion of competition amongst credit card providers and financial service providers and prompting competitors of the relevant Banks to offer value added benefits to the benefit of credit card customers.

The public benefits significantly outweigh any anti-competitive detriments arising from the proposed conduct.

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

Please see the details referred to in paragraph 4 (a) above. The terms and conditions for each promotion will be clearly referenced in all marketing collateral and on the Website and readily accessible to consumers.

5. PUBLIC DETRIMENTS

(a) 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):

- (i) Expedia does not consider that the proposed conduct will have any adverse effect on competition in any relevant market. Expedia considers the markets primarily relevant to the assessment of this notification are the markets for online travel agency services and the markets for credit cards and online payment processing systems.
- (ii) These markets are highly competitive. There are a large number of websites that offer travel agency services and credit and online payment service providers competing in the relevant markets. We do not consider that the conduct will create barriers to entry or otherwise harm competition in either of the relevant markets.

(b) 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:

The notified conduct comprises the offer of certain benefits on the optional acquisition of services from the relevant Banks as an additional benefit to customers who choose to acquire the online travel agency services from Expedia. The conduct in no way limits the genuine choice of customers in choosing whether or not to acquire any travel agency services from Expedia or whether to acquire the relevant Bank's payment services or any other method of purchasing services online. By retaining the genuine choice of customers, the conduct is not anti-competitive.

(c) Facts and evident relevant to these detriments

Please see the details referred to in paragraph 5 (a) above..

6. FURTHER INFORMATION

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

Truman Hoyle
Lawyers
Level 11, 68 Pitt Street

Sydney NSW 2000.
Ph: (02) 9226 9813



Attention: Bridget Edghill

Dated **5 June 2012.**

Signed ~~by~~ on behalf of the applicant

A handwritten signature in blue ink, appearing to be "B Edghill", written over a horizontal dotted line.

Bridget Edghill
Senior Lawyer
Truman Hoyle Lawyers



Australian
Competition &
Consumer
Commission

Level 20
175 Pitt Street
Sydney NSW 2000

GPO Box 3648
Sydney NSW 2001

tel: (02) 9230 9133
fax: (02) 9223 1092

abn: 94 410 483 623

Interim Receipt

Date: *7 June 2012*

Time: *12:10 p.m.*

Items have been received by the Sydney office of ACCC, at the above date and time,

from *Edith Johnson* on behalf of *Treman Hagle Lawyers*.

Description of items received:

Form G F/B Expedia Aust. P/L.
and cheque for \$100.00.

Receipt issued by: *G. Woodriff*

Signature: *[Handwritten Signature]*

Position: *Reception*

SECURITY FEATURE INCLUDED IN THIS CHEQUE IS A MICROPRINTED SIGNATURE LINE. THE ABSENCE OF WHICH COULD INDICATE A FRAUDULENT CHEQUE



Australia and New Zealand Banking Group Limited
115 Pitt Street Sydney NSW

TRUMAN HOYLE

008376

PAY TO
THE ORDER OF
THE SUM OF

Australian Competition and Consumer
Commission
One hundred dollars 00 cents

NOT
NEGOTIABLE

FOR AND ON BEHALF OF
TRUMAN HOYLE
OFFICE ACCOUNT

[Handwritten Signature]

DATE 07 JUN 2012
CREDIT COMMONWEALTH PUBLIC ACCOUNT
DATE 07 JUN 2012
CROSSED
NOT NEGOTIABLE

31 May 2012

\$100.00

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