

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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of person giving notice:

N97063

Cinerent Openair Pty Ltd (ACN 075 333 103)

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

An outdoor cinema event staged in the Royal Botanic Gardens in Sydney over 33 nights this summer, with associated food and beverage facilities.

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

c/- Chapman Thackeray Law
Suite 12.02, Level 12
89 York 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:

Supply of cinema tickets.

(b) Description of the conduct or proposed conduct:

To offer to customers of St.George Bank the exclusive ability to book tickets to one of the thirty-three screening nights of the outdoor cinema event in 2014 that will not otherwise be available to the general public "Exclusive Screening Night".

The offer of the Exclusive Screening Night may constitute third line forcing or exclusive dealing pursuant to the *Competition and Consumer Act 2010*, as the ability to book tickets to the Exclusive Screening Night will only be available to St.George Bank customers and not be available to persons who are not St.George Bank customers.

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 wish to visit the outdoor cinema events conducted by the applicant who either are St.George Bank customers or are not St.George Bank customers.

- (b) Number of those persons:

- (i) At present time:

The number of potential patrons of the event is unlimited.

St.George Bank has over 2.6 million customers.

The total patronage of the outdoor cinema event is limited to 64,152 patrons over the course of the event.

The maximum number of patrons on a screening night is 1,944.

Accordingly, the maximum number of persons affected on the Exclusive Screening Night is 1,944.

- (ii) Estimated within the next year:

The estimate at item (i) applies to the next year.

- (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 conduct will benefit customers of St.George Bank who choose to book tickets to the Exclusive Screening Night, by enabling them to choose to participate in an additional screening night of the event.

The proposed conduct does not require customers of St.George Bank to book tickets to the Exclusive Screening Night.

The proposed conduct is likely to benefit the public in that it will:

- (i) increase competition in the banking and financial services markets as it will encourage competitors of St.George Bank to provide similar or additional value added benefits to its customers; and
- (ii) increase competition in the cinema screening business as it will encourage competitors of the applicant to devise and offer promotions

to potential cinema patrons to encourage them to participate in cinema events.

Further, the proposed conduct will encourage potential sponsors of the Arts to offer financial sponsorship (or additional or alternative sponsorship) to other Arts events, by being able to attract or retain customers on the basis that they may have opportunities to participate in the Arts at a discount or otherwise enjoying benefits conferred by the sponsor to the customer.

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

See 4(a) 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):

There is a two tiered market.

The first tier is directly comparable outdoor cinema events, in that it is the conduct of outdoor cinema events in Sydney. In addition to the applicant, outdoor cinema events are conducted by competitors such as Moonlight Cinema at Centennial Park (with a estimated capacity of 2,000 patrons over 100 nights), Starlight Cinema at North Sydney Oval, Bondi Openair cinema at Bondi, and Movies by the Boulevard at Sydney Olympic Park.

The second tier is the broader market of the screening of films at cinemas, which occurs at various locations with vast capacity for patronage throughout not only Sydney but also throughout capital cities, regional and rural Australia.

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:

The proposed conduct is not likely to cause any material public detriment because:

- (i) members of the public that are not St.George Bank customers are still able to book tickets to 32 of the 33 nights of the event;
- (ii) members of the public that are not St.George Bank customers are able to attend other outdoor cinema events conducted in Sydney this summer, including Moonlight Cinema at Centennial Park (with a

estimated capacity of 2,000 patrons over 100 nights) Starlight Cinema at North Sydney Oval and Bondi Openair cinema at Bondi; and

- (iii) members of the public that are not St. George Bank customers will be able to see the film screened on the Exclusive Screening Night upon its general release to all cinemas throughout Australia.

The proposed conduct will not affect the price of the services, as the price remains constant for all patrons of the event, regardless of whether they book on the 32 general public nights or the one Exclusive Screening Night the subject of this notification.

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

See 6(a)

7. Further information

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

David Thackeray

Chapman Thackeray Law Pty Ltd

Suite 12.02, Level 12

89 York Street

Sydney NSW 2000

(02) 8235 1300

Dated.....31 October 2013

Signed by/on behalf of the applicant



.....

David Erie Thackeray

Cinerent Openair Pty Ltd

Director

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.