

FORM G

Commonwealth of Australia

Competition and Consumer Act 2010 – subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

(regulation 71)

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 in 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:*

Kogan Australia Pty Ltd (ACN 152 570 351) (**Kogan**).

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

N97100 Kogan is an online retailer of consumer electronic goods via the website www.kogan.com.

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

David Shafer, Executive Director, Kogan, 71-73 Thistlewaite St, South Melbourne, VIC 3205

2 Notified arrangement

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

2for1 Movie Pass Offer

Customers who buy any product from Kogan.com between 13 November 2013 and 24 December 2013 (**Relevant Period**) and elect to pay using PayPal (a payment system) are entitled to a 2for1 Movie Pass. The Movie Pass entitles customers to two movie vouchers to be redeemed for two adult movie tickets for the price of one full price adult ticket (on an average basis).

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

Customers who pay for purchases from Kogan.com using PayPal during the Relevant Period will be emailed a Movie Pass Code. This 2for1 Movie Pass Code entitles the holder to purchase 2 full priced adult tickets for the price of 1, once a day, every day, for 12 months.

Activation of a Movie Pass Code occurs when a given Movie Pass Code is entered on the website www.kogan.com/movies, and after the first purchase of movie vouchers (which are redeemed for tickets). After activation, each Movie Pass Code will remain valid for 12 months from the date it is first activated.

Customers may only purchase one movie voucher during the validity period and each customer is limited to one movie pass per customer order from Kogan.com to a maximum of one per customer during the Relevant Period. Qualified Customers with a Movie Pass Code will be directed online to (www.kogan.com/movies) to purchase movie vouchers. Movie

vouchers may be sent by either email or post. Only movie vouchers sent by post can be used at independent cinemas.

Each voucher is valid for use on a daily basis at participating Event Cinemas, Greater Union, Birch Carroll & Coyle Cinemas, Village Cinemas and certain independent cinemas.

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 purchasing goods via kogan.com and paying via PayPal.

(b) *Number of those persons:*

(i) *At present time:* More than 50.

(ii) *Estimated within the next year:* 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:*

Consumers who elect to pay for purchases from Kogan.com using PayPal will receive the benefit of a 2for1 Movie Pass which entitles them to two movie vouchers for the price of an average adult ticket per day for a year following activation of the Movie Pass. This will provide customers with significant savings on the price of cinema tickets. Customers will save \$19 with each voucher and can redeem one voucher per day in the following year with a possible total value of \$6935.

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

- Provides consumers with the benefit of savings on cinema tickets;
- encourages the development of integrated payment system checkout; and
- competes with other payment system offerings for online retail payments (e.g. V.Me's partnership with Catch of the Day) in competition with other payment system methods, including Visa and another credit card providers.

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 for online retailing and payment methods for goods and services purchased online.

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 are no public detriments.

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

Other payment methods will remain available to customers of Kogan who choose not to use PayPal without the benefit described at 4(a). Other payment options available on kogan.com at checkout include: Visa, Mastercard, American Express, PayPal and SmartPay.

Further, other online retailers make similar offerings in relation to other online payment providers, such as Catch Group's offering of discounts for purchases made by customers who signed up to V.me. The Catch Group provides discounted products to holders of Visa, Mastercard or American Express credit, debit, commercial or pre-paid cards on condition that such users become members of Visa Worldwide Pte Ltd's digital wallet service, V.me.

7 Further information

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

Dated 19 November 2013

Signed on behalf of the applicant



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Signature

David Shafer

Kogan Australia Pty Ltd

Executive 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 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.