

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:

N97099

The Greater Union Organisation Pty Ltd (ABN 99 000 024 439)
(GUO)

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

GUO and its related companies own and operate cinemas in Australia. These cinemas trade under the names Event, Great Union and Birch Carroll & Coyle cinemas.

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

Amalgamated Holdings Limited
Level 20, 227 Elizabeth Street
SYDNEY NSW 2000
Attention: Ben Arnall
Legal Counsel

2. Notified arrangement

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

To run a promotion open to Telstra Business Customers allowing them to purchase discounted movie gift cards to watch movies at Greater Union Cinemas, Event Cinemas, Birch Carroll & Coyle Cinemas in Australia.

(b) Description of the conduct or proposed conduct:

(i) GUO is offering to Telstra's Business Customers in QLD, NSW, ACT, SA, NT & WA the following:

Buy 100 x \$25 movie gift cards and get 10 free

Buy 100 x \$50 movie gift cards and get 10 free

Buy 100 x \$100 gold class gift cards and get 10 free

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 Telstra business customers during the promotion period i.e 14 November 2013 to 31 January 2014.
- (b) Number of those persons:
 - (i) At present time:
Not applicable.
 - (ii) Estimated within the next year:
All Telstra Business Customers during the 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 1,000.
- (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:
 - (i) provide Telstra Business Customers who take advantage of the promotion with the benefit of receiving discounted goods or services, i.e. a reduced movie gift card products.
 - (ii) add to competition in the supply of visual entertainment by making attendance at Event Cinemas, Greater Union, Birch Carroll & Coyle 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:
 - (j) Telstra Business Customers who take advantage of the promotion will effectively obtain the benefit of receiving discounted movie gift cards when purchased in bundles of one hundred.
 - (i) Persons who do not take advantage of the promotion will not be materially affected by this arrangement as they are free to

purchase movie gift cards in the normal manner and at the usual price.

- (ii) The proposed conduct may increase competition in the supply of movie gift cards, by making a visit to Event Cinemas, Greater Union, Birch Carroll & Coyle more competitive during the promotion period.
- (iii) The promotion may encourage competitors to offer a similar promotion.

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 considers 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.

GUO is subject to significant competitive constraint from other forms of visual entertainment, GUO considers that the relevant market is wide 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:

- a) The promotion period is 14 November 2013 to 31 January 2014.
- b) Persons who purchase promotional movie gift cards are free to purchase movie gift cards at Event, Greater Union and Birch Carroll & Coyle cinemas at the usual price during the promotion period.
- c) Persons who purchase promotional movie gift cards are not prevented from seeing movies at a cinema other than Event, Greater Union and or Birch Carroll & Coyle cinemas during the promotion period.
- d) Other members of the public (this 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 gift cards in the normal manner and at the usual price.
- e) The proposed conduct will likely have little or no effect on the prices of movie gift cards in Australia generally. However, the proposed conduct may increase competition in the supply of movie gift cards, by making a visit to Event, Greater Union and Birch Carroll & Coyle 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.

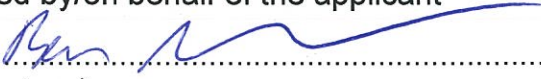
7. Further information

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

Attention: Ben Arnall
Legal Counsel
Amalgamated Holdings Limited
Level 20, 227 Elizabeth Street
SYDNEY NSW 2000

Dated:

Signed by/on behalf of the applicant


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(Signature)

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.