

FILE No:

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\* Associated Firm

21 February 2013

Mr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

Dear Mr Chadwick,

**Exclusive Dealing Notification – MasterCard Asia/Pacific (Australia) Pty Ltd**

We act for MasterCard Asia/Pacific (Australia) Pty Ltd.

We enclose an exclusive dealing notification by MasterCard Asia/Pacific (Australia) Pty Ltd pursuant to section 93(1) of the *Competition and Consumer Act 2010 (Cth) (Act)*. This notification is lodged in respect of conduct which may constitute exclusive dealing under sections 47(6) and 47(7) of the Act. This notification is given in the prescribed form and should not be taken as an admission that the conduct would contravene the statutory prohibition.

We also enclose a cheque made payable to the Commission in the sum of \$100, being the prescribed lodgment fee.

Yours sincerely,



Patrick Fair  
Partner  
+61 2 8922 5534  
patrick.fair@bakermckenzie.com

*Encl.*

## 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 (CCA)*, 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 the CCA 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:

N96621 MasterCard Asia/Pacific (Australia) Pty Ltd (ABN 95 108 603 345)  
**(MasterCard)**

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

MasterCard operates a global payment system.

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

Baker & McKenzie  
Solicitors & Attorneys  
AMP Centre  
50 Bridge Street  
Sydney NSW 2000  
Australia

Telephone: (02) 8922 5247  
Facsimile: (02) 9225 1595  
Attention: Anne-Marie Allgrove

#### 2. Notified arrangement

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

Supply of payment system services in relation to payment cards;

Supply of tickets to outdoor music concerts; and

Supply of food, beverages and other products at outdoor music concerts.

(b) Description of the conduct or proposed conduct:

Offer to supply, as part of a trade promotion, tickets to a private concert to persons who have acquired tickets to Future Music Festival taking place at

Randwick racecourse, Alison Road, Randwick, NSW 2031 and Flemington racecourse, 448 Epsom Rd, Flemington, VIC 3031 (the **Event**) and who have subsequently acquired food, beverages or other products using the PayPass functionality of a MasterCard payment card from merchants operating at the Event.

The proposed offer of a prize may constitute third line forcing pursuant to sections 47(6) and 47(7) of the CCA, as it might be argued that MasterCard is offering to supply products and/or services on condition that the customer acquires a ticket to the Event from the third party Event promoter and acquires products from a merchant at the Event.

**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 are or who may become holders of MasterCard PayPass-enabled payment cards issued in Australia.
- (b) Number of those persons:
- (i) At present time:
- Approximately 10 million.
- (ii) Estimated within the next year:
- Over 10 million.
- (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 conduct described in 2(b) will be of public benefit because:
- the conduct will improve the quality of the service offered by MasterCard to its customers; and
  - the conduct will promote competition in the relevant markets by exerting pressure on competitors to offer similar and other value added services.
- (b) Facts and evidence relied upon in support of these claims:
- There are a great many alternative suppliers of credit card and consumer banking services.

**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):

Payment card and consumer banking markets.

**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:

MasterCard does not consider that the proposed conduct will result in or is likely to result in any public detriment as:

- consumers are under no obligation to acquire services from MasterCard, from the Event promoter or from merchants at the Event; and
- consumers may obtain services from the Event promoter and merchants at the Event without acquiring a MasterCard payment card.

(b) Facts and evidence relevant to these detriments:

MasterCard considers the benefits to consumers of having the opportunity to participate in the promotion outweighs any possible public detriment.

**7. Further information**

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

Baker & McKenzie  
Solicitors & Attorneys  
AMP Centre  
50 Bridge Street  
Sydney NSW 2000  
Australia

Telephone: (02) 8922 5247  
Facsimile: (02) 9225 1595  
Attention: Anne-Marie Allgrove

Dated: 21 February 2013

Signed by/on behalf of the applicant



.....  
(Signature)

Patrick Vaughan Fair

.....  
(Full name)

Baker & McKenzie

.....  
(Organisation)

Partner

.....  
(Position in organisation)

## 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.