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## 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.

### 1. Applicant

(a) **Name of person giving notice:**

N96622 Ticketek Pty Ltd ABN 92 010 129 110 (**Ticketek**)

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

Ticketek provides ticketing services to venues and promoters across Australia.

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

Ticketek: Level 18, 66-68 Goulburn 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:**

Tickets sold by Ticketek to certain live entertainment and sporting events.

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

Ticketek proposes from time to time to:

- (a) give or allow, or offer to give or allow, exclusive pre-sale periods for Amex cardholders to purchase tickets for certain events from Ticketek between a nominated start and finish date, on condition that the customer pays for the tickets using an Amex credit or debit card;
- (b) refuse to give or allow, or offer to give or allow, a customer to purchase tickets for certain events from Ticketek between a nominated start and



finish date, because the customer is not paying for the tickets and associated ticketing services with an Amex credit or debit card.

The following restrictions will apply to relation to each pre-sale offer by Ticketek to Amex cardholders:

- where Ticketek is selling between 25% and 100% of the total saleable ticket inventory for a single event, or, where the performance or event is to take place more than once in the same city, a series of events, no more than 40% of the tickets will be made available to Amex card holders in the pre-sale offer period; and
- where Ticketek is selling less than 25% of the total saleable inventory for a single event, or, where the performance or event is to take place more than once in the same city, a series of events, all of Ticketek's ticket allocation may be offered to Amex cardholders during the pre-sale offer period.

In order to minimise the risk of contravening sections 47(6) and / or 47(7) of the *Competition and Consumer Act 2010 (CCA)*, Ticketek wishes to notify the conduct under section 93(1) of the CCA.

**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 from time to time are American Express credit or debit card holders.

**(b) Number of those persons:**

**(i) At present time:**

Substantially more than 50.

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

Substantially 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:**

The proposed conduct will benefit Amex cardholders by providing them with an exclusive pre-sale period in which they can access tickets to entertainment events.

An important part of attracting broad audiences to entertainment and sporting events and ensuring the commercial viability of events is to provide a wide variety of value propositions to consumers, including pre-sales.

The offers made available to Amex cardholders provide a public benefit to those involved in staging events, such as, venues, hirers and promoters, and ultimately the consumer of entertainment and sporting events, in contributing to making commercially viable events that may not otherwise be viable.

In addition, the proposed conduct will provide the following benefits to the public:

- (i) promotion of competition amongst ticket service providers; and
- (ii) promotion of competition amongst loyalty program service providers which would benefit members of those programs.

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

The proposed conduct provides a benefit to Amex cardholders who choose to take advantage of an offer, by enabling them to purchase tickets to a particular event during an exclusive pre-sale period made available to Amex cardholders. It does not compel Amex card holders to purchase tickets through Ticketek, or any tickets at all.

The notified conduct will not result in any restriction or limitation on the ability of Amex cardholders or any other consumers to purchase tickets from other ticket service providers who may sell the same or similar goods and services.

The notified conduct will not result in increased prices to consumers generally.

There are therefore no detriments, only benefits, arising from the proposed conduct.

#### 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 relevant markets are the markets for:

- the provision of ticketing services to venues and promoters throughout Australia; and
- the issue of credit and debit card services, in Australia.

Competition in both these markets is vigorous and there are other competitors in each of these markets that compete for business on equal footing.

## **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 known public detriments.

There will be no lessening of competition as a result of the proposed conduct.

Amex cardholders are free to choose whether they take advantage of the pre-sale ticket window being offered.

The general public who are not Amex cardholders will also have access to Ticketek tickets for the same events outside of the Amex program. In light of this, the proposed conduct in no way limits the genuine choice of consumers in choosing whether to acquire services from Amex or Ticketek.

The public benefits outweigh any perceived public detriments.

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

The proposed conduct will not lessen competition in the markets in which Ticketek or Amex operate.

The Ticketek pre-sale offers are merely an additional benefit to a consumer who has chosen to be an Amex cardholder.

## **7. Further information**

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

Ticketek: Kate Cooper  
General Counsel  
Ticketek Pty Limited

GPO Box 1610, SYDNEY NSW 2001  
Ph: 02 9266 4013

Dated.....22 February 2013.....

Signed by/on behalf of the applicant

.....KATE COOPER.....  
(Signature)

.....KATE COOPER.....  
(Full Name)

.....TICKETEK PTY LIMITED.....  
(Organisation)

.....GENERAL COUNSEL.....  
(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.