

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:
(Refer to direction 2)

N97999 Ticketek Pty Limited ABN 92 010 129 110 (**Ticketek**)

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Ticketek provides ticketing services to venues and promoters across Australia

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

Level 19, 66-68 Goulburn St
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 to live concerts by an internationally renowned major local artist (**Artist**) and related concert experiences to be held in or around October and November 2015 in Brisbane, Sydney, Melbourne, Perth, Adelaide, Hunter Valley and Swan Valley (**Events**).

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

(Refer to direction 4)

Ticketek proposes to:

- Give or allow, or offer to give or allow, an exclusive ticket pre-sale period and discounted ticket offers for Telstra Corporation Limited (Telstra) customers to purchase tickets to the Events between a nominated start and finish date;

- Refuse to give or allow, or offer to give or allow, a customer to purchase tickets to the Events during the applicable pre-sale window or at the discounted price from Ticketek between the nominated start and finish date, because the customer is not a Telstra customer.

Ticketek has previously provided notification of certain services that it proposed to provide in a Form G Notification of Exclusive Dealing dated 30 May 2014. In that Notification, Ticketek proposed an allocation of up to 40% of tickets to certain events to be available to Telstra customers in a presale or discounted price offer. Ticketek now proposes to provide an additional allocation of up to 20% of tickets to the Events (allowing for a total allocation of up to 60% of the tickets being available exclusively to Telstra customers during the pre-sale period).

We note that on 20 November 2014, Dainty Consolidated Entertainment Pty Ltd (as the promoter of the Events) lodged a Form G Notification of Exclusive Dealing also relating to the allocation of up to 60% of tickets to the Events to Telstra customers.

There is an argument (not necessarily accepted by Ticketek) that the proposed conduct may amount to a contravention of sections 47(6) and/or 47(7) of the Competition and Consumer Act 2010 (Cth) (CCA). This is because it may be argued that tickets will only be sold to consumers during the exclusive pre-sale window or at the discounted price (as applicable) if the consumers acquire the services of Telstra. Out of an abundance of caution, 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:
(Refer to direction 5)

Persons who from time to time are Telstra customers

- (b) Number of those persons:

- (i) At present time:

Substantially more than 50

- (ii) Estimated within the next year:
(Refer to direction 6)

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:
(Refer to direction 7)

An important part of attracting wide audiences to live music events and ensuring the continued viability of these types of events is providing a range of value propositions to customers. Therefore these types of offers (pre-sale and discounted) are intended to attract more people to attend live events, contributing to the continued viability of those events.

In addition, the proposed conduct will benefit the public by promoting competition in the markets in which Telstra products are supplied as it will encourage competitors of Telstra to procure similar benefits for their customers.

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

The proposed conduct benefits Telstra customers by giving them access to tickets for live concerts by the Artist and related concert experiences for which they may otherwise be unable to purchase tickets. The proposed conduct does not compel Telstra customers to purchase tickets through Ticketek or to purchase any tickets at all.

Members of the public who wish to purchase tickets to live concerts by the Artist and related concert experiences will still be able to do so without being a Telstra customer, as those tickets will be available after the pre-sale and any tickets not sold through the special allocation for sale to Telstra customers will be offered to the general public. Tickets set aside for the allocation to Telstra customers will be generally distributed across all price categories.

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):
(Refer to direction 8)

For the purpose of this notification only, the relevant markets are those in which:

- tickets to live music events are supplied in Australia, in which market Ticketek supplies services broadly; and
- online content and telecommunications products and services are supplied in Australia, in which Telstra provides its products and services broadly.

Competition in both these markets is vigorous and there are other competitors actively competing in those markets, including by providing ticket and ticket package offers associated with Pinpoint, Visa, American Express and Optus.

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:
(Refer to direction 9)

It is submitted that there is no known public detriment as a result of the proposed conduct. Telstra customers are free to choose whether or not to take advantage of the pre-sale or discounted ticket offers during the relevant periods. Members of the general public who wish to purchase tickets to live concerts by the Artist and related concert experiences will still be able to do so without any requirement to be a Telstra customer.

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

The proposed conduct will provide Telstra customers with a benefit if they choose to take advantage of the offers. They are not obliged to purchase any tickets to the events the subject of such offers. The general public who are not Telstra customers will have access to tickets to the events outside of the exclusive presale or discounted ticket offer windows.

The proposed conduct:

- does not limit the genuine choice of consumers in choosing whether to acquire services from Telstra or its competitors; and
- does not limit the ability of consumers to acquire tickets to concerts by the Artist and related concert experiences without purchasing a Telstra product or service.

7. Further information

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

Kate Cooper

General Counsel

Level 19, 66-68 Goulburn St

Sydney NSW 2000

Dated..... 24 November 2014

Signed by/on behalf of the applicant

..... K. 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.