

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:

- N98018 Amalgamated Holdings Ltd (ABN 51 000 005 103) on behalf of:
N98019 (i) The Greater Union Organisation Pty Ltd (ABN 99 000 024 439)
N98020 (ii) Birch Carroll & Coyle Limited (ABN 40 009 659 643) (**BCC**); and
(iii) Village Cinemas Australia Pty Ltd (ABN 36 006 735 002) (**VCA**);

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

GUO, BCC and VCA own and operate cinemas in Australia. GUO/BCC's cinemas primarily trade under the names Event Cinemas, Greater Union, Birch Carroll & Coyle and Moonlight Cinemas. VCA's cinemas primarily trade under the name Village Cinemas.

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

Ben Arnall
Legal Counsel
Amalgamated Holdings Limited
Level 20, 227 Elizabeth 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:

The supply of movie tickets, candybar items and vouchers at Event Cinemas, Greater Union, Birch Carroll & Coyle, Moonlight Cinemas and Village Cinemas in Australia to customers using MasterPass. MasterPass is a digital wallet payment method offered by MasterCard Asia / Pacific (Australia) Pty Ltd.

(b) Description of the conduct or proposed conduct:

Promotion 1:

Every MasterPass transaction performed on www.eventcinemas.com.au, www.moonlight.com.au or www.villagecinemas.com.au (or mobile optimised various of the websites) between 12.01am AEDST on 26 December 2014 and 11.59pm AEDST on 26 December 2014 will receive:

- Event Cinemas / Village Cinemas: A single free Gold Class movie e-voucher per transaction, valid for six months at either Event Cinemas Gold Class or Village Cinemas Gold Class locations only. Vouchers will be valid for redemption at any time except for special events. Surcharges apply for 3D screenings;
- Moonlight Cinemas: A single free Gold Grass movie voucher per transaction, valid for the 2014/15 Moonlight Summer season at Moonlight Cinemas Sydney, Melbourne, Brisbane, Adelaide or Perth.

Promotion 2:

Every MasterPass transaction performed on www.eventcinemas.com.au (and / or the mobile optimised version of the website), between 4 December 2014 and 30 June (11:59pm AEDST) 2015 will receive a candy bar combo (popcorn and soft drink) e-voucher (subject to a total maximum allocation of 10,000 units).

This offer may be extended to cover www.villagecinemas.com.au in 2015 if mutually agreed by the parties.

Promotion 3:

Every MasterPass transaction performed on www.moonlight.com.au (and / or the mobile optimised version of the website), between 24 November (12:01am AEDST) 2014 and 31 March (11:59pm AEDST) 2015 will receive a \$10 food and beverage e-voucher (subject to a total maximum allocation of 10,000 units).

Promotion 4:

Staff Incentive Promotion (i) – MasterCard staff in Sydney shall be issued a promotional code to allow them to buy a movie ticket online at www.eventcinemas.com.au (and / or the mobile optimised version of the website) and / or www.moonlight.com.au (and / or the mobile optimised version of the website) on dates to be agreed by the parties to get a second ticket at no cost to them (subject to a total maximum allocation of 600 units).

Staff Incentive Promotion (ii) – MasterCard staff in Melbourne shall be issued a single movie voucher redeemable for a single movie ticket online at www.villagecinemas.com.au. MasterCard staff will be prompted through

a note to redeem the free ticket online at www.villagecinemas.com.au and buy a second using MasterPass. The activity is to run on a date to be agreed by the parties.

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 MasterCard customers who purchase movie tickets using MasterPass on line from the following websites www.eventcinemas.com.au; www.villagecinemas.com.au; www.moonlight.com.au on the promotion dates mentioned above will receive the benefit of the promotions as referred to above.

(b) Number of those persons:

(i) At present time:

Not applicable.

(ii) Estimated within the next year:

All customers of MasterCard who purchase movie tickets using MasperPass, it is difficult to estimate the number of people who will be affected by the proposed conduct, but is likely to be more than 1000.

(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 MasterCard customers who take advantage of the promotion(s) will benefit in receiving free vouchers, candy bar combo and or food and beverage e-vouchers.

(ii) add to competition in the supply of visual entertainment by making attendance at Event Cinemas, Greater Union, Birch Carroll & Coyle, Moonlight Cinemas and Village Cinemas 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:

(i) MasterCard customers who take advantage of the promotion will obtain the benefit of receiving free vouchers, candy bar combo and or food and beverage e-vouchers.

- (ii) Other members of the public will not be materially affected by this arrangement as they are free to purchase cinema tickets and or candy bar items in the normal manner at other packaged prices.
- (iii) The proposed conduct may increase competition in the supply of movie tickets, by making a visit to Event Cinemas, Greater Union, Birch Carroll & Coyle, Moonlight Cinemas and Village Cinemas more competitive during the promotion period.
- (iv) The promotion may encourage competitors to offer similar discounted movie tickets and candybar items (or other discounted substitutes in entertainment such as DVDs, theatre or sports tickets) promoting competition in the visual entertainment market.

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, BCC and VCA consider that their 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, BCC and VCA are subject to significant competitive constraint from other forms of visual entertainment. GUO, BCC and VCA consider that the relevant market is wider 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) There are a number of promotions over various promotional dates.

- b) Persons who are not MasterCard customers are free to purchase movie tickets at Event Cinemas, Greater Union, Birch Carroll & Coyle, Moonlight Cinemas and Village Cinemas at the usual price during the promotion periods, without using MasterPass.
- c) Persons who purchase promotional movie tickets are not prevented from seeing movies at a cinema other than Event Cinemas, Greater Union, Birch Carroll & Coyle, Moonlight Cinemas and Village 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 tickets 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 tickets in Australia generally. However, the proposed conduct may increase competition in the supply of movie tickets, by making a visit to Event Cinemas, Greater Union, Birch Carroll & Coyle, Moonlight Cinemas and Village 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 Applicant submits 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.