



**Australian
Competition &
Consumer
Commission**

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10 January 2014

Mr Jan Jeltens
Recticity Pty Ltd

By email: email@recticity.com

Dear Mr Jeltens

Third line forcing notification N96382 lodged by Nine Entertainment Co Pty Ltd & Ors (Notification)

Thank you for your correspondence dated 26 December 2013 relating to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 28 November 2012.

Legal protection conferred by the notification commenced on 12 December 2012.

In your correspondence, you note your concern that various entities in the Nine Entertainment Group promote gambling, in particular the online gambling company Bet365. Your letter notes the negative impact that gambling, and the promotion of gambling, has on the community. For these reasons, you request that the ACCC review the legal protection afforded by the Notification.

The Notification provides Nine Entertainment Co Pty Ltd, Nine Network Australia Pty Ltd, Ticketek Pty Limited, ninemsn Pty Ltd, and ACP Magazines Limited (Notifying Parties) with protection against legal action for engaging in "third line forcing" conduct. Third line forcing may occur where a supplier offers a goods or services for a discounted price on condition that the customer also acquires goods or services from another person.

In this Notification, each of the Notifying Parties proposes to offer to supply, and supply, some or all of the following services: advertising services, promotional services, event services, sponsorship services, creative and strategic marketing services and related services (Services) to advertisers at a discount off the rates at which it would otherwise offer them (Bundle Discount) on the condition that the advertiser also acquires particular Services from one or more other Notifying Parties.

The notification therefore allows the Notifying Parties to offer advertisers a discount if they purchase a bundle of services from some or all of the Notifying Parties. Advertisers remain free to acquire some or all of the Services and services similar to the Services from each of the Notifying Parties on an unbundled basis, or similar services from other suppliers.

The ACCC therefore considers that the Notification does not directly relate to or increase the promotion of gambling.

The ACCC may only revoke the protection from legal action provided by a notification if it is satisfied that the likely public benefits will not outweigh the likely public detriments from the conduct. In this case, with or without the conduct described in the notification, the Notifying Parties, including members of the Nine Network, are able to accept advertising from gambling companies. For these reasons the ACCC does not consider that the balance of public benefits would be outweighed by the public detriments and does not propose to review this Notification any further at this time.

The ACCC is required to maintain a public register where it includes submissions in relation to notifications, subject to any claims for confidentiality. We would appreciate it if you could please confirm whether your correspondence may be placed on that public register. If you would like part or the entirety of your letter to be excluded from the public register, please indicate this by return correspondence including a short statement of your reasons.

This letter will also be placed on the public register, subject to any claims for confidentiality made in relation to your original correspondence.

If you wish to discuss any aspect of this matter, please contact Hayley Parkes on (03) 9290 6926 or by email hayley.parkes@accc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal stroke extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch