

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)

N97407 Nine Live Pty Ltd ACN 150 055 100 (**Nine Live**).

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

Nine Live is a promoter of live music events. Tickets to those events are sold through ticketing agents appointed by Nine Live or by the venue at which the event is to be held.

- (c) Address in Australia for service of documents on that person:
Level 18, 66-68 Goulburn Street, Sydney, New South Wales, 2000.

2. Notified arrangement

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

This notice relates to the provision of:

- services provided by Telstra to its customers, including mobile and fixed-line telecommunications, internet, IPTV and subscription television services (**the Telstra Products**); and
- the provision by Nine Live of tickets, through Ticketek and Ticketmaster sales channels, to live concerts and of related concert experiences by Nine Live to customers of the Telstra Products and to staff of Telstra and its subsidiaries (collectively, the **Telstra Customers**).

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

Nine Live proposes to provide Telstra Customers, through Ticketek and Ticketmaster sales channels, tickets to the live concerts (**the Events**) and related concert experiences for the Australian Tour of a renowned

international act (**Artist**) to be held during February 2015 in Sydney, Brisbane, Adelaide, Melbourne and Perth.

Nine Live proposes to provide the following services in relation to the Events (the **Nine Live Services**):

1. An allocation of up to 40% of tickets to the Events to be available to Telstra Customers for the first exclusive pre-sale window for 48 hours, prior to tickets becoming available to the general public (noting that tickets may also be available to the Artist fan clubs during the Telstra pre-sale window).
2. Special offers to Telstra Customers including a limited number of Event-related experiences including Artist meet and greets, backstage access; VIP packages and similar offers.
3. Competition entries open to Telstra Customers for special offers and “money can’t buy” experiences with the Artist.

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)

Telstra Customers.

- (b) Number of those persons:

- (i) At present time:

As at 30 June 2013, the “services in operation” Telstra Customer number include 15.1 million mobile customers, 2.8 million fixed retail broadband customers and 7.8 million basic access line customers. Please note that one Telstra Customer may have multiple services with Telstra.

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

Telstra does not provide “forward looking” estimates for its customer numbers. However, Telstra has a strategic priority of retaining and growing such numbers so it is expected that the number of Telstra Customers will increase.

- (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 broad audiences to live music events and ensuring the continued viability of those events is to provide a wide range of value propositions to consumers, including pre-sales, discounts, and “money can’t buy” experiences. The Nine Live Services provide a public benefit to consumers of music events by making a broad range of value propositions available to Telstra Customers.

In addition, the proposed conduct will promote competition in the markets in which the 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 offers benefits to Telstra Customers by giving them access to tickets for high demand Events for which they may otherwise be unable to purchase tickets as these Events are likely to sell out.

It does not compel Telstra Customers to purchase tickets to the Events through the Nine Live Services or to buy any tickets at all.

Members of the public who wish to purchase tickets to the Events are still able to do so without being a Telstra Customer, as tickets to the Events will also be available at the conclusion of the Telstra pre-sale window. Tickets not sold through the presale to Telstra Customers will be also offered to the general public. Tickets set aside for the Telstra Customer presale will be generally distributed across all price categories.

Further, the proposed conduct provides further competition with respect to special allocation ticket offers and creation of packages and add-ons. These products involve value propositions and competition and promotional opportunities that may not exist without 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):
(Refer to direction 8)

For the purposes of this notification only, it is relevant to consider the markets in which Nine Live provides its services broadly, as being the market for live entertainment in Australia. The market is highly

competitive. There are a large number of ticket providers competing to provide ticket and ticket package offers in the market. These include offers associated with Pinpoint, Visa, Mastercard and American Express.

For the purposes of this notification only, it is relevant to consider the markets in which Telstra provides its products and services broadly as being the market for online content and telecommunications services in Australia. Competition in the market is vigorous with a large number of competitors providing options to consumers.

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 there are no public detriments.

There is no lessening of competition as a result of the proposed conduct. There is no obligation on Telstra Customers to acquire any of the Nine Live Services. Nor is there any obligation on members of the public who wish to attend the Events to acquire one of the Telstra Products.

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

The proposed conduct will not lessen competition in the markets in which Telstra or Nine Live operate.

The proposed conduct is merely an additional benefit to consumers who are Telstra Customers. Telstra is the biggest telecommunications provider in Australia.

As at 30 June 2013, the “services in operation” Telstra Customer number include 15.1 million mobile customers, 2.8 million fixed retail broadband customers and 7.8 million basic access line customers. Please note that one Telstra Customer may have multiple services with Telstra.

Telstra Customers are free to choose whether or not to take advantage of the Nine Live Services.

The general public who are not Telstra Customers will still have access to tickets to the Events at the conclusion of the Telstra presale window, and tickets to the Events offered to Telstra Customers will become available to the general public if not sold to Telstra Customers. Tickets set aside for the allocation to Telstra Customers will be generally distributed across all price categories, and are subject to a ticketing allocation.

7. Further information

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

Mr Leon Spellson
Nine Live Pty Ltd
Level 18
66-68 Goulburn Street
Sydney, NSW, 2000

02 9266 4012

Dated 15 May 2014

Signed by/on behalf of the applicant

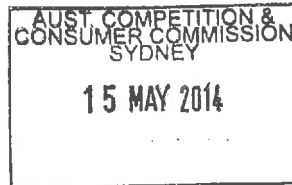


(Signature)

Leon Spellson
(Full Name)

Nine Live Pty Limited
(Organisation)

General Manager
(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.