



Level 39, Rialto South Tower
525 Collins Street
Melbourne VIC 3000 Australia

GPO Box 375 Melbourne VIC 3001
DX 208 Melbourne

T +61 3 8080 3500
F +61 3 8080 3599

Our ref ARB:PBS:1237464999

13 July 2015

adjudication@accc.gov.au

Australian Competition and Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne Central
MELBOURNE VIC 3000

Dear Sir/Madam

Form G - Notification of Exclusive Dealing

We act for Dainty Consolidated Entertainment Pty Ltd ABN 93 137 577 943 (**Applicant**).

Please find **attached** an exclusive dealing notification Form G for lodgement on behalf of the Applicant.

A cheque for the applicable lodgement fee of \$100 will be lodged by hand today at the following address:

Australian Competition and Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne Central
MELBOURNE VIC 3000

Please contact us if you have any queries in respect of this matter.

Yours sincerely

Peta Conitsiotis
Senior Associate
T +61 3 9641 8694
M +61 423 777 597
E pconitsiotis@tglaw.com.au

Responsible Partner - Adam Brooks

FILE No:
DOC:
MARS/PRISM:

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)

N98383

Dainty Consolidated Entertainment Pty Ltd (ABN 93 137 577 943) (DCE).

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

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

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

Building 1, Level 1
1 Southbank Blvd
Southbank, Victoria 3006

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:

- products provided by Swisse to its customers, including vitamins, skincare and superfoods (the **Swisse Products**); and
- the provision by DCE of tickets, primarily through Ticketek and Ticketmaster, to live shows by an internationally renowned major personality (the **Personality**) to customers of the Swisse Products and to staff of Swisse and its subsidiaries (collectively, the **Swisse Customers**).

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

DCE proposes to provide to Swisse Customers, primarily through Ticketek and Ticketmaster, tickets to live shows by the Personality and related show

experiences to be held in or around December 2015 in Brisbane, Sydney, Melbourne, Perth and Adelaide (**Events**).

DCE proposes to provide the following services in relation to each Event (the **DCE Services**):

1. An allocation of up to 15% of tickets for each Event to be available to Swisse Customers for an exclusive pre-sale window of 48 hours, following which tickets will become available to the general public (noting that tickets may also be available to fan clubs of the Personality for purchase during the pre-sale window).
2. Special offers to Swisse Customers including a limited number of packaged, discounted and complimentary tickets to Events; reserved allocations; backstage access and similar offers.
3. Competition entries open to Swisse Customers for special offers and “money can’t buy” experiences with the Personality.
4. Offers to Swisse Customers of Event-related experiences (eg. backstage tours); Personality merchandise and/or similar offers in relation to each Event to be purchased as a package along with a ticket to an Event and/or as an add-on to the purchase of a ticket and/or for promotional or competition purposes.

(Refer to direction 4)

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)

Swisse 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 broad audiences to live shows 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 DCE Services (as defined in 2(b) above) provide a public benefit to consumers of entertainment events by making a broad range of value propositions available to Swisse Customers and contributing to the overall viability of the Events.

In addition, the proposed conduct will promote competition in the markets in which the Swisse Products are supplied as it will encourage competitors of Swisse to procure similar benefits for their customers.

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

The proposed conduct offers benefits to Swisse Customers by giving them access to tickets for Events for which they may otherwise be unable to purchase tickets.

It does not compel Swisse Customers to purchase tickets to the Events through the DCE Services or restrict Swisse Customers from purchasing tickets other than through the DCE Services.

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

Swisse Customers will not be compelled to purchase tickets to Events only as a package with additional products or only with add-ons, but will have the option of doing so.

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 DCE provides its services broadly, as being the market for live entertainment events in Australia. The market is highly competitive. Further 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, American Express, Mastercard, Telstra and Optus.

For the purposes of this notification only, it is relevant to consider the markets in which Swisse provides its products and services broadly as being the market for vitamins, superfoods and skincare products 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 Swisse Customers to acquire any of the DCE Services. Nor is there any obligation on members of the public who wish to attend the Events to acquire one of the Swisse Products.

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

The proposed conduct will not lessen competition in the markets in which Swisse or DCE operate.

The proposed conduct is merely an additional benefit to consumers who are Swisse Customers.

Swisse Customers are free to choose whether or not to take advantage of the DCE Services.

The general public who are not Swisse Customers will still have access to tickets to the Events and tickets to the Events offered to Swisse Customers will become available to the general public if not sold to Swisse Customers. Tickets set aside for the allocation to Swisse Customers will be generally distributed across all price categories.

In light of this, the proposed conduct:

1. does not limit the genuine choice of consumers in choosing whether to acquire services from Swisse or its competitors; and
2. does not limit the ability of consumers to acquire tickets to the Events without purchasing a Swisse Product.

7. Further information

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

Tim McGregor
Building 1, Level 1
1 Southbank Boulevard
Southbank, Victoria 3006

Dated..... 10 July 2015

Signed by/on behalf of the applicant

.....
(Signature)

Timothy Ross McGregor

.....
(Full Name)

Dainty Consolidated Entertainment Pty Ltd

.....
(Organisation)

Group Managing Director

.....
(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.