

## 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)

N98106 Nine Touring & Events Pty Ltd ACN 150 055 100 (**Nine Touring**).

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

Nine Touring is a promoter of sporting and live music events. Tickets to those events are sold through ticketing agents appointed by Nine Touring 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 Touring to customers of the Telstra Products and to staff of Telstra and its subsidiaries (collectively, the **Telstra Customers**) of the opportunity to participate in exclusive pre-sale windows to acquire, through Ticketek and/or Ticketmaster sales channels, tickets to certain live entertainment and sporting events, as well as discounted ticket offers and other special offers associated with the events from time to time (collectively, the **Telstra Customers**).

(b) Description of the conduct or proposed conduct:

Nine Touring proposes to provide Telstra Customers with;

1. Exclusive ticket pre-sale periods and discounted ticket offers from time to time to purchase tickets to certain events during an exclusive pre-sale window between a nominated start and finish date; and
2. Special offers to Telstra Customers which may include money-cant-buy experiences such as “meet and greet” opportunities, and merchandise offers.

(the **Nine Touring Services**).

In relation to each offer made by Nine Touring to Telstra Customers, there will be a restriction in place so that no more than 50% of the tickets available for an event will be made available to Telstra Customers in a presale or discounted price offer.

There is an argument (not necessarily accepted by Nine Touring) that the proposed conduct may amount to a contravention of sections 47(6) and 47(7) of the Competition and Consumer Act 2010 (CCA). This is because it may be argued that the Nine Touring Services will only be available if the consumers acquire the services of Telstra. Out of an abundance of caution, Nine Touring wishes to notify the conduct under section 92(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)

Telstra Customers.

- (b) Number of those persons:

- (i) At present time:

The “services in operation” Telstra Customer number includes 16 million domestic retail mobile services, 7.5 million fixed voice services and 3.7 million fixed data services (Telstra Annual Report 2014). 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 sporting and entertainment events and ensuring the continued viability of those events is to provide a wide range of value propositions to consumers, including pre-sales, special offers and “money can’t buy” experiences. The Nine Touring Services provide a public benefit to consumers of tickets to sporting and entertainment events by making a broad range of value propositions available to Telstra Customers, some of which are available to Telstra Customers earlier than the general public and some of which are only 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 sporting and entertainment events for which they may otherwise be unable to purchase tickets, as these types of events may be likely to sell out.

It does not compel Telstra Customers to purchase tickets to the events through the Nine Touring 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.

Further, the proposed conduct provides further competition with respect to special allocation ticket offers and the creation of 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, the relevant markets are those in which:

- live entertainment and sporting events are supplied in Australia; and
- online content and telecommunications services are supplied in Australia.

Competition in both these markets is vigorous and there are other competitors in each of these markets that compete for business.

## 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 Touring Services.

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

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

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

The general public who are not Telstra Customers will still have access to tickets to the events outside of the exclusive pre-sale or discounted ticket offer windows. Tickets set aside for the allocation to Telstra Customers will be generally distributed across all price categories, and are subject to the ticketing allocation referred to at section 2(b) above.

**7. Further information**

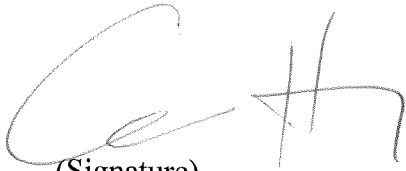
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mr Cameron Hoy  
Nine Touring & Events Pty Ltd  
Level 18  
66-68 Goulburn Street  
Sydney, NSW, 2000

02 9266 4012

Dated.....28 January.....2015

Signed by/on behalf of the applicant



(Signature)

Cameron Hoy  
(Full Name)

Nine Touring & Events Pty Limited  
(Organisation)

Chief Marketing and Commercial 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.