

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)

N99471 Gold Coast 2018 Commonwealth Games Corporation (ABN) 47 959 083
668 (**GOLDOC**).

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

GOLDOC is the organising committee for the Gold Coast 2018
Commonwealth Games (**GC2018**).

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

The Officer for Notices

Gold Coast Commonwealth Games Corporation

PO Box 8177 GCMC QLD 9726

2. Notified arrangement

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

Sponsorship rights.

Exclusive supply rights.

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

GOLDOC proposes to supply sponsorship rights to GC2018 Sponsors on
the condition that those sponsors procure certain goods and services, such
as catering and merchandise, from GC2018 Preferred Suppliers, GC2018
Official Licensees or other GC2018 Sponsors. (This obligation is contained
in GOLDOC's sponsorship agreements, a sample of which is provided in
confidential annexure 1 with the relevant clauses highlighted.)

GOLDOC proposes to grant certain suppliers exclusive rights to sell certain products and services, such as catering, to GC2018 participants (including spectators, athletes, officials, sponsors, workforce and volunteers) on the condition that those suppliers procure certain goods and services from GC2018 Sponsors or other GC2018 Preferred Suppliers. (This obligation is contained in GOLDOC's supply agreements where such rights are granted, a sample is contained in **confidential annexure 2** with the relevant clauses highlighted.)

In some instances, the above arrangements may fall within the definition of exclusive dealing in sections 47(6) or 47(7) of the *Competition and Consumer Act 2010*. In order to achieve commercial certainty GOLDOC submits that this notification should be allowed to remain in force and the notified conduct be afforded the statutory protection by section 93 of the *Competition and Consumer Act 2010*.

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)

GC2018 Sponsors
GC2018 Suppliers

- (b) Number of those persons:

- (i) At present time:

GC2018 Sponsors - 11
GC2018 Suppliers - 0

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

GC2018 Sponsors - 30
GC2018 Suppliers - 8

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

GC2018 Sponsors:

- (i) Echo Entertainment Group Limited;
- (ii) KPMG;
- (iii) Griffith University;
- (iv) George Patterson Y&R Pty Ltd;
- (v) ATOS (Australia) Pty Ltd;
- (vi) Ticketek Pty Ltd;
- (vii) Seek Limited;
- (viii) TAFE Queensland;
- (ix) MinterEllison;
- (x) Centium Software Pty Ltd;
- (xi) NEP Australia Pty Ltd;

- (xii) MediaCom Australia Pty Ltd;
- (xiii) Isentia Group Limited;
- (xiv) Aggreko Generator Rentals Pty Ltd;
- (xv) Overland Group Pty Ltd;
- (xvi) Rapiscan Systems Pte Ltd;
- (xvii) GL events ExpoNet Pty Ltd;

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)

- (i) *Reduction in the cost to Australian taxpayers*

The proposed conduct will help reduce the draw on taxpayer's dollars in the funding of GC2018.

The costs of staging a large sporting event are very high. This is especially the case for major international events like GC2018, which involves a wide variety of different sporting events at multiple locations over a 12-day period.

The cost of staging GC2018 is funded by taxpayer dollars however some of the cost will be offset by revenue from ticket sales and the sale of broadcast, sponsorship and merchandising rights.

Sponsorship and merchandising revenue can only be maximised if GC2018 Sponsors and GC2018 Official Licensees are granted rights to have their products and services exclusively used or sold at GC2018 events. Such arrangements are common at major sporting events and sponsors and licensees expect and demand exclusivity in return for their investment.

In addition, many GC2018 Sponsors provide products and services for free or at a discount as value in kind sponsorship contributions. If GC2018 suppliers are forced to use products and services of GC2018 Sponsors which are provided at no or reduced cost, the overall cost of the supply to GOLDOC is reduced.

- (ii) *Buying Power*

The proposed conduct will allow GOLDOC to negotiate bulk discounts for supply of certain goods and services on a Games wide basis rather than individual sponsors or suppliers negotiating prices for their individual requirements.

- (iii) *Quality control*

The proposed conduct will allow GOLDOC to ensure that all licensed merchandise and other goods and services (such as catering) supplied in connection with GC2018 are of a consistent standard.

(iv) Security

The proposed conduct reduces GC2018 security risks and the administrative burden of managing security risks.

As with any major public event, the security issues associated with GC2018 are significant, and management of security is of paramount importance to GOLDOC. GOLDOC will be performing extensive security checks on all contracted suppliers, and cannot permit any supplier that has not passed this vetting process to have access to GC2018 venues. This is an intensive process, and includes measures such as checks on staff hiring procedures and criminal background checks. The less suppliers GOLDOC has to vet, the less time and money GOLDOC will need to invest in the vetting process. This will also reduce GOLDOC's security risk.

(v) Protecting Intellectual Property

The proposed conduct supports the intent of the legislative framework which has been enacted to support the interests of GC2018 Sponsors and other parties (such as GC2018 Official Licensees and GC2018 Preferred Suppliers) granted exclusive rights in relation to GC2018.

The Queensland and Commonwealth Parliaments have enacted specific legislation to assist GOLDOC to protect GC2018 intellectual property (see the *Major Sporting Events (Indicia and Images) Protection Act 2014* (Cth), *Commonwealth Games Arrangements Act 2011* (Qld) and the *Major Events Act 2014* (Qld)). These Acts provide protection against ambush marketing and unauthorised use of GC2018 intellectual property, and thereby maximise the opportunities for GOLDOC to generate revenue by granting exclusive rights to third parties such as Official Licensees, GC2018 Sponsors and GC2018 Preferred Suppliers.

(vi) Overcome logistical difficulties

The proposed conduct will help GOLDOC to overcome logistical issues in accommodating multiple suppliers in each supply category at GC2018 venues.

Most GC2018 venues are designed to operate with a single supplier in each supply category, for example a single caterer to provide all catering services within the venues. It is efficient and cost effective for GOLDOC to mirror this model in the operational planning for GC2018.

(vii) Support for local and indigenous procurement objectives

The proposed conduct supports GOLDOC's objectives in relation to local and indigenous sourcing.

GOLDOC wishes to ensure that GC2018 benefits local businesses and indigenous businesses. The Preferred Supplier model allows GOLDOC to require its suppliers and sponsors to source products and services from local/indigenous suppliers. This aligns with State Government objectives.

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

See comments in 4(a) 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):
(Refer to direction 8)

There are two markets referred to in 2(a), namely the market for sponsorship rights and the market for supply rights.

The market for sponsorship rights is an international market where potential sponsors can purchase sponsorship rights from many different rights holders across many different industries and in relation to many different territories. There are many sponsors and rights holders that participate in this market. If a potential sponsor did not wish to have their rights limited as per the proposed conduct, there are many other sponsorship opportunities they could secure as an alternative.

The market for supply rights is also potentially very large, depending on the supply category in which the supply rights are granted. In all categories where GOLDOC is currently planning to offer exclusive supply rights (for example catering and merchandising) there are many suppliers and purchasers participating in the market. If a supplier did not wish to be limited as per the proposed conduct, there would be many other opportunities the supplier could pitch for.

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)

GOLDOC submits that there are no public detriments likely to result from the proposed conduct:

- (i) The proposed arrangements will not lead to GC2018 participants having to pay increased prices because if the prices GC2018 participants are asked to pay are too high, they will not purchase the relevant items and there will be less demand at all levels of the supply chain. This will ensure competitive pressure remains at all levels of the supply chain;
- (ii) In relation to purchasing merchandise, GC2018 Sponsors will be able to use alternative suppliers if GC2018 Official Licensees are not competitive on price and/or quality provided a royalty on the supply is still paid to GOLDOC, in this regard the GC2018 Official Licensees will still have competitive pressure to offer good prices and quality;
- (iii) Other than in relation to the purchase of merchandise, GC2018 sponsors will only be required to use GC2018 Preferred Suppliers and other GC2018 Sponsors where it is practicable and commercially viable for them to do so, in this regard GC2018 Preferred Suppliers and GC2018 Sponsors will still have competitive pressure to offer good prices and quality;
- (iv) Most of GOLDOC's suppliers will only be required to use GC2018 Preferred Suppliers and GC2018 Sponsors where it is practicable and commercially viable for them to do so, in this regard GC2018 Preferred Suppliers and GC2018 Sponsors will still have competitive pressure to offer good prices and quality; and
- (v) In the limited instances where suppliers will actually be forced to use GC2018 Preferred Suppliers or GC2018 Sponsors, the suppliers will be advised of this in advance of entering the supply agreement.

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

See comments in 6(a) 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:

Paula Robinson

Gold Coast 2018 Commonwealth Games Corporation

PO Box 8177 GCMC QLD 9726

Dated..... 30/11/16

Signed by/on behalf of the applicant

.....
(Signature)

.....
(Full Name)

.....
(Organisation)

.....
(Position in Organisation)

AUST. COMPETITION &
CONSUMER COMMISSION
MELBOURNE
- 5 DEC 2016

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.