

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)

N99598

Stan Entertainment Pty Limited ABN 94 168 856 924 (**Stan**).

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

Stan provides a subscription video on demand service to subscribers in Australia (**Stan Service**).

- (c) Address in Australia for service of documents on that person:
321 Kent Street, Sydney, NSW 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:

- A promotion made by eBay Australia and New Zealand Pty Ltd to their customers; and
- the Stan Service by Stan to qualifying eBay customers (**Eligible eBay Customers**).

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

Stan will provide Eligible eBay Customers with the Stan Service at a discount on the condition that the Eligible eBay Customer has spent, or has agreed to spend, a minimum of \$30 on goods purchased from the eBay marketplace.

Stan may refuse to provide the Stan Service to consumers at a discount for the reason that the consumer has not spent, or has not agreed to spend, a minimum of \$30 on goods purchased from the eBay marketplace.

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)

Eligible eBay Customers.

- (b) Number of those persons:

- (i) At present time:

Greater than 100,000.

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

Greater than 100,000.

- (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)

The proposed conduct will benefit the public as follows:

- by giving Eligible eBay Customers the option to take up a Stan Service subscription at a discount on the price of a Stan Service subscription if they were to subscribe to the Stan Service other than as part of a promotion with eBay; and
- by increasing competition in each of the markets described at 5 below by encouraging competitors in each of the relevant markets to provide similar bundled offers.

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

The proposed conduct:

- benefits eBay customers who choose to take advantage of an offer by enabling them to sign-up for the Stan Service at a discount;
- does not compel eBay customers to sign-up to the Stan Service; and
- does not prevent non- eBay customers from subscribing to the Stan Service in the ordinary course of business.

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)

The relevant markets are the markets in which the following services are supplied:

- subscription video on demand services; and
- online marketplace services.

Competition in both of these markets is vigorous.

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)

There is no detriment to the public as a result of the proposed conduct. Eligible eBay Customers are free to choose whether or not to accept the offer to subscribe to the Stan Service and there is no restriction on non-eBay customers subscribing to the Stan Service.

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

Dan Ott
General Counsel
321 Kent Street, Sydney, NSW 2000
+ 61 99654695

Dated 8 March 2017

Signed by/on behalf of the applicant

pp. Egerman
.....
(Signature)

Dan Ott
(Full Name)

Stan Entertainment Pty Ltd
(Organisation)

General Counsel
(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.