

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:**

N99702

The Greater Union Organisation Pty Ltd (ABN 99 000 024 439) (**Moonlight**) trading as Moonlight Cinema.

(b) **Short description of business carried on by that person:**

Moonlight operates outdoor cinemas in Australia under the name Moonlight Cinema.

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

Ben Arnall
Legal Counsel
Event Hospitality and Entertainment Limited
Level 14, 478 George 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:**

The supply of discounted Gold Grass and General Admission tickets at Moonlight Cinemas to customers.

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

Moonlight will not offer discounts on Gold Grass cinema tickets (over the summer season) or General Admission tickets (over the winter season in Port Douglas) unless customers have acquired services from AAI Limited (**AAMI**) and are current members of the AAMI Lucky Club (**AAMI Lucky Club Members**).

The special ticket price is \$20 per Gold Grass ticket (plus a \$1.20 booking fee) over the summer season. The tickets must be used from Monday to Wednesday and cannot be used on the Boxing Day or Anzac Day public holidays. The special ticket price is \$13 per General Admission ticket (plus a \$1.20 booking fee) over the winter season in Port Douglas. A maximum of 10 tickets may be purchased in a single transaction by an AAMI member.

The offer will commence on 1 June 2017 and will continue until 31 May 2018 (and successive 12 month periods if AAMI elects to extend the Agreement). A dedicated purchasing webpage will allow AAMI Lucky Club Member to redeem the offer.

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:

All AAMI Lucky Club Members during the promotion period.

(b) Number of those persons:

(i) At present time: not applicable

(ii) Estimated within the next year:

All AAMI Lucky Club Members during the promotion period will be affected by the proposed conduct. It is anticipated that approximately 5,000 AAMI Lucky Club Members may take advantage of the offer.

(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:

(i) Provide AAMI Lucky Club Members who take advantage of the promotion with the benefit of receiving over the summer season, reduced price Gold Grass movie tickets at \$20 (plus a traditional booking fee of \$1.20).

(ii) Provide AAMI Lucky Club Members who take advantage of the promotion with the benefit of receiving over the winter season, reduced General Admission movie tickets at \$13 (plus a traditional booking fee of \$1.20) to any Port Douglas screening at Moonlight Cinemas.

(iii) Add to competition in the supply of visual entertainment by making attendance at Moonlight Cinemas more competitive during the promotion period.

(iv) Potentially encourage competing suppliers to offer customer discounts through similar promotions.

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

(i) AAMI Lucky Club Members supporters who take advantage of the promotion will obtain the benefit of receiving discounted services, namely reduced Gold Grass movie tickets during the summer season and reduced General Admission movie tickets during the winter season at Port Douglas.

(ii) Persons who do not take advantage of the promotion will not be materially affected by this arrangement as they are free to purchase movie tickets in the normal manner and at the usual price.

(iii) The proposed conduct may increase competition in the supply of outdoor movie tickets, by making a visit to Moonlight Cinemas, more competitive during the promotion period.

(iv) The promotion may encourage competitors to offer similar discounted movie tickets (or other discounted substitutes in entertainment such as DVDs, subscription services, theatre or sports tickets) promoting competition in the visual entertainment market.

For the reasons above, the promotion will provide benefits to the public. Any potential detriment is substantially outweighed by the public benefits outlined 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):

Moonlight considers that their outdoor cinemas compete not only with other outdoor cinemas (eg. St. George Open Air Cinemas, Starlight Cinemas, Ben & Jerry's Openair Cinemas) but also other forms of visual entertainment, including modes of supply of movies such as DVD sale and rental, streaming services which allow movies to be downloaded via a broadband internet connection, online film rental subscription services and video on demand and internet streaming services such as FOXTEL Box Office and Netflix.

Moonlight is subject to significant competitive constraint from other forms of visual entertainment. Moonlight considers that the relevant market is wider than cinema exhibition.

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:**

There is no detriment to members of the public as a result of the notified conduct.

The notified conduct is not likely to adversely affect (increase) the prices of the goods or services described at 2(a) above or prices in other markets.

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

- (i) Persons who purchase promotional Gold Grass and general admission Moonlight tickets are free to purchase movie tickets at Moonlight at the usual price during the promotional period, whether Gold Grass tickets or tickets to traditional screens.
- (ii) Persons who purchase promotional Gold Grass movie tickets are not prevented from seeing movie tickets at a cinema other than Moonlight Cinemas during the promotional period.
- (iii) Other members of the public (this is cinema attendees who do not take advantage of the promotion) will not be materially affected by this arrangement as they are free to purchase movie tickets in the normal manner and at the usual price.
- (iv) The proposed conduct will likely have little or no effect on the prices of movie tickets in Australia generally. However, the proposed conduct may increase competition in the supply of movie tickets, by making a visit to Moonlight Cinemas more competitive during the promotion period.

The benefits associated with the proposed conduct are likely to outweigh any public detriments. In these circumstances, the Applicant submits that the Commission should allow the notification to stand.


7. Further information

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

Attention: Ben Arnall
Legal Counsel
Event Hospitality and Entertainment Limited
Level 14, 478 George Street
SYDNEY NSW 2000

Dated:

Signed by/on behalf of the applicant


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(Signature)

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 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.