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EXPLANATORY STATEMENT

Competition and Consumer Act 2010

Competition and Consumer (Australian Consumer Law—Electronic Ticket Resale Service) Information Standard 2019

Section 134 of Australian Consumer Law, which is contained in Schedule 2 to the *Competition and Consumer Act 2010* (the Act), provides that the Commonwealth Minister may, by written notice published on the internet, make an information standard for goods or services of a particular kind.

The purpose of the *Competition and Consumer (Australian Consumer Law—Electronic Ticket Resale Service) Information Standard 2019* (the Information Standard) is to set out disclosure requirements for electronic ticket resale services.

The market for event tickets in Australia consists of a primary ticket market, where tickets are sold by official ticket sellers and a secondary ticket market where tickets are resold after being first purchased through official ticket sellers. The secondary market in tickets is often referred to as ticket reselling. Ticket reselling provides consumers with an opportunity to recover the full or partial cost of tickets that they can no longer use and allows other consumers to access tickets to sold out events they may not have otherwise been able to attend.

The secondary marketplace for event tickets is substantially facilitated through electronic platforms such as websites and mobile phone applications (mobile app).

Users of electronic ticket resale services may be unaware that they are buying a ticket from a ticket reselling service. Consumers may use electronic ticket resale services after clicking on a listing on their search results page after searching for tickets to an event. Without adequate disclosure from the electronic ticket resale service, this process can result in consumers having the perception that a ticket reselling website or mobile app is an original ticket seller. This perception can lead to consumers purchasing tickets from a reseller, at a higher price than they would have otherwise paid, if they had bought similar tickets from an original ticket seller.

Consumers who purchase tickets in the secondary market may not have timely or easy access to information about the price they could have paid, had they purchased the ticket through an original ticket seller.

On 31 August 2017, Commonwealth State and Territory Consumer Affairs Ministers agreed to the Commonwealth Department of the Treasury undertaking a regulatory impact assessment on options to address issues in the secondary market in ticket reselling. Public consultation on that regulatory impact assessment took place in November and December 2017.

During the consultation process, 16 submissions were received from event organisers, promoters and touring companies, primary market ticket sellers, secondary market ticket sellers, industry associations and consumer advocates. In addition, 377 consumer comments were recorded via the Treasury website.

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On 26 October 2018, Consumer Affairs Ministers agreed to require ticket resale services to disclose the face value of tickets and to disclose the fact that they are not an original ticket seller. These changes aim to ensure consumers are informed about who they are purchasing a ticket from and the difference in price for a particular ticket in comparison to the original ticket price. With this information, consumers will be able to make an informed decision about whether to purchase certain tickets.

The Information Standard requires a person who is supplying a relevant service to continuously display information on their electronic platforms in order to inform consumers that they are not dealing with an original ticket seller. The Information Standard will also require the disclosure of information about the price of a ticket in the primary market. A detailed explanation of the provisions is included at Attachment A.

The Information Standard is a legislative instrument for the purposes of the *Legislation Act 2003*. However, the Information Standard is not subject to disallowance by virtue of section 44 of that Act, or sunseting by virtue of section 54 of that Act.

The Information Standard commences three months after registration on the Federal Register of Legislation.

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ATTACHMENT A

Details of the Competition and Consumer (Australian Consumer Law—Electronic Ticket Resale Service) Information Standard 2019

Part 1 – Preliminary

Section 1 – Name of the information standard

This section provides that the name of the information standard is the *Competition and Consumer (Australian Consumer Law—Electronic Ticket Resale Service) Information Standard 2019* (the Information Standard).

Section 2 – Commencement

This section provides that the Information Standard will commence on the day the end of the period of three months beginning on the day the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Information Standard is made under the *Competition and Consumer Act 2010* (the Act).

Section 4 – Definitions

This section contains definitions of key terms used in the Information Standard. Notably the term *market* takes the meaning given at section 4E of the Act, whilst the terms *service* and *supply* take the meanings that are given at section 2 of Schedule 2 to the Act.

The term *event* should be interpreted broadly and should not be limited to the list provided at the definition.

Section 5 – Inconsistency with State and Territory Laws

This section provides the Information Standard does not operate to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with the provisions which contain the electronic ticket resale service display requirements.

Part 2 – Electronic ticket resale service display requirements

Section 6 – Display requirements

Subsection 6(1) sets out two conditions that together define the kind of service to which the Information Standard applies. If a service meets both the conditions, the person providing that service must ensure they comply with the obligations set out in subsection 6(2).

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Subsection 6(1) – Defining the kind of service

Condition 1 - paragraph 6(1)(a)

This condition captures services that supply information to consumers but only if that information is about the resale of tickets to events that are hosted or located in Australia.

Condition 2 - paragraph 6(1)(b)

This condition qualifies the first condition by describing the method by which the information in the first condition must be supplied. Firstly, the information must be supplied by an electronic platform, such as a website or mobile app. For example, information supplied by a newspaper or in-person would not meet this condition. Secondly, the electronic platform must function for the sole or dominant purpose of facilitating a secondary market in tickets.

Example 1

Company A runs a mobile app which offers a service where people can list information on an electronic notice board, advertising goods or services for sale. The goods and services can be sold at a fixed price or by way of auction. The mobile app offers the service in relation to hundreds of different categories of goods and services such as cars, garden supplies, jewellery, real estate, tickets and books. It is difficult to discern which category contains the most amount of listings.

The listing service provided on this mobile app would not meet the condition at paragraph 6(1)(b) of the Information Standard because the dominant purpose of the mobile app is facilitating the listing of many categories of goods and services, not facilitating a secondary market in tickets for admission to events.

Example 2

Company B runs a website which offers a number of services to consumers. People can use the website to list information about tickets for admission to Australian or international events that they wish to sell, having first purchased those tickets from an original ticket seller. People can also use the website to view the listings information about the tickets that are for sale on the website.

The website also offers some other services such as facilitating the exchange of tickets between people who have listed a ticket for sale and people who wish to buy a listed ticket. The website also offers an underwriting service that guarantees to buyers and sellers of tickets that they will get the money or tickets owed to them in transactions facilitated through the website.

As *Company B*'s website is an electronic platform that has the sole or dominant purpose of facilitating a secondary market in tickets, it meets the condition at paragraph 6(1)(b) of the Information Standard in relation to the

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means by which the information mentioned paragraph 6(1)(a) must be supplied.

Subsection 6(2) – Display requirements

Subsection 6(2) of the Information Standard sets out the obligations that must be complied with by a person providing a service that meets the conditions in subsection 6(1).

A person must display the statement at paragraph 6(2)(a) on their electronic platform so that it can be easily seen and read by any person. This is intended to clearly indicate to a person viewing the electronic platform that they are not accessing an original ticket seller's website, mobile app or electronic platform.

Paragraph 6(2)(b) requires information about the total price of a ticket in the primary market to be supplied to consumers. The intention of this paragraph is to ensure that consumers have adequate information about how much a ticket to an event would have cost from the original ticket seller.

The price of a ticket in the primary market is required to be displayed continuously. This means that whenever a purchase price for the resale of a ticket is displayed, the total price that person would reasonably be expected to have paid in the primary market must also be displayed.

The total price should be worked out by reference to the actual price that a person would ordinarily pay to purchase that ticket from the person authorised to provide the first supply of tickets for that same event. This may require a person to compare the characteristics of the ticket to similar tickets sold by the original ticket seller. These characteristics would include, but are not limited to:

- the event to which the ticket grants admission;
- the time, date and location of that event;
- the seat number or viewing position at the event to which the ticket relates;
- if there are multiple releases of tickets to an event, then the relevant release. For example, a ticket purchased in an 'early bird' period may be cheaper than tickets purchased at a later date after the 'early bird' period has ended.

Any total price does not need to include the cost of shipping or sending the ticket from an original ticket seller to a consumer.