

Fair Competition and Confidentiality Policy for the hire of the Palais Theatre

Review by expert panel

of draft Policy proposed 24 September 2016

by incoming tenant Live Nation Australia Venues Pty Ltd to Landlord City of Port Phillip

TERMS OF REFERENCE

Background

Live Nation Australia Venues Pty Ltd (“Live Nation”) is the new lessee of the Palais Theatre. The lease requires that Live Nation develop and comply with a fair competition and confidentiality policy for the hire of the premises (“Policy”).

Live Nation is to develop the Policy for the landlord’s approval. It is to be consistent with the Fair Competition and Confidentiality principles stipulated in the lease contract (“Principles”).

Live Nation has developed a draft Policy.

The Policy obligation exists because the lessee belongs to an integrated broader group business which includes promotion and ticketing entities, and so City of Port Phillip wishes to mitigate the potential and the perception that the privilege of tenancy could be abused by the tenant in it unfairly favouring its related entities in hiring the premises, and in it inappropriately providing confidential information about the bookings of the venue to its related entities.

Purpose of the Review

To inform Council’s consideration of the draft Policy for approval by reviewing and reporting on the draft Policy’s alignment with the Principles.

Membership

The expertise of panel members includes venue management, venue programming, event planning, and competition law.

The Panel members are:

Andrew BELL

Greg RANDALL (Chair)

Rob ROBERTSON

Where it considers necessary and relevant to the tasks contained in this Terms of Reference, the Panel may call for expert advice (for instance, specialist legal advice), the expenses for which to be pre-approved by Council officers.

Scope of the review

The Panel is to examine:

- the Principles, as annexed to the lease document; and
- the draft Policy, the current version being 24 September 2016.

It is to consider whether the draft Policy:

1. as it is worded, complies with each of the Principles; and

2. is in practice likely to maintain fair competition and confidentiality in the hire of the premises.

In doing so, it is to take into account relevant industry norms and practices.

The Panel is to recommend what modifications, if any, are required to the draft Policy to achieve Council's objectives as set out in this scope.

Process

In considering the above, the panel should engage and consult with Live Nation.

The Panel is to publish a draft report outlining the outcomes of its considerations, and its recommendations.

Having considered the report, and if necessary sought and received clarifications, Council officers intend to provide feedback to Live Nation, including, if necessary, seeking amendments to the draft Policy.

If they deem necessary, Council officers intend to refer the amended draft Policy to the Panel for review.

The draft Policy (once amended and subsequently reviewed if necessary) shall then be issued by Live Nation to its customers for their feedback.

Based on this feedback, Live Nation may elect to (further) amend the draft Policy. If so, Council officers may refer the amendments to the Panel for review.

The Panel shall subsequently finalise its report, which Council officers shall report to Council.

The overall process is conceptualised in the diagram below.

