

18 January 2005

FILE No:

DOC:

MARS/P



BE POSITIVE

Mark Pearson  
General Manager  
Mergers and Asset Sales Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
**DICKSON ACT 2602**

MBF Australia Limited  
ABN 81 000 057 590

50 Bridge Street  
Sydney NSW 2000  
Australia

Telephone +61 2 9323 9500

[www.mbf.com.au](http://www.mbf.com.au)

BY FACSIMILE – (02) 6243 1199

Dear Mr Pearson

**Re: Application for Authorisation A90947 lodged by Little Company of Mary Health Care Limited for its proposed acquisition of St Vincent's Hospital (Launceston) Ltd**

Thank you for your letter dated 23 December 2004 in which you seek MBF's views regarding the application for authorisation lodged by Little Company of Mary Health Care Ltd ("LCMHC") on 21 December 2004 for its proposed acquisition of St Vincent's Hospital (Launceston) Ltd ("St Vincent's"). As you have noted, the other private, overnight hospital in Launceston, St Luke's Campus of Calvary Health Care Tasmania ("St Luke's") is also owned by LCMHC.

### Introduction

MBF affirms the comments we provided to you in our letter dated 12 November 2004 regarding the proposed acquisition. In particular, we maintain our position of not opposing the proposed acquisition. However, we reiterate our concern that the increase in market power has the potential to detrimentally affect the market because of the resulting monopoly in the Launceston market and recommend that the ACCC seek a number of conditions from LCHMC as part of the merger authorisation.

### Responses to your queries

The following comments address the specific questions you have set out in your letter dated 23 December 2004 and our issues of concern if a proposed acquisition were to proceed.

#### **Self-paying patients and the relevant market**

MBF Australia Limited ("MBF") is a private health insurance fund and as such is concerned with services provided to MBF members during an inpatient admission to a licensed hospital or day surgery as a private patient.

MBF has operated in the Launceston market for many years and is of the view that St Vincent's and St Luke's ("the merger parties") both operate in the same market as at Launceston General Hospital ("LGH") where admitted as a private patient. We

understand that at LGH clients must be admitted based on clinical need and that priority cannot be given to either privately insured or self-paying patients. Given the extensive waiting lists that currently exist for elective surgery at LGH (as at 30 September 2004: 2,196 persons according to the Tasmanian Department of Health and Human Services (“TDHHS”)), we do not expect this facility to provide an alternative to our members if the merged entity raised its prices.

MBF considers that the merger parties operate in the same market as The Eye Hospital. It is our belief that our members would not choose to be treated at this facility if the merged entity raised its prices because The Eye Hospital provides only ophthalmic and dental services and therefore competes with the merged entity on a limited basis.

MBF does not have detailed information about the service profile of the Gynaecological Clinic at this stage however we expect it will provide gynaecological services not otherwise provided by the merged entity. Therefore it will not compete directly with the merged entity nor provide a full service alternative to it.

Finally, MBF does not expect self-funded patients to seek care in Hobart, North West Tasmania or in Melbourne as an alternative to the merged entity, due to the cost and time associated with travelling to these centres. Further, with respect to Melbourne and Hobart, hospital charges in these markets are generally higher.

## **Countervailing Power**

### ***Current position***

MBF currently has separate agreements with St Vincent’s and St Luke’s, and bargaining power is fairly evenly shared between the parties. This is because there are multiple payers and providers and no particular payer or provider currently dominates the Launceston market.

### ***Impact on current arrangements***

MBF believes that St Vincent’s and St Luke’s compete vigorously and effectively with a range of services and for both doctors and patients. The proposed acquisition by LCMHC will concentrate ownership of all acute overnight private hospital beds with one organisation.

MBF believes that the proposed acquisition will increase St Vincent’s and St Luke’s countervailing power in negotiating Hospital Purchaser Provider Agreements (“HPPAs”) with our fund. Such market power could be used to leverage higher HPPA charges ultimately resulting in greater costs to our members. Given the slim margins on private health insurance, such increases cannot be absorbed and translate directly into increased costs to members of private health insurance generally.

We do not agree with the LCMHC submission (paragraph 1.7d) that MBF being a national organisation will assist MBF with maintaining a strong negotiating position in relation to the merged entity. The relevant market is hospital services in Launceston

not the national market and therefore, MBF's national presence has no effect on the power it would have in negotiations with the merged entity.

It is important to MBF to have agreements with St Vincent's and St Luke's in order to be able to sell private health insurance in Tasmania (or at least Northern Tasmania) because a key element of the value proposition of private health insurance is access to private hospitals and there are almost no other alternatives in the region which would satisfy prospective members. Existing members could not be serviced by the smaller hospitals in the region.

In addition, the recent ownership transfer of Mersey Hospital in La Trobe (Devonport) from Healthscope Ltd back to the TDHHS combined with this proposed acquisition will reduce the number of acute overnight private hospital operators in the entire North and North-Western regions of Tasmania to merely two, neither of which competes substantially with the other.

### ***HPPA with Launceston General Hospital***

Provided that the TDHHS wish to, it is technically possible for LGH to enter into a HPPA with MBF. However due to the extensive waiting lists for elective surgery which already exist at LGH and that patients must be admitted on the basis of clinical need and not whether or not they are self-funding, MBF would not be able to gain access to LGH for its members even if a HPPA had been negotiated. Therefore, the negotiation of a HPPA with LGH cannot be seen as an alternative to separate HPPA's with the merged entity.

### **If authorisation is not granted**

MBF acknowledges that the viability of two substantial private hospitals in Launceston has been questionable for some time. However, based on recent activity and membership trends as well as current opportunities for service improvements we believe that two well-managed private hospitals should be sustainable in Launceston.

In the 5 years from 30 September 1999 to 30 September 2004 PHIAC reports that the total number of Tasmanians with private hospital cover grew from 158,000 to 205,000. From June 2004 to September 2004 PHIAC reports that hospital membership grew by 2000 persons covered. Although PHIAC only reports private hospital coverage at a state level it is reasonable to expect that this growth has occurred evenly across Tasmania.

In FY04 MBF funded a total of 8944 bed days (overnight and same day) across both St Vincent's and St Luke's. Assuming an estimated MBF market share of 20% for the Launceston market, we extrapolate that there would have been approximately 44,700 bed days across both facilities in FY04. At 100% occupancy this level of activity requires an allocation of 122 beds. Currently there are only 88 utilised beds at St Lukes and 74 at St Vincent's. This is not to mention the current trend of increasing utilization through technological advances and ageing of the population. Even if private health insurance membership remains stable, we would expect demand to increase beyond current levels.

Therefore, on the basis that both private health insurance membership generally and MBF's activity in Tasmania is growing, we submit that one private hospital facility in Launceston would be insufficient to cater for the needs of our members in this market.

### **Public Benefits**

#### ***Likely to arise***

This ownership structure will almost certainly lead to rationalisation of service delivery across the two sites. While this can create welcome cost-efficiencies it will nonetheless reduce choice of treatment location for our members.

Where rationalisation does occur this should allow a critical mass of patient volumes to be achieved in specialised areas, allowing front-line clinical staff to maintain the necessary skills to deliver these services in a high quality manner.

As health fund members often end up sharing a significant proportion of the cost of infrastructure duplication and the current size of the Launceston market is quite small, we do not think it is in our members' interests that there is excessive duplication of services. We do see a real opportunity for cost efficient rationalisation of services arising from this proposed acquisition and we hope that such cost efficiencies are reflected in the HPPA charges sought by St Vincent's and St Luke's when negotiating HPPA's with MBF.

As a significant proportion of the public in this market, we believe MBF members could benefit from the proposed acquisition because:

- Reduced costs of services due to efficiencies gained
- Increase in quality with concentration of service delivery to one area

However, the mechanism for ensuring that these benefits are shared by all patients and does not lead to increased profits of the hospitals (to be spent in accordance with LCHMC's wishes) needs to be developed further. That is, the "Public Benefit" generated by this acquisition should accrue to the public and not just the new owner.

#### ***Unlikely to arise***

Despite these benefits, MBF does not believe that our members will necessarily enjoy new and expanded services simply as a result of the merger. We note for instance that St Vincent's already has 20 mental health beds and that St Luke's already has a post-natal obstetric service. We understand that licensing issues have prevented St Luke's from expanding their obstetric services to include ante- and peri-natal care and that a merger may not necessarily of itself assist St Luke's in overcoming these issues.

Finally, we do not believe that there will be material reductions in waiting lists as a result of the proposed merger. Such a reduction is only likely to occur if there is either a dramatic decrease in demand for hospital care or because extra resources are allocated to LGH.

***St John's experience***

While we acknowledge that some benefits particularly in the areas of clinical service rationalisation (and improved deployment of clinical expertise) may have occurred, Calvary Health Care Tasmania ("CHCT") expects HPPA charges at St John's to be on a par with those at Calvary Hospital, Lenah Valley even though one campus provides more acute services than the other. This is a negative outcome of the acquisition of St. John's by CHCT for MBF members and one that MBF would like to avoid for our members should the proposed St Vincent's and St Luke's merger proceed.

Further, it is our experience that the acquisition of St John's Hospital by CHCT has had little effect on waiting lists in Hobart. As at 30 September 2004 according to TDHHS there were 3,169 persons waiting for elective surgery in Hobart.

**Conclusion**

For the efficiency reasons outlined above, MBF does not oppose this acquisition. However, MBF is concerned that the increase in market power has the potential to detrimentally affect the market because of the resulting monopoly in the Launceston market. This monopoly situation should not permit the erosion of the benefits of this acquisition, nor be a catalyst for reduced treatment options for our members.

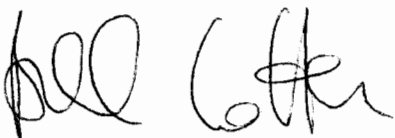
Therefore, to ensure the Public Benefits of this acquisition can be achieved where everyone benefits from efficient service delivery and the chances of profiteering are minimised, MBF recommends that the ACCC seek the following conditions from LCHMC as part of the merger authorisation:

1. Separate negotiation of HPPAs by St Vincent's and St Luke's;
2. That neither company within the group be permitted to make the signing of one HPPA contingent on the execution of the other; and
3. Subject to appropriate rationalisation where there is duplication, St Vincent's and St Luke's should continue to between them offer the full range of hospital services at a level required by the community.

MBF is anxious to ensure the proposed acquisition does not disadvantage our members and would appreciate your support in this regard.

Thank you for the opportunity to express our views. If we can be of further assistance, please do not hesitate to contact us.

Yours sincerely,



**Bill Cotter**  
**Group Executive**  
**Private Health Insurance**  
**MBF Australia Ltd**