



26 October 2005

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

BUPA Australia Health Pty Ltd
National Head Office
PO Box 14639
Melbourne Victoria 3001

Tel +613 9937 4307
Fax +613 9937 4162
www.bupa.com.au

Dear Sir or Madam

Notification of potential third line forcing –BUPA Australia & Metropolitan Ambulance Service

BUPA Australia Health Pty Ltd ABN 50 003 098 655 (“**BUPA Australia**”) has negotiated an arrangement with Metropolitan Ambulance Service ABN 52 253 860 571 (“**MAS**”). Under this arrangement, MAS offers a discount when supplying products to customers who have taken out health insurance with BUPA Australia.

It may be arguable that this may involve a contravention of section 47 of the *Trade Practices Act 1974 (Cth)*. As a result, we enclose for your consideration:

- (1) a Form G notification on behalf of the MAS;
- (2) a submission made by BUPA Australia on behalf of MAS supporting the Form G notification - highlighting the public benefit associated with the proposal and the absence of any misuse of market power;
- (3) a cheque for \$1000 as payment for lodging fees; and
- (4) a written consent from MAS consenting to BUPA Australia lodging the Form G notification on MAS' behalf.

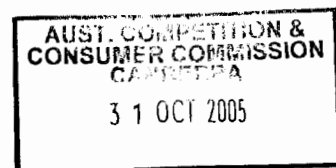
We would appreciate it if you would copy us in on any response you provide to MAS.

If you have any questions in relation to this notification, please feel free to contact me.

Yours sincerely,

for:

Emma Zipper
Head of Legal
BUPA Australia



FORM G

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 – Subsection 93(1)

**EXCLUSIVE DEALING
NOTIFICATION**

To the Australian Competition & Consumer Commission

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a), (b) or (c) or (9)(a), (b), (c) or (d) of the Act in which the person giving notice engaged or proposes to engage.

1. (a) **Name of person giving notice:**
Metropolitan Ambulance Service ABN 52 253 860 571 (“MAS”)
- (b) **Short description of business carried on by that person**
MAS offers pre-hospital emergency care and patient transport to Victorians
- (c) **Address in Australia for service of documents on that person**
C/- Deborah Taylor
Business Development Manager
Metropolitan Ambulance Service
1/599 Dorchester Road
Doncaster VIC 3108
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates**
Insurance cover for pre-hospital emergency care and patient transport
- (b) **Description of the conduct or proposed conduct**
MAS proposes to offer Victorian members of BUPA Australia Health Pty Ltd (ABN 50 003 098 655) (“BUPA Australia”) discounts off ambulance membership products. Please refer to the attached submission for further details.
3. (a) **Class or classes of persons to which the conduct relates**
Consumers who are or become members of BUPA Australia in Victoria
- (b) **Number of those persons**
 - (i) At the present time – approximately 250,000 members and potentially 20,000 new members in the next year; and
 - (ii) It is estimated that up to 10,000 consumers could take advantage of the offer within the next year.

(c) Where number of persons state in item 3(b)(i) is less than 50, their names and addresses

Not applicable as the number of persons stated in item 3(b)(i) is greater than 50

4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice is:

C/- Deborah Taylor
Business Development Manager
Metropolitan Ambulance Service
1/599 Doncaster Road
Doncaster VIC 3108

**SUBMISSION BY BUPA AUSTRALIA HEALTH PTY LTD
("BUPA AUSTRALIA")
IN SUPPORT OF NOTIFICATIONS UNDER SECTION 93
OF THE TRADE PRACTICES ACT 1974**

This submission is made by BUPA Australia on behalf of MAS and supports the Form G notification attached.

1. Overview of proposed conduct

- 1.1 BUPA Australia is a registered health benefits organisation, conducting a health insurance business in Australia under the National Health Act 1953 (Cth).
- 1.2 Metropolitan Ambulance Service ("MAS") provides pre-hospital emergency care and patient transport to Victorians as per its objectives under the Ambulance Services Act 1986 (Vic). MAS also manages the statewide services of Air Ambulance Victoria and the Ambulance Membership Scheme.
- 1.3 BUPA Australia has negotiated an arrangement with MAS. Under this arrangement, MAS offers a discount when supplying products to BUPA Australia members in Victoria (ie those who have health insurance with BUPA Australia in Victoria).
- 1.4 This conduct by MAS is arguably a contravention of sections 47(6) and (7) of the Trade Practices Act 1974 (Cth) if MAS is considered to be:
 - (a) giving or allowing or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply of good or services to consumers on the condition that those consumers take out private health insurance with BUPA Australia; or
 - (b) refusing to give or allow a discount, allowance, rebate or credit in relation to the supply of goods or services to consumers for the reason that those consumers have not acquired or have not agreed to acquire private health insurance from BUPA Australia.

2. Details of offer

The table below sets out the details of the offer.

Business/Product	Description of offer
Offers pre-hospital emergency care and patient transport to Victorians	Offers (for all types of cover excluding "Ambo Cover") 60 days free ambulance membership and a waiving of the 60 day qualifying period for new and existing ambulance members who join on EASY Pay and who are members of BUPA Australia in Victoria.

3. Products and services

We consider the relevant products and services to which this notification relates are:

- pre-hospital emergency care and patient transport; and
- private health insurance.

4. Public Benefit

The proposed conduct of MAS offers significant benefits to the public because:

- the discounts make the products and services more affordable and better value for consumers;
- it encourages consumers to purchase an ambulance subscription. This benefits consumers irrespective of whether they decide to go to a public or private hospital by avoiding any significant emergency ambulance transport costs which would otherwise be payable by consumers;
- it encourages participation in private health insurance which takes pressure off the public system;
- it may make private health insurance more attractive to younger consumers who regard emergency ambulance transport services as an important benefit;
- the conduct may motivate other health funds to provide a similar offer to consumers which could encourage more people to purchase the products and services; and
- funds raised via ambulance membership assist in the provision of lifesaving equipment, education and on-going training for paramedics.

5. Competitive effects

5.1 The proposed conduct will have no detrimental effects on competition. The offer in no way limits the choice of consumers because:

- MAS will continue to offer its products and services to consumers at the regular price, regardless of whether or not the consumers become BUPA Australia members;
- consumers are free to purchase products in respect of insurance against the cost of non-emergency services from other competing suppliers under similarly competitive offers; and
- other health funds are entitled to make similar arrangements with MAS.

6. Conclusion

For the reasons set out above, we believe the Commission should not serve a notice under section 93 of the TPA in respect of the attached notifications. This is because the conduct will cause no detriment and will generate tangible public benefits.



Ambulance

Metropolitan Ambulance Service

ABN 52 253 860 571

375 Manningham Road
Doncaster Victoria 3108P.O. Box 2000
Doncaster 3108Administration: 03 9840 3500
Facsimile: 03 9840 3583
www.ambulance.vic.gov.au

26 October 2005

Emma Zipper
Head of Legal
BUPA Australia Health Pty Ltd
600 Glenferrie Road
HAWTHORN VIC 3122

Dear Emma

Consent to notification of third line forcing – BUPA Australia & Metropolitan Ambulance Service

We acknowledge BUPA Australia Health Pty Ltd's ABN 50 003 098 655 ("BUPA Australia") concern that an arrangement between BUPA Australia and Metropolitan Ambulance Service ABN 52 253 860 571 ("MAS") may be considered a contravention of section 47 of the *Trade Practices Act 1974 (Cth) (TPA)*.

In particular, the arrangement involves MAS offering a discount when supplying ambulance membership to customers who have taken out private health insurance with BUPA Australia.


Although MAS does not believe that the offer by MAS constitutes any potential breach of the TPA in this respect, we consent to BUPA Australia lodging with the ACCC, on our behalf:

- (1) a Form G notification; and
- (2) a submission made by BUPA Australia (on behalf of MAS) supporting the Form G notification, highlighting the public benefit associated with the proposal and the absence of any misuse of market power,

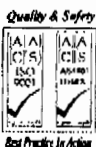
in the form attached.

We also agree to BUPA Australia providing a copy of this letter to the ACCC as evidence of MAS' consent to BUPA Australia lodging the Form G notification on MAS' behalf.

Yours sincerely,



Gary Coldwell
General Manager
Membership Marketing and Communication
Metropolitan Ambulance Service



Metropolitan Ambulance Service – Partners For Life

TOTAL P.02