

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

20 October 2006

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

FILE No:

DOC:

MARS/PRISM:

Dear Sir or Madam

**Notification of third line forcing –BUPA Australia & Collingwood Football Club**

BUPA Australia Health Pty Ltd ABN 50 003 098 655 (“**BUPA Australia**”) has negotiated an arrangement with Collingwood Football Club Limited ABN 89 006 211 196 (“**Collingwood Football Club**”). Under this arrangement, Collingwood Football Club offers cash back when supplying products to customers who have taken out health insurance with BUPA Australia.

It is 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 Collingwood Football Club;
- (2) a submission made by BUPA Australia on behalf of Collingwood Football Club 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 Collingwood Football Club consenting to BUPA Australia lodging the Form G notification on Collingwood Football Club’s behalf.

We would appreciate it if you would copy us in on any response you provide to Collingwood Football Club.

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

N92670

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:**

Collingwood Football Club Limited ABN 89 006 211 196 (“**Collingwood Football Club**”)

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

Collingwood Football Club offers football memberships and merchandise

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

C/- Anthony Trainor  
Membership Manager  
Collingwood Football Club Limited  
PO Box 165  
Abbotsford VIC 3067

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates**

Football memberships and merchandise

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

Collingwood Football Club proposes to offer members of BUPA Australia Health Pty Ltd (ABN 50 003 098 655) (“**BUPA Australia**”) cash back off its memberships from time to time. Please refer to the attached submission for further details.

**3. (a) Class or classes of persons to which the conduct relates**

Consumers who are members of BUPA Australia in Victoria

**(b) Number of those persons**

- (i) At the present time – approximately 50,000 memberships; and
- (ii) It is estimated that up to 100 memberships 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/- Anthony Trainor  
Membership Manager  
Collingwood Football Club Limited  
PO Box 165  
Abbotsford VIC 3067

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

This submission is made by BUPA Australia on behalf of Collingwood Football Club 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 Collingwood Football Club is one of 16 teams in the Australian Football League.
- 1.3 BUPA Australia has negotiated an arrangement with Collingwood Football Club. Under this arrangement, Collingwood Football Club offers cash back when supplying products to BUPA Australia members (ie those who have health insurance with BUPA Australia).
- 1.4 This conduct by Collingwood Football Club is arguably a contravention of sections 47(6) and (7) of the Trade Practices Act 1974 (Cth) if Collingwood Football Club 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.

<b>Business/Product</b>	<b>Description of offer</b>
Offers football memberships and merchandise	Members in Victoria will receive a \$75 cash back in the form of a cheque or merchandise voucher (at the member's request) when they purchase any Collingwood Football Club membership.

**3. Products and services**

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

- football memberships and merchandise; and
- private health insurance.

**4. Public Benefit**

The proposed conduct of Collingwood Football Club offers significant benefits to the public because:

- the cash back makes the services and products more affordable and better value for consumers; and
- the conduct motivates competitors to offer similar benefits and discounts and therefore increases competition in the products and services.

## **5. Competitive effects**

5.1 The proposed conduct will have no detrimental effect on competition. Competition for each of the product and services is strong and there are other companies competing for business on an equal footing.

5.2 The offer in no way limits the choice of consumers because:

- Collingwood Football Club 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; and
- consumers are free to purchase retail products from other suppliers.

## **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.

6 October 2006



**COLLINGWOOD  
FOOTBALL CLUB  
LIMITED**

ABN 89 006 211 196

**Lexus Centre**  
Corner Swan Street and  
Batman Avenue, Olympic Park

PO Box 165 Abbotsford  
Victoria 3067 Australia

Telephone: +61 3 8412 0000  
Facsimile: +61 3 8412 0170  
[www.collingwoodfc.com.au](http://www.collingwoodfc.com.au)

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 & Collingwood Football Club Limited**

We acknowledge that an arrangement between BUPA Australia Health Pty Ltd ABN 50 003 098 655 (“**BUPA Australia**”) and Collingwood Football Club Limited ABN 89 006 211 196 (“**Collingwood Football Club**”) may be considered a contravention of section 47 of the *Trade Practices Act 1974 (Cth)*.

In particular, the arrangement involves Collingwood Football Club offering cash back when supplying products to customers who have taken out private health insurance with BUPA Australia.


As a result, 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 Collingwood Football Club 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 Collingwood Football Club’s consent to BUPA Australia lodging the Form G notification on Collingwood Football Club’s behalf.

Yours sincerely,

  
Anthony Trainor  
Membership Manager  
Collingwood Football Club Limited