



27 February 2009

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No:

DOC:

MARS/PRISM:

Dear Sir or Madam

Notification of third line forcing – Bupa Australia & Warner Village Theme Parks

The Bupa Australia Group, comprising Bupa Australia Health Pty Ltd ABN 50 003 098 655 and MBF Australia Pty Ltd ABN 81 000 057 590 and trading as MBF, HBA and Mutual Community (“**Bupa Australia**”) has negotiated an arrangement with WW Australia Pty Ltd ABN 89 149 638 307 (“**Warner Village Theme Parks**”).

Under this arrangement, Warner Village Theme Parks offers a discount on admission to its theme parks to customers who have taken out health insurance with MBF, HBA or Mutual Community.

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:

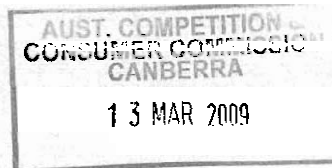
- (1) a Form G notification on behalf of Warner Village Theme Parks;
- (2) a submission made by Bupa Australia on behalf of Warner Village Theme Parks supporting the Form G notification - highlighting the public benefit associated with the proposal and the absence of any misuse of market power;
- (3) a cheque for \$100 as payment for lodging fees; and
- (4) a written consent from Warner Village Theme Parks consenting to Bupa Australia lodging the Form G notification on Warner Village Theme Parks’ behalf.

We would appreciate it if you would copy us in on any response you provide to Warner Village Theme Parks.

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

Yours sincerely,

Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group
(comprising Bupa Australia Health Pty Ltd and MBF Australia Pty Ltd)



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Tel: (02) 9323 9500
GPO Box 9809 Sydney NSW 2001
MBF Australia Pty Ltd ABN 81 000 057 590

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PO Box 14639 Melbourne VIC 8001
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ABN 50 003 098 655
Trading as HBA and Mutual Community

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www.theme-parks.com.au

10 February 2009

Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group
600 Glenferrie Road
HAWTHORN VIC 3122

Dear Emma

Consent to notification of third line forcing – Bupa Australia & Warner Village Theme Parks

We acknowledge that an arrangement exists between the Bupa Australia Group, comprising Bupa Australia Health Pty Ltd ABN 50 003 098 655 and MBF Australia Pty Ltd ABN 81 000 057 590 and trading as MBF, HBA and Mutual Community (“**Bupa Australia**”) and WW Australia Pty Ltd ABN 52003816260 and Village Themepark Management Pty Ltd ABN 60010919623 jointly trading as Warner Village Theme Parks ABN 89149638307

In particular, the arrangement involves Warner Village Theme Parks offering a discount on admission to its theme parks to customers who have taken out private health insurance with MBF, HBA or Mutual Community.

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 Warner Village Theme Parks 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 Warner Village Theme Parks’ consent to Bupa Australia lodging the Form G notification on Warner Village Theme Parks’ behalf.

Yours sincerely,



Scott Lyndon
Legal Counsel
Warner Village Theme Parks



SEA WORLD



**AUSTRALIAN
OUTBACK
SPECTACULAR**

**PARADISE COUNTRY
AUSSIE FARM TOUR**



**SUBMISSION BY BUPA AUSTRALIA
IN SUPPORT OF NOTIFICATION UNDER SECTION 93
OF THE TRADE PRACTICES ACT 1974**

This submission is made by the Bupa Australia Group comprising Bupa Australia Health Pty Ltd ABN 50 003 098 655 (“**Bupa Australia Health**”) and MBF Australia Pty Ltd ABN 81 000 057 590 (“**MBF Australia**”) and trading as MBF, HBA and Mutual Community (“**Bupa Australia**”) on behalf of Warner Village Theme Parks and supports the Form G notification attached.

1. Overview of proposed conduct

- 1.1 Bupa Australia Health and MBF Australia are private health insurers under the Private Health Insurance Act 2007 (Cth).
- 1.2 Warner Village Theme Parks operate a number of theme parks on the Gold Coast, including Warner Bros. Movie World; Sea World and Wet'n'Wild Water World.
- 1.3 Bupa Australia has negotiated an arrangement with Warner Village Theme Parks. Under this arrangement, Warner Village Theme Parks offers a discount on admission to its theme parks to Bupa Australia members (that is, those who have health insurance with MBF, HBA or Mutual Community).
- 1.4 This conduct by Warner Village Theme Parks is arguably a contravention of sections 47(6) and (7) of the Trade Practices Act 1974 (Cth) if Warner Village Theme Parks 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 MBF, HBA or Mutual Community; 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 MBF, HBA or Mutual Community.

2. Details of offer

The table below sets out the details of the offer.

Business/Product	Description of offer
10% discount on day admission for adults, children and pensioner passes for MBF, HBA and Mutual Community customers.	<p>Available to all MBF, HBA and Mutual Community customers.</p> <p>MBF, HBA and Mutual Community customers receive discounted entry to fabulous Gold Coast theme parks: Warner Bros. Movie World; Sea World; and Wet'n'Wild Water World.</p> <p>Plus discounts with the “Unlimited 3 Park Super Pass”.</p> <p>How to get the discount: Present your Member Card at the entry gate and receive a 10% discount on adult, child and pensioner day admission passes.</p>

3. Products and services

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

- leisure services; and
- private health insurance.

4. Public Benefit

The proposed conduct of Warner Village Theme Parks offers significant benefits to the public because:

- the discount make the 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.

5. Competitive effects

5.1 The proposed conduct will have no detrimental effects on competition. Competition 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:

- Warner Village Theme Parks will continue to offer its products to consumers at the regular prices, regardless of whether or not the consumers are Bupa Australia members; and
- consumers are free to purchase from other competing 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.

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:

N93885 WW Australia PTY LTD ABN 52003816260 and ~~Village Theme Park Management Pty Ltd~~ ABN 60010919623 jointly trading as Warner Village Theme Parks ABN 89149638307

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

Warner Village Theme Parks operate a number of theme parks on the Gold Coast, including Warner Bros. Movie World; Sea World and Wet'n'Wild Water World and Australian Outback Spectacular

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

Scott Lyndon
Legal Counsel
Warner Village Theme Parks
Warner Brothers Movie World
Pacific Highway
Oxenford
QLD 4210

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

Leisure services and private health insurance.

(b) Description of the conduct or proposed conduct

Warner Village Theme Parks proposes to offer members of the Bupa Australia Group comprising Bupa Australia Health Pty Ltd ABN 50 003 098 655 and MBF Australia Pty Ltd ABN 81 000 057 590 and trading as MBF, HBA and Mutual Community discounts on its regular prices 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 MBF, HBA or Mutual Community.

(b) Number of those persons

The offer will be available to all MBF, HBA and Mutual Community customers. At the present time MBF, HBA and Mutual Community together cover around 2,766,867 lives on 1,330,158 memberships.

(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. Public benefit claims

Please refer to the attached submission for arguments in support of notification.

5. Market definition – description of markets in which the relevant goods are supplied or acquired and other affected markets (including significant suppliers and acquirers, substitutes available, restrictions on the supply or acquisition of the relevant goods and services eg geographic or legal restrictions)

The relevant markets are the markets for the provision of leisure services and the market for the provision of private health insurance. Competition in each of these markets is strong and competitive and there are other suppliers in both of these markets that compete for business on an equal footing.

6. Public detriments

Please refer to the attached submission.

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

Scott Lyndon
Legal Counsel
Warner Village Theme Parks

Dated: 24.2.2009

Signed by/on behalf on the applicant:

Signature: 

Full name: SCOTT JAMES LYNDON

Organisation:

WW Australia PTY LTD ABN 52003816260 and Village Themepark Management Pty Ltd ABN 60010919623 jointly trading as Warner Village Theme Parks ABN 89149638307

Position: LEGAL COUNSEL