

27th July 2009

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

Dear Sir / Madam,

**Exclusive Dealing Notification by Roche Products Pty Limited, in relation to the proposed NeoRecormon Home Delivery Trial (Trial)**

I act for Roche Products Pty Ltd.

I enclose a Form G - Notification of Exclusive Dealing in relation to the trial, and a money order for \$100 as the lodgement fee.

I understand that, unless the ACCC formally objects to the Scheme, Roche Products will receive immunity from legal action in relation to the trial from 10th August 2009.

Please contact me on (02) 9454 9378 should you wish to discuss this application.

Yours sincerely,



Gabrielle Hammond  
Marketing Project Manager

## Form G

Commonwealth of Australia

*Trade Practices Act 1974 — subsection 93 (1)*

### NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

#### 1. Applicant

- (a) Name of person / s giving notice:  
(Refer to direction 2)

N94050 Roche Products Pty Limited, ABN 70 000 182 865

- (b) Short description of business carried on by that person:  
(Refer to direction 3)

Roche Products Pty Limited (Australia) is part of the International F. Hoffmann-La Roche Group worldwide. Roche is a research-based Healthcare company that manufactures and supplies pharmaceuticals and diagnostics.

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

Roche Products Pty Limited  
Attn: Gabby Hammond  
4-10 Inman Road  
DEE WHY NSW 2099

#### 2. Notified arrangement

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

The product is NeoRecormon (epoetin beta). It is supplied in strengths of 1000 IU, 2000 IU, 3000 IU, 4000 IU, 5000 IU, 6000 IU, 10K, 20K and 30K. Each box contains 6 syringes, and provides 6 weeks worth of treatment.

(b) Description of the conduct or proposed conduct:

Roche Products Pty Limited proposes to select 2 Specialists throughout Sydney to be involved in a home delivery trial. The Specialists will be chosen on the basis of their area of expertise in providing patient advice for renal anaemia and the geographical catchment of their patient base who would otherwise receive their medication from the Liverpool and St George Hospital Pharmacies which the specialist operates within.

The Specialist identifies the eligible patient who needs to be stable on a dose of NeoRecormon for at least the last three months. The Specialist identifies the option of the home delivery service to the patient via Pharmacy Direct, or such other Pharmacy that might change from time to time. The home delivery represents a method of receiving the medication in the comfort of the patients own home, delivering significant improvements to the patient's quality of life. The medication is currently accessed and will remain available via hospital or suburban pharmacies should the patient reject the home delivery option.

If the patient opts for the home delivery service, then the Specialist will manage the administration of the prescription and delivery details through to Pharmacy Direct, or such other Pharmacy that might change from time to time, on behalf of the patient. If the patient does not opt for the home delivery service, the current supply arrangement will remain the same.

Regardless of the dispensary method chosen by the patient, the patient will pay the same price for the Drug. Distribution costs incurred in delivering the product via Australia Post during the trial will be paid for by Roche Products Pty Limited.

If the initial trial provides the expected improvements in patients quality of life, Roche Products Pty Limited proposes to roll the home delivery program out nationally to a total of 18 Specialists. This will increase the number of patients who will have access to the home delivery service sponsored by Roche Products.

*(Refer to direction 4)*

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

(a) Class or classes of persons to which the conduct relates:  
*(Refer to direction 5)*

The conduct relates to persons who are in need of prescription medication for the treatment of certain anaemia associated with renal failure. Those persons who obtain professional services from a participating specialist will be entitled to participate in the scheme. Those persons who obtain services from a medical practitioner other than a participating specialist, will not be

eligible to participate in the trial. However, those persons will still be able to purchase NeoRecormon at existing dispensary points, at the retail price set by the applicable pharmacy.

(b) Number of those persons:

(i) At present time:

Initially, Roche Products Pty Limited proposes to provide the service to 2 selected Specialists. This will entitle 60 persons to receive NeoRecormon via the Home Delivery service administered by Pharmacy Direct, or such other Pharmacy that might change from time to time.

(ii) Estimated within the next year:

*(Refer to direction 6)*

Within the next year Roche Products Pty Limited proposes to provide the service to 18 selected specialists throughout Australia which entitles 180 persons to receive an ESA via the home delivery service administered by Pharmacy Direct, or such other Pharmacy that might change from time to time.

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

Not Applicable

**4. Public benefit claims**

(a) Arguments in support of notification:

*(Refer to direction 7)*

The rationale behind the proposed conduct is to provide a means by which NeoRecormon can be made available to patients who would benefit from the administering of the drug within the comfort of their own home.

There is a genuine and substantial public benefit involved in the proposed conduct. NeoRecormon is a medication which is used to relieve renal anaemia, by stimulating the production of red blood cells. Historically, the drug has been collected from the hospital pharmacy which requires the patient to undertake significant, regular travel between the patient's home and the hospital. The nature of the patients condition is often such that their health has significantly deteriorated to the stage where conducting the required commute between the home and the hospital imposes significant challenges to the patients welfare. Patient surveys conducted seeking clarification re the levels of interest in receiving NeoRecormon via a home delivery service have confirmed that a significant percentage of patients have expressed an interest in the service.

The program seeks to recognise and address emerging trends in Government Health policy in shifting non acute patient care activities away from the hospital and into the home environment, with a view to significantly reducing the patient servicing loads being experienced in the public hospital system.

(b) Facts and evidence relied upon in support of these claims:

A survey was conducted with 43 patients that have renal anaemia and 18 (42%) of the respondents said that they would like to have their medication delivered to their home.

**5. Market definition**

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):  
*(Refer to direction 8)*

The relevant product market is the market in which NeoRecorom and other prescription drugs, that can treat the same medical condition, are supplied. The supply of NeoRecorom and its substitutes is limited by law to persons who have been prescribed the product by a medical practitioner.

The proposed scheme will enable persons who are prescribed NeoRecorom from a participating specialist to access the home delivery service from Pharmacy Direct, or such other Pharmacy that might change from time to time, at no extra cost. However, NeoRocormon and its substitutes will also be available to persons with a prescription via current dispensary channels, including Pharmacy Direct, Hospital pharmacies and other retail pharmacies.

The market in which Specialists provide professional services will not be affected by the scheme. As the identity of Specialist participating in the scheme will not be publicly known, potential patients will not be in a position to pick and chose their Specialist on the basis of whether or not they are involved in the trial..

**6. Public detriments**

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:  
(Refer to direction 9)

No detriment to the public is expected. On the contrary, the scheme offers substantial public benefits..

- (b) Facts and evidence relevant to these detriments:

Not applicable

**7. Further information**

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

**Roche Products Pty Limited**

Gabby Hammond

4-10 Inman Road

DEE WHY NSW 2099

p.(02) 9454-9378

m.. 0419 609 242

Dated... 28 / 7 / 09 .....

Signed by/on behalf of the applicant

 .....

(Signature)

Gabriele Hammond .....

(Full Name)

Roche Products Pty Limited .....

(Organisation)

Marketing Project Manager .....

(Position in Organisation)

## **DIRECTIONS**

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.