



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2010/42
Contact Officer: Yi Liu
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25 March 2010

Mr Nicolas Shortis
Managing Director
Fresenius Kabi Australia Pty Limited
964 Pacific Highway
Pymble NSW 2073

By email: peter.fairfield@fresenius-kabi.com

Dear Mr Shortis

Exclusive dealing notification N94403 lodged by Specialist Oncology Property Limited

I refer to the above exclusive dealing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 30 December 2009.

On 11 January 2010 the ACCC sought the views of interested parties about the notification. The notification and all public submissions are available on the ACCC's website www.accc.gov.au.

I am writing to inform you of the outcome of the ACCC's assessment of the notification.

The notified conduct

Specialist Oncology Property Limited (SOPL) proposes to lease a chemotherapy unit located in the medical centre strata suits adjacent to Norwest Private Hospital (Unit) to Healthscope Limited (Healthscope) on condition that all chemotherapy drugs administered by Healthscope at the Unit be obtained exclusively from McBeaths Pharmacy Westmead (McBeaths) and that Healthscope enter into a licence agreement providing for McBeaths to occupy an area within the leased premises.

Legal immunity conferred by the notification commenced on 13 January 2010.

ACCC consideration

The ACCC may revoke a third line forcing notification if it is satisfied that the likely benefit to the public from the conduct does not outweigh the likely detriment to the public from the conduct.

Based on the available information, the ACCC accepts SOPL's claim that the notified conduct is likely to result in the following public benefits:

- efficient, consistent and ongoing supply of chemotherapy drugs to the Unit.
- enhanced availability of information to patients, doctors and staff as a result of the presence of an on-site pharmacist at the Unit.
- assistance being available to the Unit with respect to establishing and conducting clinical trials in oncology.

The ACCC considers that any public detriments associated with the notified conduct are likely to be limited because:

- the prices paid to pharmacists and charged by pharmacists are regulated
- the number of treatments provided by the Unit represents a very small portion of the total number of treatments provided each year in Australia
- McBeaths was selected after a competitive tender process
- patients of the Unit will retain the right to fill prescriptions for any outpatient treatment to any pharmacy for supply.

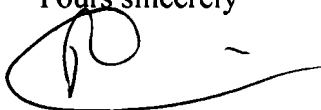
On the basis of the information available, the ACCC considers that the likely benefit to the public from the notified conduct will outweigh the likely detriment to the public from the notified conduct. The ACCC does not intend to take any further action in relation to the notifications at this stage.

This assessment has been made on the basis that SOPL, Healthscope and McBeaths meet all relevant legislative requirements to supply pharmaceutical services in the manner proposed.

As with any notification, the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct no longer outweighs the likely detriment to the public from the conduct.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Yi Liu on (02) 6243 4942.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch