



**Australian
Competition &
Consumer
Commission**

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Our Ref: 48964
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9 July 2012

Dear Sir/Madam

**Hospitals Contribution Fund of Australia Limited (HCF) exclusive dealing notification
N95945 - interested party consultation**

The Australian Competition and Consumer Commission (ACCC) is undertaking consultation as part of its assessment of proposed conduct notified to the ACCC by the Hospitals Contribution Fund of Australia Limited (HCF). I am writing to you as a party that may be affected by that conduct, to invite you to provide comments as part of this consultation process.

HCF proposes to allow physiotherapists to participate in a program which will provide initial "no gap" consultations on condition that participating physiotherapists acquire electronic point of sale payment systems from the Health Industry Claims and Payment Service (HICAPS), or other providers nominated by HCF.

A full copy of the notification is available on the ACCC's website at www.accc.gov.au/ExclusiveDealingRegister.

The role of the ACCC

The conduct was notified to the ACCC by HCF on 8 June 2012 and would generally be considered to fall within the definition of exclusive dealing, which is regulated by section 47 of the Competition and Consumer Act 2010 (the Act). By notifying the conduct to the ACCC, HCF may be able to gain statutory protection from the competition provisions of the *Competition and Consumer Act 2010* for this conduct.

The ACCC may act to remove the immunity afforded by the notification at any time if it considers that the public detriment from the conduct outweighs the public benefit. In order to assess the balance of public detriment and benefit, the ACCC is contacting you and a number of other potentially interested parties via this letter.

Request for submissions

As a potentially interested party, you are invited to comment on the conduct covered by this notification including:

- The effect the conduct may have on physiotherapy practices;
- The effect the conduct may have on multi-disciplinary practices which include physiotherapists;
- Whether there is a separate market for the provision of electronic point of sale systems for the health industry;
- If so, the effect the conduct may have on this market;
- The effect the conduct may have on the market for EFTPOS payment systems generally;
- The likely public benefits of the conduct;
- The effect of the conduct on competition, and
- Any public detriments that may arise from the proposed conduct.

If you intend to provide a submission in relation to the HCF's exclusive dealing notification please do so by **27 July 2012**.

Alternatively, if you would like to provide comments orally, please contact the ACCC to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request you make for material to be excluded from the register (guidelines are attached). A summary of the notification process, outlining the ACCC's role in assessing notifications and how to make a submission is also attached.

You may wish to forward this letter to any other person you think may wish to make a submission to the ACCC regarding the notification.

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 Mark Basile on (03) 9290 1855 or by email at mark.basile@acc.gov.au.

Yours sincerely

for 

David Jones
Director
Adjudication Branch

N95945 – The Hospitals Contribution Fund of Australia Limited – Interested Party List

Australia and New Zealand Banking Group Limited

Australian Health Management

Australian National Credit Union

Australian Physiotherapists Association

Australian Unity Health Ltd

Bendigo Adelaide Bank

Bupa Australia Group

Commonwealth Bank of Australia

Consumers Health Forum of Australia

CSC

GMHBA Ltd

HBF

Health Insurance Fund of WA

Latrobe Health Services Inc

Medibank Private Limited

Members Equity Pty Limited

National Australia Bank Limited

NIB Health Funds Limited

Private Healthcare Australia

St.LukesHealth

Suncorp-Metway Limited

Teachers' Union Health

Westpac