



3/01/2012

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 & Healthy Life Media

Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa Australia**”) has negotiated an arrangement with Healthy Life Media Pty Ltd ABN 92 115 016 021 (“**Healthy Life Media**”).

Under this arrangement, Healthy Life Media offers a discount on a 12 month subscription to *Healthy Food Guide* magazine to customers who have taken out health insurance with Bupa.

It is arguable that this may involve a contravention of section 47 of the *Competition and Consumer Act 2010 (Cth)*. As a result, we enclose for your consideration:

- (1) a Form G notification on behalf of Healthy Life Media;
- (2) a submission made by Bupa Australia on behalf of Healthy Life Media 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 Healthy Life Media consenting to Bupa Australia lodging the Form G notification on Healthy Life Media’s behalf.

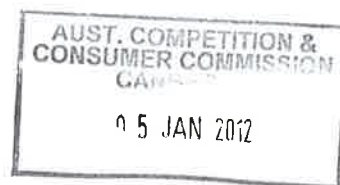
We would appreciate it if you would copy us in on any response you provide to Healthy Life Media.

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

Yours sincerely,

p.p. D. Senesi voh

Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group



Bupa
PO Box 14639
MELBOURNE VIC 8001
bupa.com.au

FORM G

COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 – 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 *Competition and Consumer Act 2010*, 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:

N95669 Healthy Life Media Pty Ltd ABN 92 115 016 021 (“**Healthy Life Media**”).

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

Healthy Life Media is a small, independent publishing company based in Sydney that produces a monthly consumer magazine called *Healthy Food Guide*.

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

Danielle Tibbles
Managing Director
Healthy Life Media
Level 7, 28 Foveaux Street
Surry Hills
NSW 2010

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

Healthy Life Media proposes to offer members of Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa, 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 health insurance members of Bupa.

(b) Number of those persons

The offer will be available to all Bupa health insurance customers. At the present time Bupa covers around 3,250,592 lives on 1,548,417 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:

Danielle Tibbles
Managing Director
Level 7, 28 Foveaux Street
Surry Hills
NSW 2010

Dated:

Signed by/on behalf on the applicant:

Signature:  _____

Full name: DANIELLE TIBBLES

Organisation: Healthy Life Media ABN 92 115 016 021 (“**Healthy Life Media**”)

Position: MANAGING DIRECTOR

**SUBMISSION BY BUPA AUSTRALIA
IN SUPPORT OF NOTIFICATION UNDER SECTION 93
OF THE COMPETITION AND CONSUMER ACT 2010**

This submission is made by Bupa Australia Pty Ltd ABN 81 000 057 590 and trading as Bupa (“**Bupa Australia**”) on behalf of Healthy Life Media and supports the Form G notification attached.

1. Overview of proposed conduct

- 1.1 Bupa Australia is a private health insurer under the *Private Health Insurance Act 2007 (Cth)*.
- 1.2 Healthy Life Media is a small, independent publishing company based in Sydney that produces a monthly consumer magazine called *Healthy Food Guide*.
- 1.3 Bupa Australia has negotiated an arrangement with Healthy Life Media. Under this arrangement, Healthy Life Media offers a discount on a 12 month subscription to *Healthy Good Guide* magazine to Bupa Australia members (that is, those who have health insurance with Bupa,).
- 1.4 This conduct by Healthy Life Media is arguably a contravention of sections 47(6) and (7) of the *Competition and Consumer Act 2010 (Cth)* if Healthy Life Media 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; 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.

2. Details of offer

The table below sets out the details of the offer.

Business/Product	Description of offer
Magazine subscription	Available to all Bupa health insurance customers. Bupa health insurance customers receive a 10% discount on a 12 month subscription to <i>Healthy Food Guide</i> magazine.

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 Healthy Life Media 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:

- Healthy Life Media 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 CCA in respect of the attached notifications. This is because the conduct will cause no detriment and will generate tangible public benefits.

19/12/2011

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 & Healthy Life Media

We acknowledge that an arrangement between Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa Australia**”) and Healthy Life Media Pty Ltd ABN 92 115 016 021 (“**Healthy Life Media**”) may be considered a contravention of section 47 of the *Competition and Consumer Act 2010 (Cth)*.

In particular, the arrangement involves Healthy Life Media offering a discount on a 12 month subscription to *Healthy Food Guide* magazine to customers who have private health insurance with Bupa.

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 Healthy Life Media 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 Healthy Life Media’s consent to Bupa Australia lodging the Form G notification on Healthy Life Media’s behalf.

Yours sincerely,



Danielle Tibbles
Managing Director
Healthy Life Media

