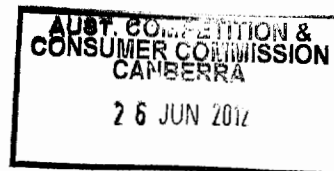


Form E

Commonwealth of Australia

Competition and Consumer Act 2010 — subsection 88 (8)

EXCLUSIVE DEALING: APPLICATION FOR AUTHORISATION



To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88 (8) of the *Competition and Consumer Act 2010* for an authorisation under that subsection to engage in conduct that constitutes or may constitute the practice of exclusive dealing.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of Applicants:

A91297 St Vincent's Health Australia Limited (SVHA) ACN 073 503 536 and its subsidiaries;

The Congregation of the Sisters of Charity of Australia, trading as St Vincent's Private Hospital (SVPHS);

Trustees of Mary Aikenhead Ministries (TMAM) ARBN 141 274 866; and

The Holy Spirit Northside Private Hospital Limited (HSN) ACN 082 189 035.

This application is to be read and determined together with the applications in Forms A and B (together, the **Application**) and the submission supporting the Application (the **Supporting Submission**), which are lodged with this form.

(b) Short description of business carried on by Applicants:

The provision of health and aged care services.

For more detail, please refer to section 2 of the Supporting Submission.

(c) Address in Australia for service of documents on the Applicants:

Johnson Winter & Slattery
Level 25, 20 Bond Street
Sydney NSW 2000

Attention: Aldo Nicotra
Tel: 02 8274 9536
aldo.nicotra@jws.com.au

2. Contract, arrangement or understanding

(a) Description of the conduct that would or may constitute the practice of exclusive dealing:

The Applicants seek authorisation from the Commission to operate all entities within the SVHA Group (as defined in the Supporting Submission) as if they were

a single economic entity or effectively merged. This may involve, but is not restricted to, the following relevant conduct:

- tying or bundling of goods or services in such a way that the supply of goods or services at SVPHS be conditional on a third person's acquiring goods or services from another entity in the SVHA Group, where the third person is health and aged care funders, the Repatriation Commission and third party payers / compensable organisations (collectively referred to as **Funding Organisations**); and
- tying or bundling of goods or services in such a way that the supply of goods or services at one entity in the SVHA Group be conditional on a third person's acquiring goods or services from SVPHS, where the third person is a Funding Organisation.

Further information is set out in the Supporting Submission.

(b) Description of the goods or services in relation to the supply or acquisition of which this application relates:

The provision of health and aged care services and goods or services acquired by one or more of the SVHA Group for the purposes of their health and aged care service businesses.

(c) The term for which authorisation of the conduct is being sought and grounds for supporting this period of authorisation:

The Application is only necessary because, whilst the SVHA Group is in substance and economic terms already a single entity, its anomalous structure means that certain businesses within the group are unlikely to be considered "related bodies corporate" under the *Competition and Consumer Act 2010* (Cth).

In these circumstances, authorisation is sought for as long as SVHA, HSN and SVPHS are related bodies corporate or are directly or indirectly owned and controlled by the Sisters of Charity or TMAM.

3. Parties to the proposed arrangement

(a) Class or classes of persons to which the conduct relates:

Funding Organisations that wish to acquire health or aged care services.

(b) Number of those persons:

(i) At present time:

Unknown at this time.

(ii) Estimated within the next year:

Unknown at this 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 authorisation:

Please refer to the Supporting Submission.

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

Please refer to the Supporting Submission.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (b) 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):

Please refer to the Supporting Submission.

6. Public detriments

(a) Detriments to the public resulting or likely to result from the authorisation, in particular the likely effect of the conduct on the prices of the goods or services described at 2 (b) above and the prices of goods or services in other affected markets:

Please refer to the Supporting Submission.

(b) Facts and evidence relevant to these detriments:

Please refer to the Supporting Submission.

7. Joint Ventures

(a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

No

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

Not applicable

(c) If so, by whom or on whose behalf are those other applications being made?

Not applicable

8. Further Information


- (a) Name and address of person authorised by the applicant to provide additional information in relation to this application:

Johnson Winter & Slattery
Level 25, 20 Bond Street
Sydney NSW 2000

Attention: Aldo Nicotra
Tel: 02 8274 9536
aldo.nicotra@jws.com.au

Dated. 22/6/12

Signed on behalf of St Vincent's Health
Australia Limited ACN 073 503 536


(Signature)

Dr Tracey Batten
(Full Name)

St Vincent's Health
Australia.
(Organisation)

CEO
(Position in Organisation)

Dated. 26/6/12

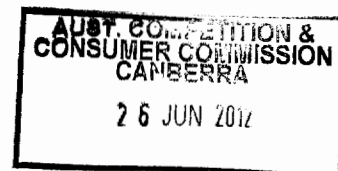
Signed on behalf of St Vincent's Clinic ACN
003 635 498


(Signature)

Michelle Wilson
(Full Name)

St Vincent's Clinic
(Organisation)

Executive Director
(Position in Organisation)



Dated 25th June 2012

Signed on behalf of **The Congregation of Religious Sisters of Charity of Australia** trading as **St Vincent's Private Hospital Sydney**

Ag Cunliffe
(Signature)

Sr Annette Cunliffe
(Full Name)

Congregation of Religious Sisters of Charity of Australia
(Organisation)
Congregational leader
(Position in Organisation)

Dated 25th June 2012

Signed on behalf of **Trustees of Mary Aikenhead Ministries** ARBN 141 274 866

[Signature]
(Signature)

David Robinson
(Full Name)

Trustees of Mary Aikenhead Ministries
(Organisation)

Chair of Trustees
(Position in Organisation)

Dated 22/6/12

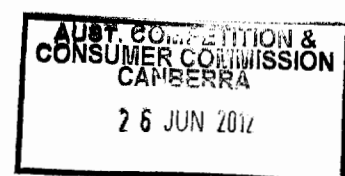
Signed on behalf of **The Holy Spirit Northside Private Hospital Limited** ACN 082 189 035

[Signature]
(Signature)

Dr Tracey Batten
(Full Name)

The Holy Spirit Northside Private Hospital Limited
(Organisation)

Board Director
(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 application for authorisation.

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. Where the application is made 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 application and the application is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the applicant's business in the course of which the conduct is engaged in.
4. Provide details of the conduct (whether proposed or actual) which may constitute the practice of exclusive dealing in respect of which this authorisation is sought.

In providing these details:

- (a) to the extent that any of the details have been reduced to writing — provide a true copy of the writing; and
 - (b) to the extent that any of the details have not been reduced to writing — provide a full and correct description of the particulars that have not been reduced to writing.
5. Where authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
 6. 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.
 7. Provide details of the market(s) likely to be effected by the 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 authorisation.
 8. Provide details of the detriments to the public which may result from the conduct including quantification of those detriments where possible.