

**Form G**  
Commonwealth of Australia  
*Competition and Consumer Act 2010 - 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 *Competition and Consumer Act 2010*, 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 giving notice:  
*(Refer to direction 2)*

N96893 Medibank Private Limited ABN 47 080 890 259 ("**Medibank Private**").

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

Medibank Private provides private health insurance.

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

Nick Maplestone  
Medibank Private Ltd  
Level 17  
700 Collins Street  
Docklands Vic 3008

**2 Notified arrangement**

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

Medibank Private will enter into an arrangement with Kinetic Financial Services Pty Ltd ABN 57 103 181 844 (**KFS**) under which members of the Kinetic Superannuation Fund, including the Kinetic Smart Pension, will be eligible to receive a discounted premium on their Medibank Private health insurance.

KFS provides management and company secretarial services to Kinetic Superfund Limited, the trustee of the Kinetic Superannuation Fund.

- (b) Description of the conduct or proposed conduct:

Medibank Private proposes to:

- (i) give or allow, or offer to give or allow, a discount in relation to Medibank Private health insurance premiums to customers on the condition that the customer acquires or agrees to acquire member services from the Kinetic Superannuation Fund; and
- (ii) refuse to give or allow, or offer to give or allow, a discount in relation to Medibank Private health insurance premiums to customers for the reason that the customer has not acquired or has not agreed to acquire member services from the Kinetic Superannuation Fund.

*(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)*

Current and new members of the Kinetic Superannuation Fund, who take out membership with Medibank Private.

- (b) Number of those persons:

- (i) At present time:

None.

- (ii) Estimated within the next year:

*(Refer to direction 6)*

Substantially greater than 50.

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

Not relevant.

**4 Public benefit claims**

- (a) Arguments in support of notification:

*(Refer to direction 7)*

Medibank Private submits that the proposed conduct will be of benefit to the public because it will:

- (i) allow customers who take up membership with the Kinetic Superannuation Fund to receive a discount off their Medibank Private health insurance premium;

- (ii) promote competition in the relevant markets by encouraging health insurer competitors to offer similar discounts to other and similar member associations.
- (b) Facts and evidence relied upon in support of these claims:

Medibank Private submits that the proposed conduct:

- (i) is designed to encourage members of the Kinetic Superannuation Fund to take up private health insurance by offering them a discounted premium with Medibank Private;
- (ii) does not compel members of the Kinetic Superannuation Fund to take up private health insurance with Medibank Private, or private health insurance at all; and
- (iii) may also encourage other health insurance providers to offer similar benefits and therefore encourage additional competition that is likely to benefit consumers.

## 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 markets are the markets for the provision of private health insurance and for superannuation in Australia.

Competition in the relevant markets is vigorous and many competitors currently do, or from time to time may, engage in conduct similar to the proposed conduct and in competition with the proposed conduct.

## 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)*

Medibank Private submits that no public detriment would be likely to result from the proposed conduct.

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

Medibank Private submits that the proposed conduct will not lessen competition because:

- (i) Kinetic Superannuation Fund members are not obliged to purchase Medibank Private health insurance, or any private health insurance whatsoever;
- (ii) Competition in the relevant markets is vigorous;
- (iii) The number of consumers potentially affected by the proposed conduct is insignificant compared to the total number of consumers who acquire health insurance products; and
- (iv) Kinetic Superannuation Fund members may acquire their health insurance services from a wide range of suppliers.

The applicant believes that the benefits of the proposed conduct will outweigh any possible detriment considered to arise from the proposed conduct.

**7 Further information**

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

Nick Maplestone  
 Medibank Private Limited  
 Level 17  
 700 Collins Street  
 Docklands Vic 3008  
 Ph: (03) 8622 5092

Dated *2/8/2013*

Signed by/on behalf of the applicant

*N. James*  
 \_\_\_\_\_  
 (Signature)  
*N. James*  
 \_\_\_\_\_  
 (Full Name)  
*Medibank Private*  
 \_\_\_\_\_  
 (Organisation)  
*Legal Assistant*  
 \_\_\_\_\_  
 (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 *Competition and Consumer Act 2010* 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.