

FILE No:
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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)

N96995

Australian Health & Nutrition Association Limited trading as Sanitarium Health & Wellbeing Company (ABN 63 096 452 872) of 1 Sanitarium Drive, Berkeley Vale, NSW, 2261 ("Sanitarium").

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

Primarily food manufacturer and also organiser of the Sanitarium Weet-Bix Kids Try-athlon 2014 series ("the Series"). The Series will be conducted throughout Australia at selected locations, and its aim is to encourage children to participate in an active and healthy lifestyle through participating in sports.

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

1 Sanitarium Drive, Berkeley Vale, NSW, 2261

2. Notified arrangement

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

The entry fee to participate in the Series.

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

The supply of a discount off the standard entry fee to participate in the Series, if the parent or guardian of the entrant (i.e. the person paying for the entry), is a member of a Bupa health fund or a member of Triathlon Australia.



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)

Individuals who are purchasing entry into the Series.

- (b) Number of those persons:

- (i) At present time:

Sanitarium predicts that there will be between 15,000 and 18,000 participants in the Series nationally, with no more than approximately 25% of this number being members of a Bupa health fund and with no more than approximately 1% Triathlon Australia members.

- (ii) Estimated within the next year:
(Refer to direction 6)

Sanitarium predicts there will be roughly the same numbers as predicted for this year if it decides to run the Series next year.

- (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 notification:
(Refer to direction 7)

The individuals receive a small discount off the applicable fee if a member of Bupa or Triathlon Australia. For example, the standard fee is \$42.60. If the individual is a Triathlon Australia member the fee is \$41.10. If the individual is a Bupa member the fee is \$38.35. If the individual is both a Triathlon Australia and Bupa member the fee is \$36.85. There is no requirement that the individual become a Bupa member or Triathlon Australia member to participate in the Series. The individual is simply provided with a small discount, as detailed above, if they're a member of the relevant organisation. In addition, the conduct is unlikely to have any adverse impact upon competition as a result of providing the discount.

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

Nothing other than stated above.

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)

There is only one supplier of the Series in Australia. There are suppliers of other similar style triathlon type series in Australia, however in our view we do not believe the conduct of this Series and the supply of the benefit provided to those members of the relevant organisation(s) will have any impact on the conduct of other similar triathlon events held in Australia.

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)

We do not believe that there will be any detriment to the public as a result of the notified conduct, with only a small discount provided to the relevant individuals.

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

Nothing other than stated above.

7. Further information

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

James Barker, Anisimoff Legal, Suite 301, 22 Atchison Street, St Leonards
NSW 2065. (02) 9460 6611

Dated..... 30/9/2013

Signed by/on behalf of the applicant

.....
(Signature) 

James Barker
(Full Name)

Anisimoff Legal
(Organisation)

Solicitor
(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 the 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.