



**Australian
Competition &
Consumer
Commission**

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6 November 2013

Mr Chris Jose
Partner
Herbert Smith Freehills

By email: chris.jose@hsf.com

Dear Mr Jose

Third line forcing notifications N97066 – N97071 lodged by Anytime Investments Pty Ltd, Virgin Active Australia Pty Ltd, Weight Watchers Services Pty Ltd, Fitbit, Inc., Fernwood Womens Health Clubs Pty Ltd, and Endota No.1 Pty Ltd

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 1 November 2013. The notifications have been placed on the ACCC's public register.

The AIA Vitality program has been implemented by AIAA with AIA Vitality Company Limited, a joint venture between an AIA Group company and Discovery Limited. The AIA Vitality program is made up of a combined health and wellness and rewards program that gives Vitality members the opportunity to improve their health and health awareness as well as participate in a rewards program. As part of the program, Vitality members receive points for acquiring certain goods and services from participating program partners (Vitality partners).

As Vitality partners, each of the six entities listed above propose to supply goods and services to members at a particular price, and/or to allow a discount, allowance, rebate or credit in relation to these goods or services, on condition that the acquirer joins the AIA Vitality program and attains particular levels of membership status by acquiring goods and services from AIA Vitality partners.

Legal protection conferred by these notifications will commence on 15 November 2013.

On the basis of the information that you have provided it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the legal protection provided by these notifications at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that AIAA and Vitality partners will disclose all relevant terms and conditions to prospective customers.

A copy of 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 Luke Griffin on (02) 6243 1114.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long horizontal stroke.

Dr Richard Chadwick
General Manager
Adjudication Branch