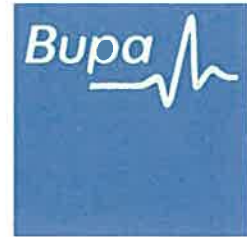


FILE No:
DOC:
MARS/PRISM:



General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Sir or Madam

Notification of third line forcing – Bupa Australia Pty Limited & FIFO Families Pty Ltd

Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa**”) has negotiated an arrangement with FIFO Families Pty Ltd ABN 50 736 974 467 (“**FIFO Families**”).

Under this arrangement, FIFO Families offers a discount on certain purchases for Bupa private health insurance members.

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 FIFO Families;
- (2) a submission made by Bupa on behalf of FIFO Families 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 FIFO Families consenting to Bupa lodging the Form G notification on FIFO Families’ behalf.

We would appreciate it if you would copy us in on any response you provide to FIFO Families.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read "Emma Zipper", written over a light blue horizontal line.

Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group



**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 trading as Bupa (“**Bupa**”) on behalf of FIFO Families and supports the Form G notification attached.

1. Overview of proposed conduct

- 1.1 Bupa Australia Pty Ltd provides private health insurance to its members.
- 1.2 FIFO Families Pty Ltd, (“**FIFO Families**”) is a ‘for profit’ organisation, providing a community support program for employees in the mining industry.
- 1.3 Bupa Australia Pty Ltd has negotiated an arrangement with FIFO Families. Under this arrangement, FIFO Families offers certain discounts to Bupa private health insurance members who join selected health insurance products.
- 1.4 This conduct by FIFO Families is arguably a contravention of sections 47(6) and (7) of the *Competition and Consumer Act 2010 (Cth)* if FIFO Families 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 goods or services to consumers on the condition that those consumers are Bupa private health insurance members; 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 private health insurance from Bupa Australia Pty Ltd.

2. Details of offer

The table below sets out the details of the offer.

Business/Product	Description of offer
Discount on community support program services.	\$50 discount off the standard \$135 annual membership fee. Terms of the offer: <ul style="list-style-type: none">• Available to any Bupa member joining selected health insurance products.

3. Products and services

We consider the relevant products and services to which this notification relates are:

- Community support program services and
- Private health insurance.

4. Public Benefit

The proposed conduct of FIFO Families offers significant benefits to the public because:

- the discount makes the services more affordable and better value for consumers; and
- the conduct motivates competitors to offer similar benefits and discounts and therefore increases competition in these services.

5. Competitive effects

5.1 The proposed conduct will have no detrimental effects on competition. Competition for these types of services exists as similar organisations offer similar types of services.

5.2 The offer in no way limits the choice of consumers because:

- FIFO Families will continue to offer its services to consumers at the regular prices, regardless of whether or not the consumers are Bupa private health insurance 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.

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.

1. Applicant

(a) **Name of person giving notice:**

N96753

FIFO Families Pty Ltd ABN 50 736 974 467 (“FIFO Families”)

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

FIFO Families Pty Ltd (“FIFO Families”) provides a community support program for employees in the mining industry.

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

Nicole Ashby
Director
PO Box 24
Hamilton Hill WA 6963

2. Notified arrangement

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

Community support program services.

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

FIFO Families proposes to offer private health insurance members of Bupa Australia Pty Ltd (trading as Bupa) ABN 81 000 057 590 who join selected corporate products, discounts on its regular prices from time to time. Please refer to the attached submission for further details.

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:

Consumers who are private health insurance members of Bupa who join selected corporate products.

(b) Number of those persons:

(i) At present time:

0 memberships as the relevant products which must be purchased to be eligible for this offer are not yet on sale. Bupa expects the relevant products to be on sale mid-year 2013.

(ii) Estimated within the next year:

Approximately 500 memberships

(c) Where number of persons stated 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 0.

4. Public benefit claims

(a) Arguments in support of notification:

Please refer to the attached submission for arguments in support of notification.

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

Please refer to the attached submission for arguments in support of notification.

5. Market definition

The relevant markets are the markets for the provision of community support programs and the market for the provision of private health insurance. Competition in each of these markets is competitive and there are other suppliers in both of these markets that compete for business on an equal footing.

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:**

Please refer to the attached submission

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

Please refer to the attached submission

7. Further information

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

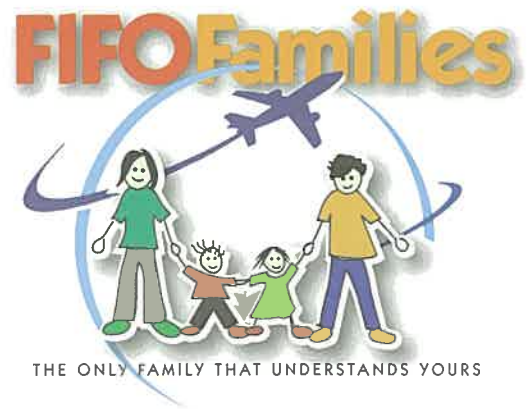
Nicole Ashby
Director
PO Box 24
Hamilton Hill, WA, 6963
08 6188 7670

Dated.....24-05-2013.....

Signed by/on behalf of the applicant


.....
(Signature)

Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group



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 Pty Ltd & FIFO Families Pty Ltd

We acknowledge that an arrangement between Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa**”) and FIFO Families Pty Ltd ABN 50 736 974 467 (“**FIFO Families**”) may be considered a contravention of section 47 of the *Competition and Consumer Act 2010 (Cth)*.

In particular, the arrangement involves FIFO Families offering discounts to Bupa health insurance members.

As a result, we consent to Bupa lodging with the ACCC, on our behalf:

- (1) a Form G notification; and
- (2) a submission made by Bupa on behalf of FIFO Families 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 providing a copy of this letter to the ACCC as evidence of FIFO Families consent to Bupa lodging the Form G notification on FIFO Families’ behalf.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nicole Ashby', with a long horizontal flourish extending to the right.

Nicole Ashby
Director