

28 July 2014

VENUES WEST

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

Dear Sir or Madam

**Third line forcing notification lodged under section 93 of the *Competition and Consumer Act 2010* (Cth) for VenuesWest**

The Western Australian Sports Centre Trust ABN 47 894 197 015 trading as VenuesWest (**VenuesWest**) has negotiated an arrangement with HBF Health Limited ABN 11 126 884 786 (**HBF**).

Under this arrangement, VenuesWest proposes to offer a discount on the use of its sporting and fitness facilities and services at its Mount Claremont and Joondalup locations in Western Australia to those customers who have taken out an insurance policy with HBF or are employees of HBF.

We enclose a notification in respect of the above proposed conduct which may raise issues under the third-line forcing provisions of the *Competition and Consumer Act 2010* (Cth).

Accordingly, enclosed are:

1. a completed Form G in respect of the notification; and
2. a cheque for \$100 being the relevant fee for lodgement of VenuesWest's third line forcing notification.

Please feel free to contact me if you would like to discuss this.

Yours sincerely



**Kaye Kubach**  
**Snr Marketing Coordinator**  
**Marketing**  
**VenuesWest**

Enc 9441 8286

## 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)*

N97614 Western Australian Sports Centre Trust ABN 47 894 197 015 trading as VenuesWest  
(VenuesWest)

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

*(Refer to direction 3)*

VenuesWest is the provider of premier sports, recreation and entertainment venues in Western Australia. VenuesWest is a Statutory Authority under Section 4 of the Western Australian Sports Centre Trust Act, established in 1986 to manage Western Australia's major state-owned sporting facilities.

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

David Etherton  
CEO - VenuesWest  
100 Stephenson Ave  
Mt Claremont WA 6010

### 2. Notified arrangement

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

Sporting and fitness facilities in two locations in Western Australia, and private health insurance.

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

*(Refer to direction 4)*

VenuesWest wishes to offer and give a discount on the use of its sporting and fitness facilities and services at its Mount Claremont and Joondalup locations in Western Australia on condition that those customers have taken out an insurance policy with HBF or are employees of HBF.

HBF means HBF Health Limited ABN 11 126 884 786 (HBF), which is a Western Australian not for profit health fund that offers customers a range of insurance products and services including private health insurance, home and contents, car, travel and life insurance, as well as other non-insurance products and services such as health and wellness services. HBF has negotiated an agreement with VenuesWest, which includes this proposed discount arrangement.

Please refer to Attachment A which contains details of the offer by VenuesWest.

**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)*

The offer will be available to all HBF members and any dependants who hold a complying insurance policy issued by HBF, and HBF employees.

**(b) Number of those persons:**

**(i) At present time:**

Approximately 900,000 HBF members, plus HBF employees.

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

The estimate number of future HBF members is more than 900,000, plus HBF employees.

**(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 proposed conduct of VenuesWest offers significant benefits to the public because:

- the discounts make the facilities and services more affordable and better value for consumers; and
- the conduct motivates competitors to offer similar benefits and discounts to consumers and therefore increases competition.

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

The proposed conduct of VenuesWest:

- is designed to encourage HBF members and employees to continue their membership with HBF by offering them discounts on health and fitness facilities and services with VenuesWest;
- may make the health and fitness facilities and services more affordable and better value for consumers;
- does not compel HBF members or employees to use the health and fitness facilities and services provided by VenuesWest;
- does not compel new or existing VenuesWest customers to take up health or other insurance with HBF or any insurance at all; and

- may encourage competitors of VenuesWest and HBF to offer similar discounts and benefits respectively which would promote competition in each respective market.

## 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 market likely to be affected by the proposed conduct is the market for health and fitness services, and the market for the provision of private health insurance. Competition in each of these markets is strong and there are other suppliers in both of these markets that compete for business. In relation to the market for health and fitness services, there are numerous suppliers in the Mount Claremont and Joondalup areas that also supply similar health and fitness facilities and services, including personal training centres, studios, gyms, sporting grounds, community centres, swimming and leisure centres. VenuesWest is one of many providers of health and fitness services.

## 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)*

VenuesWest and HBF consider there is no or limited public detriment resulting from the conduct.

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

The proposed conduct will not lessen competition because:

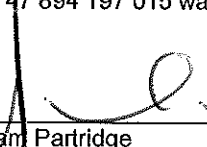
- consumers are free to access health and fitness facilities and services from other competing suppliers;
- HBF members and employees are under no obligation to use the facilities and services provided by VenuesWest in Mount Claremont and Joondalup;
- VenuesWest will continue to offer its facilities and services to consumers at a regular price, regardless of whether or not the consumers are HBF members or employees;
- customers who use or may use VenuesWest facilities in Mount Claremont and Joondalup are under no obligation to take up health or other insurance with HBF or any insurance at all; and
- the competition in health and fitness facilities and services is strong and there are a large number of alternative suppliers in the market including personal training centres, studios, gyms, sporting grounds, community centres, swimming and leisure centres.

7. Further information

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

David Etherton  
CEO - VenuesWest  
100 Stephenson Ave  
Mt Claremont WA 6010

The Common Seal of: The WESTERN AUSTRALIAN SPORTS CENTRE TRUST:  
ABN: 47 894 197 015 was affixed hereto by authority of the Board in the presence of:

  
\_\_\_\_\_  
Graham Partridge  
Chairman

29-7-14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
David Etherton  
Chief Executive Officer

29-7-14  
\_\_\_\_\_  
Date

## 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.

Attachment A  
Details of offer

Attachment A to Form G Exclusive Dealing Notification by VenuesWest

Details of offer

1. 5% Member Discount for all of the following:

<b>Fitness centre</b>
Casual Aqua Class
Casual Aqua Class Concession
Casual Get Active Class (snrs)
Casual Group Fitness Class
Casual Group Fitness Class Concession
Casual Gym Visit
Casual Off Peak Gym Visit
Casual Special Needs Gym Visit
Casual Gym Visit (concession)
Casual Assessment/Program
Casual Powerplate
Casual LLLS Assessment
Casual LLLS Visit
Casual Senior Pilates
<b>Casual PT</b>
1:1 30 Minutes
1:2 30 Minutes
1:1 60 Minutes (CS only)
<b>Aquatics</b>
Aquatic Entry Fee
Aquatic Child Entry Fee
Aquatic Concession Card Holders
Registered Club Swimmer/Group entry/School entry (min 10)
Aquatic Spectator
Carnival Event Spectator
Water polo/State Swimming family pass
Aquatic Family: 4 family members
Aquatic Family Spectator Pass: 2 Adults, 2 Children
Aquatic Swim, Sauna
Sauna (added to aquacards or after normal entry fees)
Casual Swim, Gym, Sauna
<b>Splash IT</b>
Pre sold entry only
Pre sold entry & food
At door entry only

At door entry & food
<b>Childcare</b>
Creche Extra Child Fee - Non Member
Creche Members - per hour
Creche Non members - per hour
<b>OSH CHILDCARE</b>
Vacation Care - Excursions
Vacation Care - Incursions
Late enrolment Fee (New)
<b>Fun House</b>
Fun House (1.5 hrs)
Fun House (3 hrs)
Fun House (extra child)
Fun House (extra child) 3hrs
<b>Birthday Party</b>
1 Hour Party
1.5 Hour Party
2 Hour Party
Food Package 1 - New prices
Food Package 2 - New prices
Food package 3 - new prices
<b>Sporting Competitions</b>
Indoor Soccer Sporting Competitions per game
Jnr Soccer Competition
Indoor Netball Sporting Competitions per game
Off Peak Netball per game
Withdrawal Admin charges
New enrolment fees
Kidz Sportz Club (Full Day) Single Rate
Kidz Sportz Club (Full Day) Family Rate
Kidz Sportz Club (Half Day) Single Rate
Kidz Sportz Club (Half Day) Family Rate
<b>New Programs</b>
All new casual programs or admission fees developed and offered during the Term at the Venues

2. A 10% Member Discount for all of the following:

<b>10% discount</b>
<b>PT</b>
Intro Pack
Intro Pack Powerplate
1:1 30 Minutes 10 Sessions
1:2 30 Minutes 10 sessions
1:1 60 Minutes 10 sessions (CS only)
<b>Life Programme</b>
Life Program Term
Blocks - 10 sessions
10 block Aqua Classes
10 block Aqua Concession / Get Active
10 block Group Fitness Classes
10 block Group Fitness Concession
10 block Gym
10 block Gym Concession
10 block LLLS
<b>Kids/Teens</b>
Fit Club - 1 per week/per term
Fit Club - 2 per week/per term

**Attachment A  
Details of offer**

<b>City to Surf</b>
Running Academy - New - 10 week AJ (inc transport)
Running Academy - New - 6 week AJ (inc transport)
Running Academy - New - 6 week AJ (concession)
Running Academy - New - 10 week AJ (concession)
Running Academy - New - 10 week CS
Running Academy - New - 6 week CS
Running Academy - New - 6 week CS (concession)
Running Academy - New - 10 week CS (concession)
<b>Courses</b>
Triathlon Pink (Sep/Oct) 6 weeks
Women's Triathlon (Jan/Feb) 8 weeks
School/Community Group Rates (min 10)
Extreme Fit
<b>Memberships</b>
<b>Gym, Pool, Classes</b>
Direct Debit - monthly
12 Month - annual
13 month Renewal - annual
<b>Pool, Classes</b>
AJ Direct Debit - monthly
CS Direct Debit - monthly
AJ 12 Month - annual
CS 12 Month - annual
AJ 13 month Renewal - annual
CS 13 month Renewal - annual
<b>Gym, Classes</b>
AJ Direct Debit - monthly
CS Direct Debit - monthly
AJ 12 Month - annual
CS 12 Month - annual
AJ 13 month Renewal - annual
CS 13 month Renewal - annual
<b>Gym, Pool</b>
AJ Direct Debit - monthly
CS Direct Debit - monthly
AJ 12 Month - annual
CS 12 Month - annual
AJ 13 month Renewal - annual
CS 13 month Renewal - annual
<b>Gym only</b>
AJ Direct Debit - monthly
CS Direct Debit - monthly
AJ 12 Month - annual
CS 12 Month - annual
AJ 13 month Renewal - annual
CS 13 month Renewal - annual
<b>Viet. Vets &amp; 70+</b>
Direct Debit - monthly
12 Month - annual
13 month Renewal - annual
Active Life Rehabilitation
<b>Corporate</b>
Direct Debit - monthly
12 Month - annual
<b>3 month insurance</b>
<b>Gym &amp; Classes</b>
<b>Fly in-Fly out/Gym, pool, classes</b>
Direct Debit - monthly
12 month - annual
<b>Gym Off Peak</b>
Direct Debit - monthly
12 month - annual
<b>Aquatics</b>
VacSwim 10 Pass
VacSwim 10 Pass 2/3 child
VacSwim 5 Pass
VacSwim 5 Pass 2nd/3rd
<b>Aqua Card</b>
10 Adult Multiple Entry
10 Conc & Child Multiple Entry



**Attachment A**  
**Details of offer**

20 Adult Multiple Entry
20 Conc & Child Multiple Entry
10 Registered Club Multiple Entry
20 Registered Club Multiple Entry
<b>Creche</b>
Creche 10 Visit Pass - Members
Creche 10 Visit Pass - Non Members
Creche 20 Visit Pass - Members
Creche 20 Visit Pass - Non Members
<b>Swim School Per Lesson</b>
CS Swim Levels 1,2 & P3 Single Rate
CS Swim Levels 1,2 & P3 Family Rate - 5% disc
CS Swim Levels 1,2 & P3 Single Rate 2nd lesson - 25% disc
CS Swim Levels 3-7 Single Rate
CS Swim Levels 3-7 Family Rate
CS Swim Levels 3-7 Single Rate 2nd lesson
CS Squads - Single Rate
CS Squads - Family Rate
CS Squads - Single Rate 2nd lesson
Swim Private Adult Classes 1:1
Swim Private Adult Classes 1:2
Swim Private Adult Classes 1:3
Swim Private Child Classes 1:1
Swim Private Child Classes 1:2
Swim Private Child Classes 1:3
Adult Swim Fit Single Session
Adult Swim Fit 10 Session Pass - 10 % disc
Parent Baby class per lesson Single rate
Parent Baby class per lesson Family Rate
Parent Baby class per lesson Single rate 2nd lesson
AJ Pre School, School & Adult
AJ Pre School, School & Adult
AJ Pre School, School & Adult
AJ Holiday Swim Programme per lesson
CS Holiday Swim Programme Toddlers Levels 1,2&P3
CS Holiday Swim Programme Levels 3-7
CS Holiday Swim Programme Squads
<b>Kidz Gym</b>
Kidz Toddler Gym - Per Lesson
Kidz Kindy Gym, Adv Kindy, Jnrs & Primary, Adult class
<b>Leisure Programmes</b>
Kidz LP Clinics 45 mins
Kidz LP Clinics 1 hour
Gym Fit Programme Casual 10 Visit Pass
<b>New Programs</b>
All new non casual programs and/or memberships developed and offered during the Term at the Venues