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27 August 2014

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 – Proposed New Youth Product

Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa**”) has developed an innovative hospital and general treatment product, designed to appeal to the younger health insurance market and plans to launch this product in September 2014.

Bupa considers that the product will be easy to understand and deliver value and certainty on the general treatment component. Bupa intends that the product will bridge the gap between a customer’s expectations of what their product covers and what is actually covered, delivering a differentiating and compelling reason to purchase private health insurance. Bupa is happy to share further details of its research and analysis, on a commercial in confidence basis.

The product will pay 100% benefits on the listed services at any Bupa Members First Network provider. The product will not pay benefits on services at non-Members First providers. 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 ;
- (2) a submission made by Bupa 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.

If you have any questions in relation to this notification, please contact me or Karen Murphy, Head of Legal – Healthcare Industry on 07 3239 4776.

Yours sincerely,

A handwritten signature in blue ink that reads "Emma Zipper".

for Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group

Enc

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:

N97766 Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa**”), a registered private health insurer.

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

Bupa provides private health insurance to its customers.

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

Emma Zipper
General Counsel & Company Secretary
Bupa Australia Group
Level 16, 33 Exhibition Street
Melbourne Victoria 3000
Telephone: +61 3 9937 4424
Email: emma.zipper@bupa.com.au

2. Notified arrangement

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

Private health insurance.

(b) Description of the conduct or proposed conduct:

Bupa proposes to offer private health insurance customers of Bupa Australia Pty Ltd (trading as Bupa) ABN 81 000 057 590, an innovative new hospital and general treatment product, designed to appeal to the younger health insurance market. Bupa plans to launch this product in September 2014. The product will pay 100% benefits on the listed general treatment services (also known as “Extras”) at any Bupa Members First Network provider. The product will not pay benefits on general treatment services at non-Members First providers. 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 customers of Bupa.
- (b) Number of those persons:**
- (i) At present time:**
- There is no current impact, given this is a new product which Bupa intends to launch in September 2014.
- (ii) Estimated within the next year:**
- Bupa hopes that the product will be purchased by around 2 to 3% of its new customers within the next year.
- (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 greater than 50.
- 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 market is the market for the provision of private health insurance. Competition in this market is competitive and there are other suppliers in this market 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:**
- Emma Zipper

General Counsel & Company Secretary
Bupa Australia Group
Level 16, 33 Exhibition Street
Melbourne Victoria 3000
Telephone: +61 3 9937 4424
Email: emma.zipper@bupa.com.au

Dated..... 27 August 2014

Signed by/on behalf of the applicant


.....
(Signature)

for: 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”) and supports the Form G notification attached.

1. Overview of proposed conduct

- 1.1 Bupa provides private health insurance to its customers. Bupa has developed an innovative hospital and general treatment product, designed to appeal to the younger health insurance market and plans to launch this product in September 2014.
- 1.2 Bupa considers that the product will be easy to understand and deliver value and certainty on the general treatment component (also known as “Extras”). Bupa intends that the product will bridge the gap between a customer’s expectations of what their product covers and what is actually covered, delivering a differentiating and compelling reason to purchase private health insurance. Bupa is happy to share further details of its research and analysis, on a commercial in confidence basis.
- 1.3 The product will pay 100% benefits on the listed general treatment services at any Bupa Members First Network provider. The product will not pay benefits on general treatment services at non-Members First providers.
- 1.4 This conduct is arguably a contravention of sections 47(6) and (7) of the *Competition and Consumer Act 2010 (Cth)* if Bupa 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 customers; 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.

2. Details of offer

The table below sets out the details of the offer.

Business/Product	Description of offer
Proposed new private health insurance product	<p>The product is designed for young singles and couples. It will cover hospital and general treatment.</p> <p>The product will pay 100% benefits on the listed general treatment services at any Bupa Members First Network provider. The product will not pay benefits on general treatment services at non-Members First providers.</p> <p>Terms of the offer:</p> <ul style="list-style-type: none"> • Available for purchase by any Bupa health insurance customer. • Bupa will pay 100% benefits on the listed general treatment services at any Bupa Members First Network provider. • Bupa will not pay benefits on general treatment services

Business/Product	Description of offer
	at non-Members First providers.

3. Products and services

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

- Private health insurance.

4. Public benefit

Almost a decade ago, Bupa launched a range of products, under its brands HBA, MBF and Mutual Community, designed for young singles and couples. Since then, there have been some significant changes in the health insurance landscape, including:

- changes to incentives for health insurance, such as the introduction of income testing of the Australian Government Rebate on private health insurance, which have increased cost pressures resulting in consumers comparing their product and price more rigorously; and
- an increased competitive landscape. Most health insurers are now offering a range of young singles and couples products that are similar in product design, with little differentiation.

These changes have contributed to Bupa's review of its current range of young singles and couples products. Bupa considers that the new product will be easy to understand and deliver value and certainty on the general treatment component.

Bupa intends that the product will bridge the gap between a customer's expectations of what their product covers and what is actually covered, delivering a differentiating and compelling reason to purchase private health insurance.

Accordingly, Bupa considers that the proposed conduct offers significant benefits to the public. It should also motivate competitors to offer similar products or undertake their own innovation and therefore increases competition in these services.

5. Competitive effects

The proposed conduct will encourage innovation and further increase competition between health insurers. It will have no detrimental effects on competition. The new product does not limit the choice of consumers or their ability to access the services of providers, because:

- this new product is just one of a number of packages designed for the young singles and couples market. Bupa customers can choose to purchase at least six other products, each of which pay benefits for services provided by both Bupa Members First Network providers and non-Members First providers;
- providers can continue to offer their services to consumers, regardless of whether or not the consumers are Bupa health insurance customers or hold the new product; and
- consumers are also free to purchase products from other competing health insurers.

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 notification. This is because the conduct will cause no detriment and will generate tangible public benefits, including innovation in private health insurance products and simplicity, value and certainty for customers.