

Emma Zipper  
General Counsel & Company Secretary  
Bupa Australia Group  
Level 16, 33 Exhibition Street  
Melbourne, VIC 3000

FILE No:
DCC:
MARS/PRISM:

Dear Emma

**Consent to notification of third line forcing – Bupa Australia Pty Ltd & Trek Bicycle Corporation Australia**

We acknowledge that an arrangement between Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“Bupa”) and **Trek Bicycle Corporation Australia** ACN 143 457 998 (trading as Trek Australia) (“Trek”) may be considered a contravention of section 47 of the *Competition and Consumer Act 2010 (Cth)*.

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

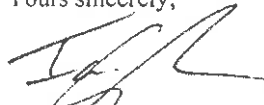
As a result, we consent to Bupa lodging with the ACCC, on our behalf:

- (1) a Form G notification; and
- (2) a submission made by Bupa on behalf of Trek supporting the Form G notification – highlighting the public benefit associated with the proposal and the absence of any misuse of market power,

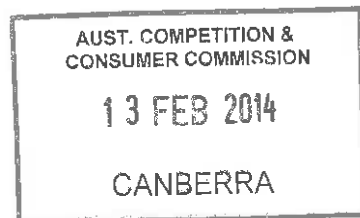
in the form attached.

We also agree to Bupa providing a copy of this letter to the ACCC as evidence of Trek’s consent to Bupa lodging the Form G notification on Trek’s behalf.

Yours sincerely,



Ian Callaghan



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 & Trek Bicycle Corporation Australia**

Bupa Australia Pty Ltd ABN 81 000 057 590 trading as Bupa (“**Bupa**”) has negotiated an arrangement with **Trek Bicycle Corporation Australia** ACN 143 457 998 (trading as Trek Australia) (“**Trek**”).

Under this arrangement, Trek 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 Trek ;
- (2) a submission made by Bupa on behalf of Trek 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 Trek consenting to Bupa lodging the Form G notification on Trek’s behalf.

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

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

Yours sincerely,

  
ba 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 Trek 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 Trek Bicycle Corporation Australia, trading as Trek Australia (“**Trek**”) is a bicycle manufacturer.
- 1.3 Bupa Australia Pty Ltd has negotiated an arrangement with Trek. Under this arrangement, Trek offers certain discounts to Bupa private health insurance members.
- 1.4 This conduct by Trek is arguably a contravention of sections 47(6) and (7) of the *Competition and Consumer Act 2010 (Cth)* if Trek 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.

<b>Business/Product</b>	<b>Description of offer</b>
Bicycle manufacturer	<p>Discount vouchers up to a maximum of 15% discount and fixed value vouchers up to the value of AUD \$200 (collectively ‘<b>Vouchers</b>’) per existing Bupa Australia policy from time to time.</p> <p>The conditions associated with this offer are:</p> <ul style="list-style-type: none"> <li>• Each policy is eligible for one (1) Voucher once across the promotional period</li> <li>• Vouchers must be redeemed within the promotion period.</li> <li>• Vouchers must be redeemed in person at Trek dealers participating in the promotion</li> <li>• Vouchers are not valid in conjunction with any other sale, offer or promotional codes</li> <li>• Once purchased the Trek and/or Bontrager products are not redeemable for cash or credit</li> <li>• Vouchers are not redeemable for cash and cannot be returned for a cash refund or be used to purchase gift vouchers from a Trek dealer.</li> <li>• Trek Australia takes no responsibility for lost or stolen</li> </ul>

	vouchers
--	----------

**3. Products and services**

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

- Bicycles
- Private health insurance.

**4. Public Benefit**

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

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

**5. Competitive effects**

5.1 The proposed conduct will have no detrimental effects on competition. Competition is strong and there are other companies competing for business on an equal footing.

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

- Trek will continue to offer its products 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:**

N97241 Trek Bicycle Corporation Australia ACN 143 457 998(trading as Trek Australia (“Trek”))

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

Trek Bicycle Corporation Australia (trading as “Trek Australia”) Manufacturers bicycles.

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

Ian Callaghan  
PO Box 1747  
Fyshwick ACT 2609

## **2. Notified arrangement**

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

Sports equipment (Bicycles) and private health insurance services.

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

Trek proposes to offer private health insurance members of Bupa Australia Pty Ltd (trading as Bupa) ABN 81 000 057 590 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.

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

**(i) At present time:**

Approximately 1, 800, 000 memberships

**(ii) Estimated within the next year:**

Approximately 1,830,000 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 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 markets are the markets for the provision of accommodation and leisure packages and the market for the provision of private health insurance. Competition in each of these markets is strong and 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:**

Ian Callaghan  
PO Box 1747  
Fyshwick ACT 2609

Dated 12-2-2014 .....

Signed by/on behalf of the applicant

  
.....  
(Signature)

for: Emma Zipper  
General Counsel & Company Secretary  
Bupa Australia Group