

# 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

- N99783
- (a) Name of person giving notice:  
*(Refer to direction 2)*
    - Medibank Private Limited (ABN 47 080 890 259) (**Medibank**) on behalf of Texas Peak Pty Ltd trading as Brooks (ABN 70 055 241 248) (**Brooks**).

- (b) Short description of business carried on by that person:  
*(Refer to direction 3)*

Medibank offers private health insurance and integrated healthcare services to private health insurance policyholders, government, corporate and other retail customers.

Brooks is a wholesaler and retailer of running shoes, clothing, accessories and apparel.

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

Amy Nelson Strom  
Proposition Development Manager – Loyalty  
Medibank Private Limited  
Medibank Place, 720 Bourke Street  
Docklands, Victoria, Australia, 3008

### 2. Notified arrangement

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

The supply of shoes, clothing, accessories and apparel (**Brooks Goods**).

- (b) Description of the conduct or proposed conduct:  
*(Refer to direction 4)*

The proposed conduct involves Brooks:

- (i) supplying, or offering to supply, Brooks Goods; and/or

- (ii) supplying, or offering to supply, Brooks Goods at a particular price; and/or
- (iii) giving or allowing, or offering to give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply by Brooks of Brooks Goods,

on the condition that the consumer acquires a private health insurance product from Medibank (or a related body corporate).

The proposed conduct also involves Brooks refusing to:

- (i) supply Brooks Goods;
- (ii) supply Brooks Goods at a particular price; and/or
- (iii) give or allow, a discount, allowance, rebate or credit in relation to the supply or proposed supply by Brooks of Brooks Goods,

for the reason that the consumer has not acquired a private health insurance product from Medibank (or a related body corporate).

**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)*

Persons or classes of persons who have acquired or will acquire private health insurance from Medibank.

- (b) Number of those persons:

- (i) At present time:

Unknown.

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

Substantially greater than 50.

- (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 will be of benefit to the public because:

- It will enable members or prospective members of Medibank to purchase Brooks Goods at a discount.
- Consumers remain free to acquire both private health insurance from Medibank and Brooks Goods from Brooks separately.
- Competitors of Medibank and/or Brooks may be encouraged to offer other additional value to their members, promoting competition in the relevant markets.

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

N/A.

#### 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)

Medibank and Brooks have not attempted to precisely define the markets involved. However, for the purpose of assessing this notification, the relevant markets may include:

- national markets for the provision of private health insurance products and/or services to customers; and
- local, regional, State based or national markets for the provision of shoes, clothing, accessories and apparel.

These market(s) are highly competitive and accordingly the proposed conduct will have little (if any) detrimental effect on competition in these markets.

**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)*

Medibank and Brooks do not consider there to be any public detriments arising from the proposed conduct.

- (b) Facts and evidence relevant to these detriments:  
N/A.

**7. Further information**

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

Amy Nelson Strom  
Proposition Development Manager – Loyalty  
Medibank Private Limited  
Medibank Place, 720 Bourke Street  
Docklands, Victoria, Australia, 3008

Dated... 28 JULY 2017 .....

Signed by/on behalf of the applicant  
Amy Nelson Strom .....

(Signature)  
AMY NELSON STROM .....

(Full Name)  
MEDIBANK PRIVATE .....

(Organisation)  
PROPOSITION MANAGER .....

(Position in Organisation)