

Form G
Commonwealth of Australia
Competition and Consumer Act 2010 – subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australia 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 in 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:

N99794 Summit Pharmacy Group Pty Ltd ACN 152 166 660 (SPG)

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

SPG is in the business of granting third parties (**SPG Franchisees**) the right to operate an independently owned community pharmacy business (**SPG Community Pharmacy**), on terms set out in SPG's current franchise agreement between SPG and each SPG Franchisee (**Franchise Agreement**). Operating an SPG Community Pharmacy involves offering a range of approved products and approved services from designated premises as part of the franchise network, using a system substantially determined by SPG using SPG's trademarks and other intellectual property.

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

C/- BlueRock Partners

Level 16, 414 La Trobe Street
Melbourne, Vic 3000

2. Notified arrangement

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

This notice relates to the acquisition by SPG Franchisees of pharmaceutical and non-pharmaceutical products for supply to customers through their SPG Community Pharmacy, as a condition of the Franchise Agreement.

(b) Description of the conduct or proposed conduct:

Under the terms of the Franchise Agreement, SPG Franchisees will be required to offer for sale a prescribed range of pharmaceutical and non-pharmaceutical products (**Approved Products**) as part of establishing and operating the Franchised Business.

Subject to the terms of the Franchise Agreement, SPG Franchisees are required to acquire Approved Products from the approved supplier, Symbion Pharmacy Services Pty Ltd ACN 000 875 034 (**Approved Supplier**).

Where an SPG Franchisee is unable to purchase Approved Products from the Approved Supplier, the SPG Franchisee has the right to acquire those products from an alternate supplier subject to the terms of the Franchise Agreement.

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:

SPG Franchisees (existing and future SPG Community Pharmacies) (**SPG Network**) will be affected by the notified conduct.

(b) Number of those persons:

(i) At present time:

15 SPG Franchisees.

(ii) Estimated within the next year:

A further 10 SPG Franchisees are forecasted to be inducted within the next year.

(c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:

Please see Annexure A for details of SPG Franchisees.

4. Public benefit claims

(a) Arguments in support of notification:

The purpose and likely effect of the proposed conduct is to ensure consistency of supply and supply terms throughout the SPG Network and to improve the customer experience and public safety through the supply of Approved Products. This will likely result in the better performance of each SPG Community Pharmacy and enhanced customer service as well as competitive prices for customers.

1. Greater buying power and operating efficiencies

The proposed conduct is intended to improve operations and reduce the cost for SPG Franchisees when purchasing Approved Products. SPG has established best practice standards and is able to use its buying power to negotiate centrally for and on behalf of the SPG Network to reduce the cost base for most Approved Products. Centrally negotiated supply terms will also likely improve turnaround times and certainty of stock orders which will improve efficiency in the operation of the SPG Community Pharmacies. The proposed conduct will allow SPG Franchisees to compete with other chain-pharmaceutical outlets and supermarkets who currently take advantage of similar bulk purchasing/ordering arrangements. Customers will also benefit from discounted prices resulting from SPG Franchisee's lower cost base.

2. Enhanced customer experience and public safety

The proposed conduct will improve the availability, consistency and predictability of the product offering across the SPG Community Pharmacies. Centralising product range and supply negotiations will allow SPG Franchisees to focus on their core business, people and quality of service. The proposed conduct will likely reduce non-compliance and safety concerns with supply of pharmaceutical and related products. By controlling the supply and influencing the range of Approved Products sold through the SPG Community Pharmacies, SPG will be able to better ensure the quality and safety of products sold to the public, with the ultimate goal of SPG Franchisees offering a more reliable shopping experience through which staff can provide

customers with a deeper level of product knowledge through consistency of product range across the SPG Network.

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

SPG has given careful consideration to the rationale behind the proposed conduct across the network of SPG Community Pharmacies:

1. Greater buying power and operating efficiencies

The Approved Supplier is Australia's largest medication wholesaler and can provide industry leading product logistics and competitive pricing. Furthermore, by directing SPG Franchisees to purchase from the same Approved Supplier, SPG can reduce the risks of product range limitations and stock shortages. SPG Franchisees will benefit from scale negotiations by acquiring products at reduced costs that would not be possible without this capacity to direct and focus the combined buying power of the dispersed network. Currently large retail pharmacy competitors such as Priceline Pharmacy, Terry White Chemist, Good Price Pharmacy Warehouse, Amcal, Guardian Pharmacies and Discount Drug Stores can offer discounted prices as each are owned by one of the major pharmaceutical wholesalers (Symbion Pty Ltd, Australia Pharmaceutical Industries Ltd, or Sigma Pharmaceuticals Ltd,). It is therefore essential that SPG Franchisees, as independently owned community pharmacies, are able to harness this same centralised negotiating power in order to secure competitive and efficient supply terms for SPG Franchisees and, consequently, competitive pricing for customers.

2. Enhanced customer experience and public safety

By holding the same or similar Approved Products across the SPG Network, customers can expect a similar retail experience from each SPG Community Pharmacy. This experience will be enhanced by centralised training and ongoing education for SPG Franchisees offered by SPG, and from time-to-time, the Approved Supplier, leading to deeper product knowledge by SPG Franchisee staff. This will likely help to reduce the risk of 'medication misadventure' which is recognised by Australian Digital Health Agency as causing 230,000 Australian hospital admissions, with some 10,000 deaths per year. It is important for community pharmacies to have strong product knowledge and ongoing education. All of which the proposed conduct will support.

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):

The affected market for the Approved Products is the wholesale market for the provision of pharmaceutical products, and related non-pharmaceutical products in Australia (**Pharmaceutical Wholesale Market**).

The current Pharmaceutical Wholesale Market is largely controlled by three key industry wholesalers; Symbion Pty Ltd, Australia Pharmaceutical Industries Ltd, Sigma Pharmaceuticals Ltd, and to a lesser extent; Central Healthcare Services Pty Ltd and Friendly Society Medical Associations Limited (**the Wholesalers**).

The Pharmaceutical Wholesale Industry is characterised by regulated price controls and high price competition which has led to Wholesalers relying on efficient stock and logistics management to increase profit margins.

Therefore, the notified conduct will not materially affect competition in the Pharmaceutical Wholesale Market.

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:

SPG submits that there is no public detriment flowing from the notified conduct. The proposed conduct will have a positive impact on the business efficacy of SPG Franchisees which will result in a positive impact for the wider communities serviced by SPG Community Pharmacies.

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

Nil.

7. Further information

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

Christian Bird

BlueRock Partners

c/- Level 16, 414 La Trobe Street,
Melbourne, VIC, 3000

Phone: (03) 8658 2015

Dated 04 August 2017

Signed by/on behalf of the applicant

Robert Peterson

(Signature)

ROBERT D. PETERSON

(Full Name)

SUMMIT PHARMACY GROUP PTY LTD

(Organisation)

DIRECTOR

(Position in Organisation)

ANNEXURE A

Commonwealth of Australia

Competition and Consumer Act 2010 – subsection 93 (1)

NAMES AND ADDRESSES OF SPG FRANCHISEES STATED IN ITEM 3(b)(i)

No	Business Name	Address
NEW SOUTH WALES		
1.	The Bush Chemist Tumbarumba	23 The Parade Tumbarumba NSW 2653
2.	The Bush Chemist Batlow	39 Pioneer Street, Batlow NSW 2730
3.	The Bush Chemist Tumut	69 Wynyard Street, Tumut NSW 2720
4.	The Bush Chemist Wagga	Shop 1/82 Murray Street Wagga Wagga NSW 2650
5.	The Bush Chemist Young	151 Boorowa Street, Young NSW 2594
6.	Beddies Pharmacy	264 Parker Street, Cootamundra NSW 2590
7.	The Bush Chemist Leeton	Shop 2 2637 Irrigation Way Rd, Leeton NSW 2705
8.	The Bush Chemist Griffith	Griffin Plaza Shop 2 Yambil St, Griffith NSW 2680
9.	Russell Street Pharmacy	20A Russell Street, Tumut NSW 2720
AUSTRALIAN CAPITAL TERRITORY		
10.	Macquarie Pharmacy	Shops 2 & 3 Lachlan St, Macquarie ACT 2614
11.	Mitchell Discount Pharmacy	Shop 2, 141 Flemington Rd, MITCHELL ACT 2911
12.	Amaroo Discount Pharmacy	Shop 6, Amaroo Village, Horse Park Drive, Amaroo ACT 2914
13.	Gowrie Pharmacy	Shop 3, Gowrie Shops Jefferies Place, Gowrie ACT 2904
14.	Belconnen Pharmacy	1, 1-5 Chandler Street, Belconnen ACT 2617
15.	Kambah Pharmacy	1/9 Jenke Circuit, Kambah ACT 2902