



Our ref: N10000536
Contact officer: Mandy Bendelstein

Contact phone: (02) 3102 4037

12/10/2020

Marta Stybowski
Chief Pharmacist & Head of Operations
SiSU Health Group

By email

Dear Ms Stybowski

N10000536 – SiSU Wellness Group Pty Ltd – No further action

I refer to the notification lodged with the Australian Competition and Consumer Commission (the **ACCC**) by SiSU Wellness Group Pty Ltd (**SiSU**) on 17 September 2020.

SiSU has notified the ACCC of exclusive dealing conduct in relation to a proposal to extend services offered at SiSU Health Stations and/or the SiSU Health Portal to include a prescription request service with medication delivery. SiSU has advised that:

SiSU owns and operates SiSU Health Stations (which utilise the SiSU Health Portal, operated by Telstra Health) located through Australian Pharmaceutical Industries Limited (**API**) pharmacies (primarily the Priceline brand). SiSU, in partnership with API and Telstra Health, proposes to extend the service offered at SiSU Health Stations and/or the online SiSU Health Portal to include a prescription request service with medication delivery and virtual General Practitioner (**GP**).

Customers will be able to request a prescription for a range of medications and have the medicine delivered to their home. Requests would be reviewed by a team of Australian based GP's who will be engaged by Telstra Health.

If the customer's request is approved the prescription will be sent to a designated API Pharmacy to be dispensed and delivered to the customer. Accordingly, by choosing to use the online prescription service with medication delivery, the customer will be required to consent to have their approved prescription processed by API's nominated pharmacy.

(the **Notified Conduct**)

The ACCC notes SiSU's reference to 'consistent pricing' in the notification. We understand this to mean that SiSU considers its customers will receive more consistent pricing if SiSU uses a single pharmacy in each state, rather than a panel of pharmacies which may set different prices. In that context, we note that the exclusive dealing notification does not extend to providing protection for resale price maintenance. Further, this notification does not affect any obligation or rights that may exist under other regulations relating to consumers being entitled to choose which pharmacy fulfils a prescription.

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Commencement of legal protection

The protection from legal action for the Notified Conduct provided by this exclusive dealing notification commenced automatically when it was validly lodged with the ACCC on 17 September 2020.

While the legal protection is in force, the notifying party may engage in the Notified Conduct without the risk of breaching the exclusive dealing provisions of the *Competition and Consumer Act 2010* (Cth).

ACCC assessment

On the basis of the information that you have provided, the ACCC is not proposing to take any further action in respect of this notification at this time.

The ACCC notes that while the Notified Conduct will limit the choice of pharmacy available for prescription fulfilment for consumers who elect to use the SiSU Health Station or SiSU Health Portal to a designated API pharmacy, it is also the case that:

1. consumers remain free to continue the traditional approach for obtaining repeat prescriptions by arranging a GP appointment, and fulfilling the prescription of their choice of pharmacy
2. the Notified Conduct may provide consumers with increased convenience and flexibility with respect to their choice of how to have repeat prescriptions arranged, without the need to set up a time for a GP appointment
3. the market is undergoing change (particularly as a result of the COVID-19 pandemic and legislative amendments), and competitors to the SiSU Health Stations and SiSU Health Portal exist and are emerging – where the consumer would not be required to use a designated API pharmacy for prescription fulfilment; and
4. nationally, significant alternatives to API pharmacies remain.

As a result, the legal protection provided by the notification will continue unless or until the ACCC revokes the notification or it is withdrawn.

If circumstances change, or the ACCC receives further information, such that it is satisfied that the Notified Conduct has the purpose, effect or likely effect of substantially lessening competition and that the public benefits do not outweigh the public detriments, the ACCC may take steps to remove the legal protection by revoking the notification.

The notification and this letter will be placed on the ACCC's [exclusive dealing notifications register](#).

Please contact Mandy Bendelstein on (02) 9102 4037 or by email to adjudication@accc.gov.au if you have any questions about this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Jones', with a long horizontal flourish extending to the right.

David Jones
General Manager
Adjudication