

# Notification of Exclusive Dealing

To the Australian Competition and Consumer Commission

Application submitted by SiSU Wellness Pty Ltd (Trading as SiSU Health Group) on behalf of a joint project partnership with (at time of writing the submission) Australian Pharmaceutical Industries (API) and Telstra Health.

## Notifying party

### 1. Details of the notifying party:

#### 1.1. Company details

SiSU Wellness Group Pty Ltd

442 Auburn Rd

Hawthorn

Victoria 3122

(03) 9818 3998

info@sisuhealthgroup.com

ACN: 1669 05602

#### 1.2. Contact person

Dr Noel Duncan

CEO, SiSU Wellness Group

[REDACTED]

[REDACTED]

Marta Stybowski

Chief Pharmacist & Head of Operations

[REDACTED]

[REDACTED]

### 1.3. Description of business activities

#### SiSU Health Group

SiSU Health Group (SiSU) provide a health check service via a SiSU Health Station which is supported by the SiSU Health Portal that provides users with a platform to manage and improve their health and wellbeing.

SiSU offers the service to members of the public through health stations located throughout API member pharmacies and predominantly its Priceline branded pharmacies. Health stations located within pharmacies are typically a fixed, permanent service within the pharmacy.

In addition, SiSU also provides its Health Station service to a range of corporate clients. In this scenario, the SiSU Health Station is located within a designated corporate environment for an agreed period at the request of the corporate client and typically intended for use by its employees.

#### Australian Pharmaceutical Industries Limited (API)

API is Australia's largest wholesale distributor of pharmaceutical and allied products and is the parent company of Priceline Pharmacy, Soul Pattinson Chemist and Pharmacist Advice. The company provides a range of service to the pharmacy sector including wholesale product delivery, retail services, marketing programs and business advisory services.

API has a national network of distribution centres and more than 488 Priceline Pharmacy stores as well as 975 independent Soul Pattinson Chemist, Pharmacist Advice and Club Premium pharmacy members. API member pharmacies provide a range of pharmacy services to the general public including supply of prescription medicines, over the counter medicines and professional pharmacy services such as vaccinations and medication management.

#### Telstra Health

Telstra Health is the largest Australian-based provider of software for healthcare providers and funders with a vision to be the leading provider of digital health solutions that shape a connected future for healthcare.

Telstra Health's software products, solutions and platforms are used by clinicians, care providers and consumers in the hospital, health service, pharmacy, and aged and disability care sectors.

Telstra Health currently provide dispensing and point of sale software to more than 2,700 pharmacies in Australia and facilitate the exchange of more than 200 million prescriptions a year on their electronic prescription exchange platform.

Telstra Health's telehealth solutions allow GP's to deliver virtual clinical services to patients via telephone or video consultation.

*\*At time of writing this submission, Telstra Health is the project partner providing the GP service.*

### 1.4. email address for service of documents in Australia.



## Details of the notified conduct

2. Indication of what the notified conduct is for:

The application is for an exclusive dealing notification, falling into the category of third line forcing.

3. Provide details of the notified conduct including:

3.1. a description of the notified conduct

SiSU Health Group has undertaken to lead a project in partnership with API and Telstra Health to extend its service offer to include a prescription request service with medication delivery and virtual General Practitioner (GP) consultation via the Health Station and/or the online SiSU Health Portal.

Customers will be able to request a prescription for a range of medications and have the medicine delivered to their home. Requests shall be reviewed by a team of Australian based GP's who, at the time of writing this submission, will be engaged by Telstra Health and if approved, the customers prescription will be sent to a designated API Pharmacy for dispensing and mailing out (delivery) to the customer.

In order to provide a consistent service, with transparent and consistent pricing and ensure efficient supply to the customer, it is envisaged API will engage a Pharmacy with appropriate capacity and resources in each state to process the approved prescriptions.

A disclaimer outlining this supply chain arrangement (i.e. that the prescription will be dispensed and dispatched from a nominated Pharmacy in the relevant state), terms and conditions and confirming the customers consent will be included in the early stages of the customer engagement journey with the website.

Therefore, by choosing to use the online prescription service with medication delivery, the customer is providing consent to having their approved prescription processed by API's nominated pharmacy rather than the customer selecting which pharmacy is to dispense the prescription and mail out the medication.

3.2. any relevant documents detailing the terms of the notified conduct

The agreement for engaging in the project was made between API, SiSU and Telstra Health following a tender – the cover letter for the tender process is **attached in confidence** for reference to this application.

Further to this, the process outlining the involvement of the three parties and an outline of the telehealth service is also **attached in confidence**.

3.3. the rationale for the notified conduct

The rationale for the conduct is to provide consistency and efficiency of service to the customer.

API member pharmacies are owned individually by owner operator pharmacists or owned by partnerships of pharmacists. Whilst pricing of PBS medication is set and standard nationally, many medicines are under the co-payment threshold and dispensed as 'private' prescriptions to provide customers with more competitive pricing. This practice is widely adopted, particularly in the case of

'discount model' pharmacies. This is also the primary reason pricing of medication may vary from pharmacy to pharmacy at the discretion of the pharmacy business owner or manager.

In order to ensure an online medication offering, provides upfront transparency to the customer as what they will be paying for the medicine at time of placing the order, the service requires the dispensing pharmacies to dispense these medicines at the displayed, agreed price. As price of medication is subject to change, as is inclusion of medicines on /off the PBS list, for practical reasons, partnering with a known cohort of pharmacies ensures pricing for the service can be consistent and in line with what is displayed to the customer at time of placing the prescription request on the website. Furthermore, any price updates, queries, etc can be managed efficiently throughout the partner network of pharmacies taking part in the service delivery.

There are other providers operating in the industry in a similar manner and it is believed this is the most efficient operating model for such a service. The model also allows the provision of a convenient and cost effective option for the customer in contrast to the traditional physical visit to a GP with subsequent visit to a bricks and mortar pharmacy, or a hybrid model, whereby a physical prescription is forwarded by the patient to a pharmacy which may then deliver or mail the medication.

With the increasing adoption of electronic prescriptions throughout the industry – further fast tracked by the current COVID-19 climate, the convenience of a streamlined online medicine service aims to deliver a service to assist customers that may experience difficulty seeing their GP and visiting their pharmacy in what was the historically conventional 'physically in person' manner.

3.4. Any time period relevant to the notified conduct.

It is expected the service be launched in Q4 of 2020 and continue indefinitely at time of making this submission.

4. Provide documents submitted to the notifying party's board or prepared by or for the notifying party's senior management for purposes of assessing or making a decision in relation to the notified conduct and any minutes or record of the decision made.

As referenced in 3.2 the documents attached in confidence, outline the tender process and material presented during the decision making process by API, SiSU and Telstra Health

5. Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.

The described service and conduct increase competition in the area of telehealth and online prescription medicine supply. Examples of such businesses include, but are not limited to; Kin Fertility, Instant Scripts, Pilot, Doctors on Demand, Qoctor and others. Whilst addition of a new service provider may impact market share of current providers, as pricing and offer are comparable, this is seen as fair competition which ultimately provides the customer with choice. Further to this, each of the current comparable services has unique characteristics which may appeal to individuals and serve as points of difference.

Customers will ultimately retain choice of where they obtain their prescription from and should they prefer to have their prescription filled at their local pharmacy, may choose not to use the service proposed in this application.

Pharmacies not engaged in the supply chain for the service proposed in this application also have the opportunity to provide a variety of other convenient prescription services that add value to their customers e.g. scripts on file and sms or app reminder services that ensure loyalty to the pharmacy. Further to this, electronic prescribing and the benefits this brings to dispensing logistics and the supply chain, are available to all pharmacies should they wish to take advantage of this.

## **Market information and concentration**

6. Describe the products and/or services, and the geographic areas, supplied by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).

The service to be supplied is an online prescription request service – this may at times be provided in conjunction with a telehealth consultation with a General Practitioner. Customers wishing to use the service, will be required to answer a series of questions relevant to their particular medication request and health condition.

The service will be provided online via the SiSU Health portal and via the SiSU Health Stations permanently located throughout API member pharmacies or located short term with corporate clients.

It is envisaged the online service will be available to all Australians, regardless of geographical location, whilst accessing the service on the Health Station will require the customer to visit a Health Station location. At present, SiSU Health Stations are located across the API pharmacy network or on short term lease in corporate settings, with future potential for locating in other suitable retail and public locations e.g. shopping centres.

The parties involved in the provision of the proposed service do not compete with each other and do not have a direct vertical relationship. The service is provided through a contractual agreement between the three parties; with SiSU Health providing the resources for service development as well as IT and hardware infrastructure to facilitate the service, API providing access to the pharmacy member network (for Health Station location and prescription dispensing and mail out) and at the time of writing this submission, Telstra Health engaging a team of GP's to deliver the prescription and telehealth consultation service.

7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

The proposed service sits within the healthcare industry and more specifically in the pharmacy sector.

A schematic representation of the service process and parties involved is outlined on pages 3 and 4 of the API & Telstra Health Telehealth presentation **attached in confidence**.

8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.

Unknown as this is a new product to market

9. In assessing a notification, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:

- 9.1. existing competitors
- 9.2. likely entry by new competitors
- 9.3. any countervailing power of customers and/or suppliers
- 9.4. any other relevant factors.

The telehealth space is experiencing strong growth and development, with increasing adoption fuelled by the current COVID-19 health crisis. Whilst the infrastructure for electronic prescriptions has been in place for close to a decade, recent changes in prescription legislation have enabled the launch of a 'true' electronic prescription service which eliminates the need for traditional paper prescriptions. The uptake of this technology in the pharmacy sector has been accelerated by the convenience and added safety it offers to patients and health care providers in light of the current pandemic. This need in the market, has not only encouraged existing mail order pharmacy services to enhance their offer, but attracted a number of new entrants to the 'online prescription service' space. Given this relatively new market, it is envisaged there will be a number of emerging suppliers entering this space in the near future, either as completely new entrants or existing suppliers expanding their prescription service offer to meet this new consumer need e.g. key pharmacy banner groups developing their own versions of an online prescription model.

Whilst the rapidly changing nature of this market makes it difficult to assess the exact number of competitors and actual market size, the key providers at the time of writing this submission are suggested as; Kin Fertility, Instant Scripts, Pilot, Doctors on Demand and Qoctor. It is also presumed there are a number of 'pseudo' providers, offering a version of remote prescription ordering as an adjunct to a more traditional pharmacy model.

In addition to an online prescription request service, there are a number of programs, services and initiatives offered by companies and pharmacy industry bodies that facilitate a more 'digital' prescription management option for pharmacies and consumers. Examples of this include repeat prescription reminder services, which encourage customer loyalty to a particular pharmacy.

### **Public benefit**

10. Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

The benefit to the public is the convenience of the service. This is of particular benefit to consumers unable to easily visit their regular GP to obtain a prescription either due to illness, ability to schedule a timely appointment or geographical location.

The classification of the SiSU Health Station as a Class IIa medical device, also has the added benefit of providing real-time data on Blood Pressure measurement to a remote GP assessing the patient prescription request. The challenges and limitations of readily accessible primary healthcare particularly in remote areas of Australia have the potential for this service to provide significant benefit to such communities and patients. Increasing the network of SiSU Health Stations to support the portal and online prescription services can contribute further benefit.

The stringent level of clinical governance adopted by the project also aims to set a leading benchmark for quality of clinical service via telehealth platforms within the market.

### **Public detriment (including likely competitive effects)**

11. Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.

It is not envisaged the notified conduct will cause any public detriment. The service will only be available for a range of medications assessed by advising clinicians and determined as safe to prescribe to appropriate patients via an online platform. Consumers will be referred to seek alternative care e.g. direct visit with their GP, where it is not considered completely safe to issue a prescription for the requested medication.

Consumers will continue to have the choice to physically visit their local pharmacy or alternatively use one of the alternative online services, depending on their needs.

It is also not envisaged the proposed service will have detrimental impact on the competition within the market and is expected to be one of many new entrants to a rapidly growing area within health.

### **Contact details of relevant market participants**

12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.

Competitors:

Kin Fertility - <https://kinfertility.com.au/>

Doctoroo - <https://www.doctoroo.com.au/online-doctor-prescriptions/>

Instant Scripts - <https://www.instantscripts.com.au/>

Pilot - <https://pilot.com.au/>

Simple Online Doctor - <https://www.simpleonlinedoctor.com.au/>

Doctors on Demand - <https://www.doctorsondemand.com.au/patients/online-prescriptions>

Qoctor - <https://www.qoctor.com.au/online-prescriptions/>

Prime Medic - <https://www.primemedic.com.au/prescription/>

Mosh - <https://www.getmosh.com.au/>

**Industry:**

Australian Health Practitioner Regulation Authority - <https://www.ahpra.gov.au/>

The Pharmacy Guild of Australia - <https://www.guild.org.au/contact>

The Pharmaceutical Society of Australia - <https://www.psa.org.au/about/contact-us/>

Medical Board of Australia - <https://www.medicalboard.gov.au/>

Australian Medical Association - <https://ama.com.au/>

Symbion - <https://www.symbion.com.au/>

Sigma - <https://sigmahealthcare.com.au/>

**Any other information**

13. Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.

**Declaration by notifying party**

Authorised persons of the notifying party must complete the following declaration.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).



\_\_\_\_\_  
Signature of authorised person

CEO

\_\_\_\_\_  
Office held

Noel Duncan

\_\_\_\_\_  
(Print) Name of authorised person

**This 16th day of September 2020**

Note: If the Notifying Party is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Notifying Party, this fact must be stated.