My battle with BUPA

BUPA and its third line forcing preferred provider business model.

There are 35 health funds in Australia, and the top five control 80% of the business. So much for competition. The "preferred provider scheme" (PPS) is common amongst these top five funds. And BUPA's PPS creates the greatest discrimination against practitioners like me (chiropractor), physiotherapists, dentists, optometrists osteopaths, podiatrists and recently the medical doctors. BUPA's PPS also discriminates against their own customers. The ACCC is not interested in what happens to practitioners. While PPS third line forcing is illegal under the Australian Competition Consumer law, the ACCC favours the companies over the people.

The ACCC is responsible for administering the Consumer and Competition Act of 2010, and it stated on its website in 2015: "In contrast to other types of exclusive dealing, 'third line forcing' is prohibited no matter what its effect on competition." Fundamentally the ACCC missed detecting BUPA's third line forcing. I bought this up with a senior official at the ACCC's who protected the ACCC's backside by saying "we think it is good for competition" and BUPA is only protecting its business. Therefore, I have decided to fight this illegality, and it has to be done from within the system. The PPS is wrong, has a harsh negative affect on patients and practitioners. We need thousands of emails to politicians and Rod Sims, at the ACCC, to force a change

The ACCC defined Third line forcing in 2015 as: "Third line forcing occurs when a business will only supply goods or services, or give a particular price or discount on the condition that the purchaser buys goods or services from a particular third party. If the buyer refuses to comply with this condition, the business will refuse to supply them with goods or services".

By 2017 The ACCC after reading my complaint document it stated "In contrast to other types of exclusive dealing, 'third line forcing' is prohibited no matter what its effect on competition." But if there is no effect on competition it is permissible, apply for an exemption. In 2019 The ACCC states "Broadly speaking, exclusive dealing occurs when one person trading with another imposes some restrictions on the other's freedom to choose with whom, in what, or where they deal. Exclusive dealing is against the law only when it substantially lessens competition. So essentially the ACCC is covering their mistake by changing their definition on line definition of third line forcing. (one person should be written as one person or Company)

Now insert one of my previous BUPA patients 75-year-old Mary, (or yourself) into the ACCC's Third line forcing definition, along with a BUPA chiropractic preferred provider, myself Dr Allwood who is no longer a BUPA preferred provider) into the relevant places in the ACCC's definition of "third line forcing". Doing this high-lights BUPA's intention to supply a materially different product, in the form of a different and a much lower monetary co-payment, to Mary. Which is ACCC third line forcing and Improper discrimination

Third line forcing occurs when a business "**such as BUPA**" will only supply goods or services, or give a particular price or discount on the condition that the purchaser "**in this case BUPA member Mary**" buys goods or services from a particular third party "**A BUPA's members first practitioner**" (be it a chiro, physio, optometrist or dentist). If the buyer "**Mary**" refuses to comply with this condition "**by choosing to or has to consult with Dr Allwood, or anyone else who is not a "Members First" provider** the business "**BUPA**" will refuse to supply her with goods or services.

In this case the improper discrimination is a financial discrimination through BUPA third line forcing business model. Thus, when Mary is meant to get a co-payment $32.00 out of a $56.00 consult fee she will only get $16.50. If the co-payment is meant to be $44.00 she will get $23.50. If it is meant to the whole $56.00 she would get $43.00. This is financial improper discrimination and illegal under the PHI Act of 2007

Another example of BUPA undertaking improper discrimination is when older women remove their pregnancy cover. BUPA simultaneous removes their hip and knee replacement cover because BUPA has bundled those two areas of anatomy with the pregnancy cover. This disgusting tactic is "improper discrimination" against the female gender and its ageist against these women's for having their life change. The ACCC will say that BUPA is just protecting their business to fob off the women who complain.

BUPA's concomitant breach of the Primary Health Insurance Act of 2007

BUPA "Members First" business model when reviewed against the Private Health Insurance act of 2007 violates **Division 66-1** parts 1(a) & 1(b) and **Division 55-5 relating to Community Rating** which requires insurers "to not improperly discriminate between or against people who have private health insurance."

Division 66-1, states "(1) An insurance policy meets the community rating requirements in this Division if: (a) the policy prohibits the private health insurer that issued the policy from breaching the principle of community rating in section 55-5 in relation to a person insured under the policy; and (b) the policy has no terms or conditions that would allow the insurer to improperly discriminate against a

person insured under the policy; and (c) the only discounts (if any) available under the policy are discounts allowed under subsection 66-5."

Division 55-5 Principle of community rating states in "part 1 (b) in making a decision, have regard or fail to have regard to any matter; that would result in the insurer improperly discriminating between people **who are** or wish to be insured under a complying health insurance policy of the insurer, and all of **Division 55-5** part (2), part (e) "which refers to any characteristic of a person."

Breach of policy compliance due to the BUPA's Breach of the community rating rules.

When BUPA "Members First" business model breaches the PHI Act 2007 community rating rules, it also breaches the policy compliance rule of Division 60-1 which states; "Complying health insurance products (which are made up of complying health insurance policies) are the only kind of insurance that private health insurers are allowed to make available as part of their health insurance business" (see section 63-1 and Division 84).

The remedy to this problem is to scrap all preferred schemes across all health funds via the Senate directing the ACCC and Health minister to do so. Also standardising the description and format of what a health fund will and won't pay for in their documentation this must be done across the funds so any person can easily understand and compare the fund values.

In closing: Without regular referendums to polish our laws and policies we are not living in a democracy. The people vote the government in to run the country for the health and wealth of the people. But when the government choose the corporations over the people then by definition we are living a "fascist Corporatocracy. In the end it will a be massive ongoing numbers game to sway the politicians by email to get the changes through to repair Australia.

Email me at cecsenate.SA@cecaust.com.au. to build an email data base through which the CEC or I can contact you to send information and how to vote polling day.
