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ANSTO SUBSIDIARY IN BREACH OF COMPETITIVE NEUTRALITY RULES SAYS PRODUCTIVITY COMMISSION

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A Report by the Productivity Commission's Australian Government Competitive Neutrality Complaints Office (AGCNCO), released today, has found that the Government's nuclear agency, ANSTO, has breached rules of competitive neutrality in marketing its nuclear pharmaceuticals. The Report and finding follow a formal complaint lodged in August 2011 by Cyclopharm Limited (ASX: CYC) which, through its wholly-owned subsidiary CycloPet, markets the nuclear pharmaceutical F-18 fluoro-deoxy- glucose (FDG) from its NSW based facility at Lucas Heights.

The AGCNCO is charged with investigating complaints against Government-owned business enterprises to ensure that they do not enjoy competitive advantages over their private sector competitors by virtue of public sector ownership.

Primarily used in cancer imaging, FDG is a radioactive pharmaceutical used in Positron Emission Tomography (PET) by doctors to improve diagnosis by enabling high quality imaging of both function and disease states in specific tissues and organs. Images are recorded by tracing the radioactive pharmaceutical through the body with the aid of specialised cameras found in nuclear medicine departments.

In Cyclopharm's complaint to the AGCNCO, the company asserted that PetNet Pty Ltd, ANSTO's wholly-owned subsidiary, is operating in breach of three of the five requirements to ensure Competitive Neutrality rules in relation to a contract awarded in May 2011 to PetNet as the exclusive external supplier of NSW Health's FDG radiopharmaceutical needs.

These allegations of breach were that PetNet:

1. Does not charge prices for its pharmaceuticals that fully reflect cost;
2. Is not applying commercial rates of interest on borrowings; and
3. Is unable to generate commercially acceptable profits based on its stated 15-year payback period.

AGCNCO's report (page 4) confirms that ANSTO and its subsidiary PetNet Australia (as a government business enterprise) must pursue a business model that conforms with the rules of competitive neutrality.

The Report finds that revenue and expenditure forecasts for PetNet Australia's commercial operations over 10 or 15 years "... are unlikely to achieve a commercial rate of return on the equity invested over either time period. This represents an ex ante breach of competitive neutrality policy." (Page 15)

AGCNCO has recommended that, in order to comply, PetNet is required to: *“...adjust its business model such that it can be expected to achieve a commercial rate of return that reflects the risk profile of the full investment in PetNet Australia.”* (Page 16)

Cyclopharm’s Managing Director, James McBrayer, says that the Report validates Cyclopharm’s principal allegations and that ANSTO’s behaviour has a number of serious implications for commercial fairness and equity when both Government-owned and private businesses are tendering for Government contracts.

“Firstly, I would hope the newly-appointed Minister for Science and Research, Senator Chris Evans, insists on a root-and-branch review of ANSTO’s governance, board representation, management practices and general operations. There are clearly potential significant shortcomings highlighted in recent Senate Estimate hearings that must be addressed. The PC Report is but the latest reflection of a troubled organisation.”

“Additionally, I am now hopeful that the NSW Health Minister, Hon. Jillian Skinner, will cancel the contract awarded in May 2011 to PetNet as an exclusive external supplier. That tender was contested by us in good faith but, as evidenced by the Productivity Commission Report, was let on unfair terms.

“We believe that in the interests of commercial fairness and in the long-term interests of both state and federal taxpayers, the contract should be re-tendered.

“We are not seeking any preferential treatment, only that we are able to compete on equal terms. In any event, we believe it is in the interests of the wider community for there to be real competition in the nuclear pharmaceutical segment of the health sector. ANSTO’s pricing and business practices will ultimately drive out all private competitors, leaving health departments at the mercy of a single supplier.”

Mr McBrayer said that while the ANSTO subsidiary’s pricing was undoubtedly attractive in the short term to a cash-strapped health department, its operation was neither commercially fair nor sustainable.

“In fact, ANSTO’s nuclear pharmaceutical business requires a near monopoly status in the private sector to make it profitable. Even as a monopoly to the private sector in the near term, significant taxpayer subsidies would still be required.”

“While we are very pleased with the outcome, it has been a long and frustrating struggle in getting to this point. In 2005 ANSTO ceased providing FDG in the Sydney market. Seeing a market opportunity in 2006 as part of the listing strategy, Cyclopharm approached ANSTO to ascertain if they would be interested in working with Cyclopharm to re-establish FDG service as well as other potential collaborative initiatives; however, ANSTO was not willing to collaborate”

“Since collaboration was apparently not going to be possible with ANSTO, Cyclopharm continued with its development strategy, fully disclosed our intention to the public in our prospectus in late 2006 and listed on the ASX in January 2007.”

“We now believe that our approaches to ANSTO gave rise to both their ambition and a sense of urgency to re-enter the FDG market. We understand from Senate Estimates that the board directed ANSTO management in December 2006 to investigate the market potential. Furthermore, we now understand that a business case was presented to the ANSTO Board in April 2007 with the full knowledge of Cyclopharm’s strategy to establish commercial cyclotron facilities in Australia.”

“ANSTO’s behaviour, combined with its executives’ responses before Senate Estimates in 2011 and earlier this year, suggests an organisation that should be subject to further scrutiny and transparency.”

“I am hopeful that the new Science Minister will address these issues in the short term,” Mr McBrayer added.

The report can be found on Productivity Commission website at:

<http://www.pc.gov.au/agcnco/publications>

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Background

Cyclopharm Limited

Cyclopharm is a radiopharmaceutical company servicing the global medical community. The Company's mission is to provide nuclear medicine and other clinicians with the ability to improve patient care outcomes.

Cyclopharm achieves this objective through the provision of radiopharmaceutical products, Technegas (for lung imaging) and Molecular Imaging / PET radiopharmaceuticals (used in cancer, brain and cardiac imaging). Our customers are nuclear medicine departments located within hospitals and clinics.

Technegas

The Technegas technology is a structured ultra-fine dispersion of radioactive labeled carbon, produced by using dried Technetium-99m in a carbon crucible, micro furnace for a few seconds at around 2,700°C. The resultant gaseous substance is inhaled by the patient (lung ventilation) via a breathing apparatus, which then allows multiple views and tomography imaging under a gamma or single photon emission computed tomography (SPECT) camera for the superior diagnosis of pulmonary emboli (blood clots in the lungs).

Positron Emission Tomography (PET)

PET radiopharmaceuticals target specific tissues / organs, concentrate there, and the attached radioisotope emits radiation, which is then detected by a PET or PET / CT gamma (collectively PET camera). These imaging modalities help physicians improve their ability to detect and determine the location, extent and stage of cancer, neurological disorders and cardiac disease. By improving diagnosis, PET scans aid physicians in selecting better courses of treatment, as well as assessing whether treatment is effective or should be changed.

Macquarie University Hospital and the Macquarie University School of Advanced Medicine

Macquarie University Hospital is a major medical precinct within the Macquarie University Research Park to complement the Allied Health teaching services offered by Macquarie University.

The Macquarie University Hospital is a state of the art facility that delivers health education and research on site.

Macquarie Medical Imaging

Cyclopharm formed a joint venture with Alfred Health Solutions Macquarie University Hospital to provide all imaging services on-site at the hospital. The new venture named Macquarie Medical Imaging ("MMI") represents a rare strategic opportunity to provide a fully aligned and integrated diagnostic, therapeutic and research platform. MMI offers a range of diagnostic radiology, interventional radiology, nuclear medicine and molecular imaging services for inpatient and outpatients.

The combination of state of the art imaging equipment, a GE cyclotron located on the grounds of MUH, leading surgeons, clinicians and academics will ensure that MMI will become the leading centre of imaging excellence.