

ASX RELEASE
8th February 2019

Cryosite reaches in principle settlement with ACCC

After receiving extensive legal advice from external lawyers, Cryosite entered into an agreement which it now accepts resulted in it contravening the *Competition and Consumer Act 2010* (Cth) (**CCA**).

Further to the ASX announcement of 12 July 2018, Cryosite Limited (**Cryosite**) (ASX: CTE) has agreed to an in principle settlement with the Australian Competition and Consumer Commission (**ACCC**) in relation to the proceeding against Cryosite in the Federal Court of Australia. This settlement remains subject to approval by the Federal Court.

On 23 June 2017 Cryosite entered into an agreement (**Sale Agreement**) to license, under the Cryosite brand, the collection, processing and storage of umbilical cord blood and tissue (**CBT**) and to sell certain of its CBT banking assets to Cell Care Australia Pty Ltd (**Cell Care**).

The ACCC alleged in the proceeding that Cryosite breached the CCA by including a competition restraint provision in the Sale Agreement, which required Cryosite to refer all sales enquiries to Cell Care from the date of signing of the contract to the date on which the transaction closed. This constituted a 'cartel provision'.

While Cryosite agreed to the inclusion of the restraint clause in the Sale Agreement and referred 12 customers to Cell Care under this clause, Cryosite had no intention to breach the CCA and had no awareness that the Sale Agreement contained a clause which would contravene the CCA. It is to be noted that Cryosite retained external lawyers to advise it in relation to the drafting and terms of the Sale Agreement; that Cryosite's external lawyers were involved in the negotiation of the Sale Agreement, but did not raise any concerns about cartel provisions; and any suggested changes to the draft Sale Agreement made by Cell Care were considered and agreed upon by the Board of Cryosite following legal advice.

Cryosite is obviously disappointed to have been party to the proceeding.

Under the terms of the settlement, the ACCC will apply to the Federal Court seeking declarations that by entering into the Sale Agreement, Cryosite entered into a contract containing a cartel provision in contravention of section 44ZZRJ of the CCA and that, including by referring 12 customer enquiries, Cryosite gave effect to a cartel provision in contravention of section 44ZZRK of the CCA. The ACCC will seek a pecuniary penalty of \$1.1m (including costs) against Cryosite, with Cryosite being allowed to pay the penalty in instalments with \$250,000 (including legal costs) to be paid within 30 day' of the Court's order and the balance to be paid in 10 equal annual instalments from 2020 to 2029. Cryosite will agree to the declarations of contravention and orders against it.

Cryosite Chairman Bryan Dulhunty said: Cryosite has fully cooperated with the ACCC throughout this process and, while clearly disappointed with the proceeding, is pleased to have reached the settlement with the ACCC, in the process avoiding the cost, disruption, board and management distraction and uncertainty necessarily associated with a lengthy trial.

Cryosite will continue to keep the market updated of any material developments in this matter and will make a further announcement after the Federal Court has made a decision in relation to the proposed settlement.

Bryan Dulhunty
Chairman

13a Ferndell Street, South Granville NSW 2142
www.cryosite.com

Cryosite Limited ABN 86 090 919 476
TGA License No. MI-18072008-LI-002488-11
ASX Code CTE

FREECALL 1800 220 410
PH +61 2 8865 2000
FAX +61 2 8865 2090
EMAIL store@cryosite.com