

Medical roster checklist



Australian
Competition &
Consumer
Commission

‘Rosters that have the purpose of facilitating patient access to medical services are an integral part of delivering health care to the community, especially in rural and regional Australia. By ensuring a minimum level of service to the community such rosters do not breach the competition laws.’

Graeme Samuel
Chairman
ACCC

Your doctors' roster is run **within** the same entity, such as a:

- = company *or*
- = legal partnership (with no corporate partners) *or*
- = trust



The ACCC is satisfied that a doctors' roster run solely within a single legal entity structured in any of these forms does not breach the competition laws.

Your roster is run **between** doctors practising through separate entities, such as any combination of:

- = companies
 - = sole natural persons
 - = trusts
 - = legal partnerships
- or** within a partnership with at least one corporate partner



A key purpose of the roster is to facilitate patient access to medical services.



Doctors on the roster are able to practise even when not rostered on.



Doctors on the roster are able to see any patients they choose.



The ACCC is satisfied that such a roster does not breach the competition laws.

NO

NO

NO

The roster may raise competition law issues (refer to the ACCC *Medical rosters* leaflet).

Not sure where to start?

If your doctors' roster:

- = involves an *associateship* **or**
- = involves a *hospital* **or**
- = you have *any doubts* about where to begin on this checklist

start in the **second column**.

If you answer **yes** to all the questions, the ACCC is satisfied that your roster does not breach the competition laws.

For more information refer to the ACCC *Medical rosters* leaflet.

Interaction between rosters and fees

Participation in a roster does not change the application of the law to the way in which doctors must set their fees. Doctors are required to set their fees in a manner consistent with their business (practice) structure. The ACCC considers that collective fee setting between separate entities is not necessary to operate a roster.

The ACCC is satisfied that doctors practising and operating a roster **within a single legal entity** can agree on fees charged to patients without breaching the competition laws.

Where a roster is run **between** doctors practising through separate entities (or within a partnership with at least one corporate partner), each entity must independently determine the fees charged to its patients. The ACCC is satisfied that doctors who exchange fee information to obtain informed financial consent from patients will not breach the competition laws, so long as they do not agree on what fees will be charged to patients.

General practitioners should note that if their roster exists just between members of the same associateship, or the same partnership with at least one corporate partner, they can agree on fees charged to patients under certain conditions currently until 10 January 2007. The conditions vary slightly with the factual circumstance of the general practice (see ACCC guideline to RACGP authorisation decision as of 19 December 2002 at www.accc.gov.au).

This document reflects the ACCC's view of the law as at July 2004. It should not be used as a substitute for legal advice.
This document has been developed by the ACCC in liaison with the Health Services Advisory Committee.

ACCC infocentre 1300 302 502 www.accc.gov.au

For Ending a medical roster please see over.

Ending a medical roster



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‘The ACCC understands that occasions will arise where it is necessary for doctors to end a medical roster. This may be for personal, professional or commercial reasons. An agreement by doctors to end a roster that does not have the purpose of inhibiting the supply of medical services to patients by any roster doctor will not breach the competition laws.’

Graeme Samuel
Chairman
ACCC

Your doctors' roster is run **within** the same entity, such as a:

- = company *or*
- = legal partnership (with no corporate partners) *or*
- = trust



The ACCC is satisfied that a single legal entity can end its internal roster without breaching the competition laws.

Your roster is run **between** doctors practising through separate entities, such as any combination of:

- = companies
- = sole natural persons
- = trusts
- = legal partnerships

or within a partnership with at least one corporate partner



You have **independently** decided to withdraw from the roster.

The ACCC is satisfied that independently withdrawing from the roster will not breach the competition laws.



You have **collectively** decided, with other roster doctors, to end the roster.

YES

The **purpose** of ending the roster is not to inhibit the supply of medical services to patients or a hospital, by any roster doctor.

YES

The ACCC is satisfied that the agreement to end your roster is not an exclusionary agreement in breach of the competition laws.

An exclusionary agreement is an agreement between competitors containing a provision which has the purpose of preventing, restricting or limiting the supply of services by parties to the agreement. The focus of this prohibition is on the subjective purpose of the doctors in ending the rostering arrangement, not the effect of ending the arrangement.

NO

Ending your roster may raise competition law issues (refer to the ACCC *Medical rosters* leaflet).

Not sure where to start?

If your doctors' roster:

- = involves an *associateship* **or**
- = involves a *hospital* **or**
- = you have *any doubts* about where to begin on this checklist start in the **second column**.

If you answer **yes** to the question in the second column, **or** all the questions in the third column, the ACCC is satisfied that your roster does not breach the competition laws.

For more information refer to the ACCC *Medical rosters* leaflet.



You should also be aware that section 45 of the Act is a general catch-all provision that prohibits a variety of agreements that have the purpose or effect (or likely effect) of substantially lessening competition in a market. This principle applies to all business dealings (refer to the ACCC *Medical rosters* leaflet).

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