Private Health Insurance Code of Conduct

Code Compliance Committee

17 March, 2017

Mr David Salisbury
General Manager
Consumer and Small Business Strategies Branch
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

Dear Mr Salisbury

Re: ACCC Report to the Senate on Private Health Insurance

Further to your letter dated 17 February 2017, thank you for the opportunity to lodge a submission regarding the *Australian Competition and Consumer Commission's* (ACCC) annual report to the Senate on "any anti-competitive or other practices by health funds or providers which reduce the extent of health cover for consumers and increase their out of pocket medical or other expenses" for the period 1 July 2015 to 30 June 2016.

By way of introduction, the *Private Health Insurance Code of Conduct* (the Code) was established in 2005 as a voluntary industry code. Subsequently, the *Code Compliance Committee* (CCC) has conducted regular audits of constituent private health funds. In so doing, the CCC has monitored the general compliance of all funds with the Code. The CCC operates independently to *Private Healthcare Australia* (PHA) and *hirmaa* although members are drawn from both peak industry bodies.

At the time of writing this submission, about 99 per cent of all Australians with private health insurance are with funds which are signatories to the Code.

This response is focused on the responsibilities of the CCC and is prepared to assist the ACCC in developing its annual report to the Senate.

Yours sincerely

RON WILSON
Chairman

As way of a more detailed introduction, the *Private Health Insurance* (PHI) *Code of Conduct* ("the Code") is a self-regulatory code to promote informed relationships between private health insurers (the funds), consumers and intermediaries.

The PHI industry's objective is that the Code will maintain and enhance regulatory compliance and service standards of PHI policies across the private health insurance industry. For this purpose, the Code is to be a "living Code" which will be progressively reviewed from time to time.

The PHI industry, through the *Code Compliance Committee* (CCC), may also seek input from external parties representing consumers. In particular, the CCC welcomed consultation with the *Private Health Insurance Ombudsman* (PHIO) and, post 30 June 2015, the *Commonwealth Ombudsman*.

Code of Compliance Committee

Private Healthcare Australia (*PHA*) has formed an independent code compliance committee (CCC or the Committee) with representatives from both *PHA* and *hirmaa*. The Committee has the responsibility to ensure that the Code is fully complied with by health funds and does this by: admitting funds to participate in the Code; monitoring and enforcing compliance by participants by conducting random and other audits; receiving complaints about any alleged breach of the Code; imposing sanctions for breaches of the Code and reporting annually to the *PHA* Board (while maintaining its independence). As a clear demonstration of how seriously the CCC takes its responsibilities, we were delighted that, in 2015, we were able to announce the appointment of Ms Samantha Gavel, the former *Private Health Insurance Ombudsman*, as the new independent member of the Committee. Ms Gavel brings a wealth of industry knowledge and experience to the position and her independence is beyond reproach.

Independent Auditors

To ensure its independence, the CCC engages the services of independent auditor/s to report to the CCC regarding the following tasks:

- admission of funds to participate in the Code;
- monitoring and enforcing compliance of participants by conducting random and other audits;
- receiving complaints about any alleged breach of the Code; and
- imposing sanctions for breaches of the Code.

Responsibilities of health funds

Health funds which are signatories to the Code must:

- implement appropriate systems and document procedures to comply with the Code;
- report to the CCC on the operation and compliance with the Code in accordance with its requirements and any guidelines issued by the CCC;
- cooperate with any compliance audits by or on behalf of the CCC; and
- comply with any sanction or requests made or imposed by the CCC.

Health funds must further satisfy the Committee that they continue to comply with all requirements of the Code by certifying their compliance in accordance with any guidelines or requests made by the CCC.

As signatories to the Code, funds will:

(a) continuously work towards improving the standards of practice and service in the private health insurance industry;

(b) provide information to consumers in plain language;

(c) promote better informed decisions about private health insurance products and services:
   (i) by ensuring that policy documentation is full and complete;
   (ii) by ensuring that, when asked by a consumer, there is provision of an effective verbal explanation of the content of the policy documentation; and
   (iii) by ensuring that staff and other persons providing information are appropriately trained.

(d) provide information to consumers on their rights and obligations under their relationship with their private health Insurer, including information on the Code;

(e) provide consumers with easy access to internal dispute resolution procedures, which will be undertaken in a fair and reasonable manner; and

(f) where internal dispute resolution procedures do not reach a satisfactory outcome for the consumer, or if a consumer wishes to deal directly with an external body, advise the consumer of the right to take the issue to an external body, such as the PHIO (*Commonwealth Ombudsman* post 30 June, 2015).

Under the *Private Health Insurance Code of Conduct Self Audit Guide*, insurers which are signatories to the Code, are obliged to:

- provide information to consumers in plain language;
- express policy documentation in plain language and design and present policy documentation with the aim of assisting comprehension by consumers; and
- ensure that each new consumer to the health fund is advised of or has presented to them prior to joining policy documentation, information or advice detailing the consumer's entitlement to benefits, including any waiting periods and pre-existing conditions, exclusions, restrictions, benefit limitation periods and co-payments and/or excesses, and we will confirm this cover following acceptance by the fund.

The Code of Conduct auditors randomly audit funds to ensure compliance with these requirements.

Funds' staff training

The CCC also wishes to highlight the stringent requirements placed on funds with regard to the training of staff and the propagation of product information to policyholders/consumers. Under the Code, funds' staff are not to make representations in relation to any product in respect of which they have not been trained to provide information. Funds are required to instruct employees to explain

the consumer's options clearly and provide, in addition to the policy documentation, all the information that the consumer requires to make an informed choice as to their health insurance purchase. Finally, insurers are required to ensure that the necessary systems and procedures are in place for the appropriate recording and record keeping of the advice given to consumers.

The CCC will briefly comment on one specific issue raised in the ACCC's letter regarding specific *changes which health insurers have made to information provision practices* in the context of the work of the Code (the other questions posed by the ACCC for discussion are outside the domain of the CCC).

During 2015, the CCC asked industry for feedback on the Code and the Self Audit process as part of its biennial review of the Code. As a result, changes to the Code benefitting consumers include:

- Tightened requirements for welcome letters to contain more details to consumer's entitlements, benefits and product inclusions /exclusions;
- Tailored and easier to understand communication on product changes;
- Provision of clear product information and links to Product Disclosure Statements;
- Clearly listing fund rules and by-laws (if not already covered by Product Disclosure Statements);
- Clarification of preferred provider relationships and consumer options outside of these (the consumer is free to select their provider of choice);
- Strengthening of the requirements on transfer certificates from one fund to another; and,
- Better dispute resolution and full compliance with the Australian Standard.

Consumer complaints

There is no doubt that the *Commonwealth Ombudsman* (through the auspices of the *Private Health Insurance Ombudsman*) is the holder of the most instructive data and information regarding consumer complaints. The CCC notes the growth in complaints over recent years and is always willing to work in a constructive way to ensure that consumers have the opportunity to access internal dispute resolution and external dispute resolution, with specific reference to the role and services of the *Commonwealth Ombudsman*.

CONCLUSION

A stated earlier, the PHI industry's objective is that the Code will maintain and enhance regulatory compliance and service standards of PHI policies across the private health insurance industry. For this purpose the Code is to be a "living Code" which will be progressively reviewed from time to time. As previously noted, the CCC is now operating under version 6 of the Code highlighting the continuous evolution of the Code, reflecting various changes and issues arising in the industry. In this context, the CCC acknowledges concerns about communicating policy changes to consumers and would continue to welcome and sponsor stricter requirements on insurers to provide consumers with more specific information regarding policy changes in plain language and in a consumer friendly format.