

Your reference: C2007/1896  
Our reference: SJJ:1050894



2 March 2020

Mr Daniel McCracken-Hewson  
Acting General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
CANBERRA ACT 2601

By email: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)  
[daniel.mccracken-hewson@accc.gov.au](mailto:daniel.mccracken-hewson@accc.gov.au)

Dear Mr McCracken-Hewson

**AUTHORISATION A91579 LODGED BY ERX SCRIPT EXCHANGE PTY LTD – APPLICATION FOR REVOCATION AND SUBSTITUTION, AND APPLICATION FOR INTERIM AUTHORISATION**

We refer to your letter dated 14 August 2019 and confirm we act on behalf of eRx Script Exchange Pty Ltd (**eRx**).

We are instructed to lodge a joint application for:

1. the revocation of an authorisation and the substitution of a new authorisation for the one revoked pursuant to section 91C of the *Competition and Consumer Act 2010* (Cth) (**Act**) (**Application for Revocation and Substitution**); and
2. interim authorisation pursuant to sub-section 91(2)(f) of the Act (**Application for Interim Authorisation**).

In respect of the Application for Revocation and Substitution, we attach:

1. Application for Revocation and Substitution;
2. Annexure A (Commercial Interchange Agreement dated 17 December 2012);
3. Annexure B (Communique on the first Roundtable for the Seventh Community Pharmacy Agreement (**7CPA**) - Tuesday 23 July 2019);
4. Annexure C (Communique on the second Roundtable for the 7CPA - Thursday 14 November 2019);
5. Declaration by Simon Jay on behalf of the applicant; and
6. Westpac payment details report dated 2 March 2020 evidencing payment of the \$2,500 lodgement fee to the Australian Competition and Consumer Commission (**ACCC**).

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As Authorisation A91579 (**Existing Authorisation**) is due to expire on 30 June 2020, eRx requests interim authorisation and, in respect of that request, submits:

1. eRx has previously been granted two successive authorisations by the ACCC for conduct that is substantially the same conduct that is the subject of this Application for Interim Authorisation. Authorisation A91348 came into force on 29 March 2013 (and the related interim authorisation on 6 December 2012) and the Existing Authorisation came into force on 19 October 2017 (and the related interim authorisation 7 June 2017). It is submitted that the relevant market will continue to operate as it has since December 2012 and will not change while due consideration is given to the Application for Revocation and Substitution.
2. The Existing Authorisation is due to expire on 30 June 2020 and eRx seeks interim authorisation so that the status quo for the industry can be maintained while due consideration is given to the Application for Revocation and Substitution.
3. Pursuant to clause 48 of the Commercial Interchange Agreement, if Application for Interim Authorisation is denied or the Application for Revocation and Substitution is not granted before 30 June 2020, eRx and IP MDS Pty Ltd (**MDS**) would be required to cease dealing. As a result, the number of prescriptions processed through prescription exchanges systems (**PESs**) would decrease, which would have an adverse impact on the operation and use of electronic prescriptions within pharmacies. Specifically, this would impact, inter alia:
  - a. consumers by way of:
    - i. an increase in the likelihood of transcription errors of medical prescriptions (which increases the potential to receive the wrong medicine); and
    - ii. a reduction in choice and convenience by not being able to access electronic prescription services at pharmacies irrespective of which PES the doctor used; and
  - b. the income of eRx and MDS as the number of eligible electronic prescriptions (and the fees shared on those prescriptions) for each prescription exchange system would decrease.
4. There is unlikely to be a significant impact on competition from the revenue sharing arrangement during any period of interim authorisation. As noted in the Application for Revocation and Substitution, eRx is not aware of any prospective new providers of PESs and, in any event, if a new entrant emerged, eRx and MDS are willing to negotiate to extend the Commercial Interchange Agreement to them as well.
5. eRx is of the view that there would be no public detriment to the public if the Application for Interim Authorisation is granted and given the Existing Authorisation will cease on 30 June 2020, there is a benefit to the public by granting interim authorisation in that it would allow the Commercial Interchange Agreement to continue until the ACCC issues its final decision (in the event that this is not before 30 June 2020).

Yours faithfully



**CORNWALLS**

**Contact**  
Simon Jay  
Partner



encl

## APPLICATION FOR REVOCATION OF AN AUTHORISATION FOR PROPOSED CONDUCT AND SUBSTITUTION OF A REPLACEMENT

To the Australian Competition and Consumer Commission:

Application is hereby made under section 91C of the *Competition and Consumer Act 2010* (Cth) for the revocation of an authorisation and the substitution of a new authorisation for the one revoked.

### Parties to the proposed conduct

#### 1. Provide details of the applicants for authorisation, including:

##### 1.1. name, address (registered office), telephone number and ACN

eRx Script Exchange Pty Ltd (**eRx**)  
20 Trenerry Crescent, Abbotsford, Victoria 3067  
03 9418 1800  
ACN 132 884 658

##### 1.2. contact person's name, position, telephone number and email address

Tony Johnston  
Company Financial Officer  
Fred IT Group<sup>1</sup>

[REDACTED]

[REDACTED]

##### 1.3. a description of business activities

The applicant operates an electronic pharmaceutical prescription exchange system (**PES**).

##### 1.4. email address for service of documents in Australia.

[REDACTED]

### Authorisation to be revoked (the existing authorisation)

#### 2. Provide details of the authorisation sought to be revoked including:

##### 2.1 the registration number and date of the authorisation which is to be revoked

eRx has previously been granted two successive authorisations by the Australian Competition and Consumer Commission (**ACCC**) for conduct that is substantially the same conduct that is the subject of this application. Two authorisations under subsections 88(1A) and 88(1) of the *Competition and Consumer Act 2010* (Cth) (**Act**), and two respective interim authorisations under subsection 91(2) of the Act, were granted by the ACCC as follows:

1. On 13 November 2012, eRx lodged an application with the ACCC seeking authorisation to enter into and give effect to a contract for a revenue sharing arrangement with MediSecure Pty Ltd to facilitate interoperability between the

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<sup>1</sup> eRx Script Exchange Pty Ltd is a wholly owned subsidiary of FRED IT Group Pty Ltd.

parties' electronic pharmaceutical PESs. On 6 December 2012, the ACCC granted interim authorisation. On 7 March 2013, the ACCC granted authorisation A91348 until 30 June 2017 (**First Authorisation**).

2. On 28 April 2017, eRx lodged an application with the ACCC seeking authorisation to continue to give effect to its revenue sharing arrangement with IP MDS Pty Ltd (formerly MediSecure Pty Ltd) (**MDS**). On 7 June 2017, the ACCC granted interim authorisation. On 27 September 2017, the ACCC granted authorisation A91579 until 30 June 2020 (**Existing Authorisation**).

eRx is seeking revocation of the Existing Authorisation.

**2.2 other persons and/or classes of persons who are a party to the authorisation which is to be revoked**

Not applicable.

**2.3 the basis for seeking revocation, for example because the conduct has changed or because the existing authorisation is due to expire.**

As the Existing Authorisation is due to expire on 30 June 2020, eRx is seeking revocation of that authorisation and substitution of a new authorisation for this revocation. Revocation and substitution are appropriate as the conduct that is the subject of this application is substantially the same as the conduct authorised by the ACCC under the Existing Authorisation.

**Authorisation to be substituted (the new authorisation)**

**3. If applicable, provide details of the other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct. Where relevant provide:**

**3.1 name, address (registered office), telephone number and ACN**

MDS  
127 Erskine Street, Middle Park, Victoria, 3206  
03 8677 5533  
ACN 132 172 957

**3.2 contact person's name, telephone number and email address**

Paul Frosdick

[REDACTED]  
[REDACTED]

**3.3 a description of business activities.**

MDS operates an electronic pharmaceutical PES.

## The proposed conduct

### 4. Provide details of the proposed conduct, including:

#### 4.1 a description of the proposed conduct and any documents that detail the terms of the proposed conduct

The proposed conduct is the continuation of a contract (Commercial Interchange Agreement) that has the purpose of allowing eRx to:

1. operate its PES interoperably with MDS's PES and vice-versa, and
2. share equally with MDS (formerly MediSecure) the fee that is charged by the dispensing PES provider to the dispensing pharmacist for each prescription that originated on the PES of the other party (**Revenue Sharing Agreement**)

(together, **Proposed Conduct**).

The Proposed Conduct is substantially the same as the conduct authorised by the ACCC under the Existing Authorisation.

The Revenue Sharing Arrangement for which authorisation is sought is set out in Clause 14 of the Commercial Interchange Agreement dated 17 December 2012 attached at **annexure A**.

#### 4.2 an outline of any changes to the conduct between the existing authorisation and the new authorisation

Save for a confirmed funding commitment by the Australian Government, there are no changes to the conduct between the Existing Authorisation and authorisation that is the subject of this application.

The costs incurred by pharmacies through using prescription exchange services were funded by the Australian Government under the Fifth Community Pharmacy Agreement (**5CPA**) until 30 June 2015 and are funded under the Sixth Community Pharmacy Agreement (**6CPA**) until 30 June 2020.<sup>2</sup> Currently, pharmacies receive \$0.15 from the Australian Government for each eligible prescription downloaded by a PES. This amount is set through consultation with the Pharmacy Guild of Australia, which is the other party to the 6CPA with the Commonwealth of Australia. A PES then charges pharmacies based on the number of eligible electronic prescriptions and repeats transferred through its service. Currently, pharmacies are charged \$0.15 by the dispensing PES. A proportion is subsequently paid by the PES to partner vendors of pharmacy and general practitioner desktop software, based on agreements between the PES and the other vendors involved in the electronic prescription supply chain.

As the current five-year 6CPA is due to expire on 30 June 2020, the Department of Health (**Department**) held two stakeholder roundtable meetings on 23 July 2019 and 14 November 2019 to inform the new Seventh Community Pharmacy Agreement (**7CPA**), expected to commence 1 July 2020. The communique on the first Roundtable for the 7CPA (23 July 2019) is attached at **annexure B** and the communique on the second Roundtable for the 7CPA (14 November 2019) is attached at **annexure C**. A key theme discussed in the 23 July

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<sup>2</sup> The 6CPA was Annexure B to the application for the Existing Authorisation.

2019 forum was progress in electronic and digital health technologies. In the 14 November 2019 meeting, the Department outlined some of the broader policy changes that will support consumers and the pharmacy sector, such as the Commonwealth finalising the framework to enable the prescribing, dispensing and claiming of Pharmaceutical Benefits Scheme medicines in a seamless electronic manner.

The uptake and use of electronic prescriptions was originally a priority for the Australian Government under the 5CPA, which allocated \$75.5 million in funding to provide payment to pharmacies for each eligible prescription downloaded. This continued to be a priority under the 6CPA, with funding of \$12.7 million per year. The Department has indicated that it will continue to meet with organisations, to clarify information or seek further views, and that negotiations with the 7CPA signatories are ongoing and will continue as a matter of priority. The key themes extracted from the communiques above suggest that funding likely will continue to be a priority under the 7CPA.

In any event, this change to the funding would not be a change to the conduct to which the Act might apply nor to the public benefits that are likely to result. In all material respects, there are no changes to the conduct between the Existing Authorisation and authorisation that is the subject of this application.

**4.3 the relevant provisions of the Act which might apply to the proposed conduct, ie:**

- **cartel conduct (Division 1 of Part IV)**
- **contracts, arrangements or understandings that restrict dealings or affect competition (s. 45)**
- **concerted practices (s. 45)**
- **secondary boycotts (sections 45D, 45DA, 45DB, 45E, 45EA)**
- **misuse of market power (s. 46)**
- **exclusive dealing (s. 47)**
- **resale price maintenance (s. 48) and/or**
- **a dual listed company arrangement (s. 49)**

eRx and MDS may be considered competitors in the provision of prescription exchange services for the purposes of the Act. It is possible, although eRx does not concede, that the Proposed Conduct could be challenged on the basis that it, in the absence of authorisation, contains provisions may contravene the Act, including provisions:

1. having the purpose or effect of fixing, controlling or maintaining the price for services supplied or likely to be supplied by the parties (i.e., a cartel provision prohibited under sections 45AD(2), 45AF, 45AG, 45AJ and 45AK of the Act);
2. having the purpose of preventing, restricting or limiting the supply or likely supply of goods or services by the parties (i.e., a cartel provision prohibited under sections 45AD(3)(a)(iii), 45AF, 45AG, 45AJ and 45AK of the Act); and

3. having the purpose or effect of substantially lessening competition within the meaning of section 45 of the Act.

#### **4.4 the rationale for the proposed conduct**

The purpose of the Commonwealth of Australia's PES Interoperability Project, which was funded by the Department of Health and Ageing as it then was,<sup>3</sup> was to allow electronic prescriptions to be accessed by all pharmacies, no matter which PES the electronic prescription was originally lodged with. This has been achieved – PESs are now able to share all prescriptions and repeats.

eRx and MDS previously negotiated between themselves an "Inter-PES Transaction Fee" to apportion the charge paid to the relevant PES by the dispensing pharmacy in circumstances a prescription originated on the PES of the other party. In order to eliminate any incentive for one PES to profit at the expense of the other (which would subvert the intended outcome of maximum interoperability), eRx and MDS agreed (subject to authorisation) to divide this fee equally. Following the granting of the interim authorisation on 6 December 2012, eRx and MDS (formerly MediSecure) entered into the Commercial Interchange Agreement, which in clause 14 provides that eRx and MDS agree that the originating PES and the dispensing PES will each receive 50 percent of this fee (which was and continues to be \$0.15 per eligible prescription).

Equal sharing is fair, equitable and eliminates any economic incentive for either PES to 'hoard' prescriptions or in any other way hinder interoperability. The ongoing interoperability of PESs will foster the continuous growth in the use of electronic prescriptions.

#### **4.5 the term of authorisation sought and reasons for seeking this period.**

Authorisation is sought until the new 7CPA will expire on 30 June 2025. This will facilitate interoperability during a period where progress in electronic and digital health technologies has been identified as key. Interoperability will promote progress in these areas as it will foster the continuous growth in the use of electronic prescriptions.

Authorisation until the new 7CPA will expire will also bolster a significant policy component of the 7CPA, being supporting consumers and the pharmacy sector, for example, by finalising the framework to enable the prescribing, dispensing and claiming of Pharmaceutical Benefits Scheme medicines in a seamless electronic manner. Authorisation for this period will support consumers and the pharmacy sector as it will advance and coordinate activity between healthcare professionals, and allow for the recording and sharing of the medicines prescribed and dispensed by pharmacies using a PES. This will lead to a reduction in transcription errors as pharmacies will not have to re-key this information.

Authorisation for this period will also continue to enable joint initiatives being delivered by eRx and MDS. Specifically, eRx submits that an initiative led by the Australian Digital Health Agency and the Department over the term of the 7CPA is the removal of the existing paper prescription as the legal document and its replacement with an electronic prescription. This initiative relies on the prescription exchange services infrastructure, and demonstrates the ongoing extension of the prescription exchanges and eRx's continued investment in their development.

Additionally, over the period of the previous authorisations, the Proposed Conduct has resulted in public benefits and no concerns have been raised. This is likely to continue. eRx

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<sup>3</sup> The Funding Agreement was Annexure B to the application for the First Authorisation.

submits that the public benefits from the Proposed Conduct will only be enhanced over time and there will be no public detriments.

- 5. Provide the name of persons, or classes of persons, who may be directly impacted by the proposed conduct (e.g. targets of a proposed collective bargaining arrangement; suppliers or acquirers of the relevant goods or services) and detail how or why they might be impacted.**

Consumers would be positively impacted by the Proposed Conduct by way of:

1. a reduction in transcription errors of medical prescriptions (which reduces the potential to receive the wrong medicine);
2. an increase in choice and convenience by being able to access electronic prescription services at more pharmacies, regardless of which PES the doctor used; and
3. an increase in efficiencies by pharmacies in dispensing prescriptions, which may reduce wait times.

Dispensers (usually pharmacists) would also be positively impacted by the Proposed Conduct by way of:

1. an increase in costs savings via a reduction in the time spent re-keying the prescription information into their systems; and
2. an increase in efficiencies by facilitating the widespread use of electronic prescriptions by medical practitioners and pharmacists.

On the other hand, new providers of electronic prescription exchange services may be prevented or deterred from entering the market. However, this is unlikely given the reasons provided at 11 below.

#### **Market information and concentration**

- 6. Describe the products and/or services, and the geographic areas, supplied by the applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).**

The services supplied by the applicant consist of electronic (i.e. computerised) services for the communication of prescription information between prescribers (usually doctors), their patients and the pharmacies where the overwhelming majority of pharmaceutical prescriptions are dispensed. These services comprise sophisticated computer systems, programs and equipment designed to ensure communication of prescription information. The geographic area supplied by the applicant is Australia wide. The applicant and MDS compete in the supply of these services.

- 7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.**

The relevant industries are the information technology industry, and the healthcare industry.

The relevant area of the information technology industry is technology software, which includes companies that develop software in various fields such as systems and programs.

Secondly, the Global Industry Classification Standard and the Industry Classification Benchmark distinguish the healthcare industry as two main groups:

1. healthcare equipment and services; and
2. pharmaceuticals, biotechnology and related life sciences.

The computer systems, programs and equipment designed to ensure communication of prescription information are for use in the provision of healthcare services in Australia. The healthcare services industry group includes entities that primarily provide direct treatment to patients or perform auxiliary services in support of treatment.

The pharmaceutical industry group is also relevant as the PESs are for use by pharmaceutical prescribers and dispensers, and facilitate the dispensing of pharmaceutical prescriptions safely, accurately, quickly and securely.

- 8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.**

eRx's estimated market share is 90%, whereas MDS's estimated market share is 10%.

- 9. In assessing an application for authorisation, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:**

- 9.1 existing competitors**
- 9.2 likely entry by new competitors**
- 9.3 any countervailing power of customers and/or suppliers**
- 9.4 any other relevant factors.**

eRx and MDS operate the two PESs that exist in Australia. The applicant is not aware of any prospective new providers of PESs in the short term, and expects it would take any new provider longer than the authorisation period sought (i.e. beyond 30 June 2025) to establish the necessary arrangements to be able to enter the market as a PES.

In any event, the continued operation of the Revenue Sharing Arrangement is unlikely to prevent or deter competitors from entering the market. The Commercial Interchange Agreement (**Annexure A**) in Clause 49 provides that the parties are free to enter into similar interchange agreements with any other person or persons who develop a PES and who are permitted to commercialise the use of their PES by the Commonwealth. If a new entrant emerged, the parties are willing to negotiate to extend the Commercial Interchange Agreement to them as well.

In addition, given the Revenue Sharing Agreement is only relevant when a script originates on the software owned by the other party, eRx and MDS will still compete to supply their PESs to doctors and pharmacies.

Interoperability between the two PESs will also enhance, rather than reduce, choice as patients will be able to access electronic prescription services at more pharmacies.

## Public benefit

- 10. Describe the benefits to the public that are likely to result from the proposed conduct. Refer to the public benefit that resulted under the authorisation previously granted. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.**

The Revenue Sharing Arrangement facilitates interoperability.

On the one hand, interoperability is best promoted if neither party has any economic or commercial incentive to seek to capture or retain prescriptions down to the point of dispensing (at which point payments are made and received for the pharmaceuticals, including the costs associated with their supply). The Revenue Sharing Arrangement eliminates any incentive for either of the parties to seek to ensure that prescriptions that have originated on their system (i.e. at the point of original prescribing) remain on their system at the point of dispensing (i.e. in the pharmacy).

On the other hand, without this arrangement, there would be insufficient commercial incentives for the parties to invest in interoperability.

Prior to interoperability, if a prescriber lodged an electronic prescription for a patient with a PES, the patient was only able to have this prescription downloaded by a pharmacy if the pharmacy software connected to the particular PES where the prescription was lodged by the prescriber. There was no interconnection between the computer systems operated by the two PESs to enable a pharmacy connected to one PES to access electronic prescriptions which were held by the other (if the pharmacy was not also connected to the other PES, which was usually the case). As a result of the Commonwealth of Australia's PES Interoperability Project, electronic prescriptions can now be accessed by all pharmacies, no matter which PES the electronic prescription was originally lodged with.

Interoperability is likely to continue to result in the following public benefits:

1. a reduction in transcription errors of medical prescriptions (which reduces the potential for patients to receive the wrong medicine);
2. an increase in choice and convenience for patients by being able to access electronic prescription services at more pharmacies, regardless of which PES the doctor used;
3. an increase in efficiencies for pharmacies in dispensing prescriptions;
4. an increase in costs savings for pharmacies via a reduction in the time spent re-keying the prescription information into their systems; and
5. an increase in the uptake and use of electronic transfer of prescriptions via the PESs, which:
  - a. promotes quality use of medicines through efficient and safe dispensing of medicines, and generating large volumes of prescription information that is used for the Australian Government's My Health Record; and

- b. reduces unnecessary burdens on the Australian health system and eliminates pharmaceutical wastage caused by errors in prescription dispensing.

Annexure C to the application for the Existing Authorisation contained a graph that showed the number of users (both doctors and pharmacists) of the eRx PES. The graph showed that, once interim authorisation was granted on 6 December 2012, the number of users increased markedly and that, between that date and the application for the Existing Authorisation, the number more than doubled. Since the Existing Authorisation came into effect, these numbers have continued to increase. Presently, over 80% per cent of doctors and 90% per cent of pharmacies use a PES. Given the public benefits described above, it is hoped these numbers will continue to increase still greater.

### **Public detriment including any competition effects**

- 11. Describe any detriments to the public likely to result from the proposed conduct, including those likely to result from any lessening of competition. Refer to the public detriment that may have resulted under the authorisation previously granted. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.**

eRx submits there are no public detriments generated by the Proposed Conduct for the following reasons:

1. it is not aware of any prospective new providers who are developing or considering developing a PES;
2. it expects it would take any new provider longer than the authorisation period sought (i.e. beyond 30 June 2025) to develop the necessary systems and establish the necessary arrangements to be able to enter the market as a PES;
3. in any event, the continued operation of the Revenue Sharing Arrangement is unlikely to prevent or deter new providers of PESs from entering the market. The Commercial Interchange Agreement (**Annexure A**) in Clause 49 provides that the parties are free to enter into similar interchange agreements with any other person or persons who develop a PES and who are permitted to commercialise the use of their PES by the Commonwealth. If a new entrant emerged, the parties are willing to negotiate to extend the Commercial Interchange Agreement to them as well. Were the parties unwilling to extend this agreement to a prospective new entrant, this would amount to a material change in circumstances such that it would be grounds for the ACCC to review the authorisation;<sup>4</sup>
4. the relatively short period of authorisation sought. eRx seeks authorisation until the new 7CPA will expire, of which a significant policy component is finalising the framework to enable the prescribing, dispensing and claiming of Pharmaceutical Benefits Scheme medicines in a seamless electronic manner; and
5. given the Revenue Sharing Agreement is only relevant when a script originates on the software owned by the other party, eRx and MDS will still compete to supply their PESs to doctors and pharmacies.

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<sup>4</sup> *Competition and Consumer Act 2010* (Cth) s 91C(3).

Additionally, there is no evidence of any public detriment having occurred during the periods covered by the First Authorisation and the Existing Authorisation. Rather, as stated above, the conduct previously authorised has resulted in public benefits and these are likely to continue.

**Contact details of relevant market participants**

- 12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

Rowena Sierant  
Director  
Electronic Medication Management Section  
Department of Health

[REDACTED]

[REDACTED]

**Additional information**

- 13. Provide any other information or documents you consider relevant to the ACCC's assessment of the proposed application.**

Clause 48 of the Commercial Interchange Agreement provides that if interim or final authorisation granted by the ACCC ends for any reason then the Commercial Interchange Agreement shall automatically end regardless of any other express or implied rights of termination. For this reason, eRx's preference is revocation of the Existing Authorisation and substitution with a new authorisation (rather than a new authorisation) to avoid the need to make changes to the Commercial Interchange Agreement.

## Declaration by Applicant(s)

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).

  
Signature of authorised person

SIMON JOHN JAY  
Level 10, 114 William Street, Melbourne  
an Australian legal practitioner  
within the meaning of the Legal  
Profession Uniform Law (Victoria)

Office held

*Simon Jay on behalf of the Applicant.*

(Print) Name of authorised person

This *2* day of *March 2020*

*Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.*

## **Annexure A**

14. eRx and MDS agree that before a technical solution for interoperability can be found, a commercial interchange agreement must be struck between the parties. eRx and MDS agree that where a QP (*Qualifying Prescription*) is collected by one PES and dispensed by any other PES, the interchange fee will be:
  - a. the Originating PES will receive 50% of the Commercial Fee; and
  - b. the Dispensing PES will receive 50% of the Commercial Fee.

## **Communique on the first Roundtable for the Seventh Community Pharmacy Agreement - Tuesday 23 July 2019**

On 23 July 2019, Ms Glenys Beauchamp PSM, Secretary of the Department of Health, convened a roundtable meeting with stakeholders to discuss priorities and reform ideas for a new Community Pharmacy Agreement.

### **National consultation**

The current five year, 6<sup>th</sup> Community Pharmacy Agreement, between the Commonwealth of Australia and the Pharmacy Guild of Australia is due to expire on 30 June 2020. The Australian Government committed to lead early and inclusive negotiations with the goal of signing a new Agreement by the end of 2019.

The participants acknowledged the broad and inclusive representation expressing a diversity of views at the forum, with more than 20 organisations representing consumers (including aged care, Aboriginal and Torres Strait Islander people, and people living in rural and remote communities), pharmacists, pharmacy regulatory and accreditation bodies, pharmacy owners, wholesalers, hospitals and the medical and primary care sector. A full list of organisations at the roundtable is attached.

### **Purpose of meeting and key themes**

In a statement, the Minister for Health, the Hon Greg Hunt MP expressed his expectation that consultation for the Agreement should focus on key policy and funding considerations that include different patient service settings; innovative models of care, particularly for specific consumer groups such as the aged and Aboriginal and Torres Strait Islander Australians, and people in rural and remote communities; access to services; digital and e-health measures; and workforce development to support the role of pharmacists into the future.

Key themes discussed during the forum included:

- opportunities to better support safe and quality use of medicines, particularly to address safety in transitions of care between health care teams and settings.
- ensuring older Australians in residential aged care facilities and those living across a range of independent settings, have access to timely and affordable expert professional pharmacy services. New innovative models of care supporting on-site pharmacists were identified as one of the options for consideration.
- the utilisation of Aboriginal and Torres Strait Islander health service structures to improve access to medicines and medication management support for Aboriginal and Torres Strait Islander people, particularly those living in rural and remote areas.
- increasing access to services in rural and remote areas, including pharmacy workforce planning and distribution arrangements.
- increasing transparency and accountability and developing metrics to better support planning, quality improvement and reform. Financial and performance data, and program evaluation information was identified as important to measure or inform health outcomes.

- integrated care and multi-disciplinary care within the primary care team, including Primary Health Network linkages, and pharmacists' scope of practice, such as prescribing in partnership models of care, in specific situations.
- progress in electronic and digital health technologies, including the importance of access to real-time prescription dispensing information and potential acute care treatment needs by health care professionals.
- the automation of the Pharmaceutical Benefits Scheme Safety Net.

**Next steps**

Continued consultation will occur over the coming months to provide advice to the Government on how the new Agreement can improve access to affordable medicines and health care services, and support the quality use of medicines by patients in the next five years, and beyond.

## **Organisations that participated in the roundtable**

Australian Association of Consultant Pharmacy  
Australian College of Rural and Remote Medicine  
The Australian Friendly Societies Pharmacies Association Inc  
Australian Medical Association  
Australian Private Hospitals Association  
Catholic Health Australia  
Chemist Warehouse Group  
Chemotherapy Compounding Group  
Consumers Health Forum of Australia  
COTA Australia (Council on the Ageing)  
Generic and Biosimilar Medicines Association  
Health Care Consumers Association  
Leading Age Services Australia  
The Medical Software Industry Association  
Medicines Australia  
National Aboriginal Community Controlled Health Organisation  
National Pharmaceutical Services Association  
The Pharmaceutical Society of Australia  
Pharmacy Board of Australia  
The Pharmacy Guild of Australia  
Primary Health Networks  
Professional Pharmacists Australia  
Royal Australian College of General Practitioners  
The Society of Hospital Pharmacists of Australia

## **Communique on the second Roundtable for the Seventh Community Pharmacy Agreement - Thursday 14 November 2019**

On 14 November 2019, Ms Glenys Beauchamp PSM, Secretary of the Department of Health, convened the second roundtable meeting with pharmacy and health stakeholders, to inform the Department's advice to the Australian Government on the Seventh Community Pharmacy Agreement (7CPA), expected to commence 1 July 2020.

### **Stakeholder consultation**

The current five year, Sixth Community Pharmacy Agreement, between the Commonwealth of Australia and the Pharmacy Guild of Australia (the Guild) is due to expire on 30 June 2020.

In line with the Government's commitment to lead early and inclusive consultations to inform the 7CPA, the Department has met with a range of organisations since mid-2019. Negotiations have also continued with the Guild and the Pharmaceutical Society of Australia. Stakeholder advice has focussed on how the 7CPA can achieve ongoing improvements to support affordability and increased access to Pharmaceutical Benefits Scheme (PBS) medicines, underpinned by effective pharmacy services that achieve the best health outcomes for all Australians.

Thirty representatives attended from more than 20 national pharmacy and health and consumer organisations. Participants received a broad update on the progress of 36 consultation and negotiation meetings to date, and key priorities for Government, while maintaining the confidentiality of information shared by organisations during negotiations and consultations.

### **Key themes from the meeting**

The Department shared the key themes emerging from stakeholder meetings over recent months, such as timely access to, and appropriate use of, medicines, services for older Australians and Aboriginal and Torres Strait Islander people, 7CPA governance, co-ordinated primary care, and rural and remote pharmacy services. In addition, the Department outlined some of the broader policy changes that will support consumers and the pharmacy sector, such as the Commonwealth:

- finalising the framework to enable the prescribing, dispensing and claiming of PBS medicines in a seamless electronic manner.
- improving medicine safety and reducing medicine related harm by advancing quality use of medicines as a new National Health Priority Area.
- lowering the PBS Safety Net threshold for concessional and non-concessional patients, from 1 January 2020.

Participants shared their views on the issues of most importance to their organisation, building upon the views expressed at the 23 July 2019 roundtable. Key areas of discussion are outlined, below.

*Pharmacy services for older Australians:*

- enabling medication reviews to be conducted more frequently, including when the person has experienced a significant change in their health condition, or if they are changing health care setting; and to support follow-up reviews.

*Pharmacy services for Aboriginal and Torres Strait Islander people:*

- reviewing and designing programs in close consultation with stakeholders.
- opportunities to increase investment to support the appropriate use of medicines, and ensure that Aboriginal and Torres Strait Islander people have access to culturally appropriate pharmacy services.
- increasing access to affordable medication adherence support was raised.

*Transparency and consultation:*

- increased consultation, including through establishing expert reference group/s, to provide recommendations and advice to the Department about pharmacy policies and programs.
- Increasing monitoring and transparency, including through access to information about pharmacy policies, evaluation, the effectiveness of programs and funding.
- enabling the CPA to be reviewed part-way through, to enable adjustments to be made in response to changing needs and innovations in care and medicines access.
- increasing transparency for consumers, including advising consumers of the cost of a medicine before it is dispensed, to enable consumers to make an informed choice about the dispensing location.

**Next steps**

The Department will continue to meet with organisations, to clarify information or seek further views. Negotiations with the 7CPA signatories are ongoing and will continue as a matter of priority.

## **Organisations that participated in the roundtable**

Aged and Community Services Australia  
Australian Association of Consultant Pharmacy  
Australian College of Rural and Remote Medicine  
The Australian Friendly Societies Pharmacies Association Inc  
Australian Medical Association  
Australian Private Hospitals Association  
Catholic Health Australia  
Chemist Warehouse Group  
Chemotherapy Compounding Group  
Consumers Health Forum of Australia  
COTA Australia (Council on the Ageing)  
Generic and Biosimilar Medicines Association  
Leading Age Services Australia  
The Medical Software Industry Association  
Medicines Australia  
National Aboriginal Community Controlled Health Organisation  
National Pharmaceutical Services Association  
The Pharmaceutical Society of Australia  
Pharmacy Board of Australia  
The Pharmacy Guild of Australia  
Primary Health Networks  
Professional Pharmacists Australia  
Royal Australian College of General Practitioners  
The Society of Hospital Pharmacists of Australia