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Our ref: AA1000493
Contact officer: Emma Stiles
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7/05/2020

Kathryn Finlayson
Partner
Minter Ellison
Level 22, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

By e-mail: [REDACTED]

Dear Ms Finlayson

State of Queensland as represented by Queensland Health application for authorisation AA1000493- request for further information and update

I refer to the interim authorisation granted by the Australian Competition and Consumer Commission (the **ACCC**) on 7 April 2020 in response to the authorisation application lodged by the State of Queensland as represented by Queensland Health on 6 April 2020.

Queensland Health, together with specified private healthcare operators operating in the State of Queensland (the **Private Hospital Operators**) and public hospitals and health services (the **Queensland Public Providers**) (together, the **Applicants**) have sought authorisation to discuss, enter and give effect to contracts, arrangements or understandings (**Agreement(s)**) which have the broad purpose of maximising healthcare capacity and ensuring the State-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the COVID-19 pandemic (the **Proposed Conduct**).

The purpose of this letter is to formalise with you the content of and timeframes for providing updates to the ACCC under Conditions 1 and 2 of the interim authorisation (set out in **Attachment 1** to this letter).

Condition 1

Condition 1 requires that Queensland Health provide regular updates to the ACCC. Pursuant to this requirement we request that Queensland Health provide the following:

- a) a summary of each of the Agreements entered into under the interim authorisation, which:
 - i. identifies the parties to the Agreement; and
 - ii. outlines the key features of the Agreement.
- b) a summary of matters discussed at any meetings of the Private Health Facility Coordination Group (**PHFCG**).

We request that Queensland Health provide these updates to the ACCC every **14 days** commencing **13 May 2020**. If no new Agreements are made or no meetings of the PHFCG are held in a given fortnight, please confirm that in the fortnightly update. The frequency of these updates may be reduced in future if appropriate.

Subject to any requests for exclusion, it is expected that Queensland Health's updates will be placed on the ACCC's public register for this matter (see [Guidelines for Excluding Information from the Public Register](#) for more information on how to make a request for exclusion and how we assess requests).

Condition 2

Condition 2 of the interim authorisation requires Queensland Health to notify the ACCC of future parties to the arrangement. We request that this notification be given within **three working days** of Queensland Health determining that a party participate in the authorised conduct. Please note that the notification will be included on the ACCC's public register for this matter.

Request for further information

The ACCC is progressing its assessment of the authorisation application. To assist in this assessment it is requested that Queensland Health provide the following information:

1. The Applicants have identified a number of key features of the Agreements to be entered into between Queensland Health and Private Hospital Operators. Item (c) of the key features listed in the application for authorisation provides that each Private Hospital Operator will be permitted to continue to provide healthcare services to private patients but only to the extent permitted by the Agreement or by Queensland Health and only where this will not diminish the Private Hospital Operator's ability to perform the services under the Agreement.

It is requested that the Applicants provide further detail expanding on item (c), including:

a summary of how the Agreement(s) entered into by the parties implement this key feature;

It is requested that the Applicants, to the extent possible, provide an illustrative example of how a Private Hospital Operator's capacity may be directed in response to a surge in demand for the Queensland Public Providers' services and resources due to the COVID-19 pandemic.

2. Information as to the impact of the Commonwealth Government's easing of restrictions on elective surgeries on the Applicants' submissions in support of the application for authorisation.

We request that Queensland Health provide this information by **Friday, 15 May 2020**. Please note that subject to any request for exclusion, Queensland Health's response will be placed on the ACCC's public register for this matter.

Provision of information to the ACCC

Please send all updates and information to adjudication@acc.gov.au copying emma.stiles@acc.gov.au.

This letter has been placed on the public register.

If you wish to discuss this letter, please contact Emma Stiles on 02 9102 4036 or Sophie Matthiesson on 03 9910 9456.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "S Philp".

Susan Philp
Director
Adjudication

Attachment 1 – Conditions of Interim Authorisation

Condition 1 – Reporting Requirements

Queensland Health must provide regular updates to the ACCC at a frequency agreed between the parties, and provide any additional information reasonably requested by the ACCC.

Condition 2 – Notification of future parties

To the extent that Queensland Health believes it necessary or desirable for any other private healthcare providers (other than the private healthcare providers listed in Attachment 1 to the interim authorisation decision) to participate in the Proposed Conduct, Queensland Health must notify the ACCC of the identity of those parties.