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28/09/2021

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Dear Sir or Madam

Applications for re-authorisation – Private Healthcare COVID-19 Arrangements - draft determination and interim authorisation consultations

Between 26 August and 13 September 2021, the Australian Competition and Consumer Commission (the **ACCC**) received applications for re-authorisation from relevant public health authorities in a number of Australian States and Territories (listed in the table below) (**revocation and substitution**). This letter is to invite you to comment. You are welcome to pass this letter on to others who may wish to make submissions.

The Applicants are seeking re-authorisation¹ under the *Competition and Consumer Act 2010* (Cth). Re-authorisation would give legal protection to continue to discuss, enter and give effect to agreements 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. Full copies of the applications for re-authorisation is available on the ACCC's [authorisations public register](#).

On 28 September 2021, the ACCC issued draft determinations in respect to the applications for re-authorisation from relevant public health authorities in each Australian State and Territory, proposing to grant reauthorisation to each of the applications for a further 18 months.

The ACCC also granted interim authorisation to allow the Conduct to continue while the ACCC completes its assessment of the applications for re-authorisation.

Private Healthcare COVID-19 arrangements – Applications for authorisation

Authorisation No.	Jurisdiction	Applicant	Link
AA1000567	State of Victoria	Department of Health and Human Services	Link to Public Register
AA1000570	Northern Territory of Australia	Department of Health	Link to Public Register
AA1000572	State of Queensland	Queensland Health	Link to Public Register

¹ For information about Authorisations, please see <https://www.accc.gov.au/business/exemptions/authorisation>

AA1000573	State of New South Wales	Ministry of Health	Link to Public Register
AA1000574	State of Tasmania	Department of Health	Link to Public Register
AA1000575	Australian Capital Territory	ACT Health Directorate	Link to Public Register

Making a submission

The ACCC invites you to make a submission on the applications for re-authorisation. In making your submission, please provide information, evidence and views about the likely public benefits, effects on competition and any other public detriment that you consider will result from the proposed conduct.

If you intend to provide a submission, please do so by **21 October 2021**. If you wish to request an extension, please contact us on the details below as early as possible. Submissions after the due date (or after any extension granted) may not be taken into account.

Please email your submission to exemptions@acc.gov.au, with the subject '*Private Healthcare COVID-19 arrangements for re-authorisation – submission*'.

Your submission will be placed on the ACCC's [authorisations public register on the internet](#) unless you have made a request (with reasons) for us to exclude part or all of the submission from the public register.²

Optional pre-decision conference

In some cases the applicant or an interested party requests that the ACCC convene a pre-decision conference in relation to its draft determination. If a conference is called in relation to any of the draft determinations listed above it will be open to the applicant and interested parties to attend and make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination you must notify the ACCC in writing by **12 October 2021** by email to adjudication@acc.gov.au.

We prefer to hold a conference in a way that enables attendees to attend in person. In the current circumstances, with the spread of COVID-19 and the need to significantly limit social contact, a face-to-face conference may not be possible. There may be options for the ACCC to hold a conference via webinar or teleconference. If you are considering requesting the ACCC hold a conference please contact us as early as possible to discuss the options for holding a conference before requesting one.

² (see [Guidelines for Excluding Information from the Public Register for more information on how to make a request and how we assess requests](#)).

Timetable

The ACCC will progress its assessment of the applications in a timely manner. An indicative timetable is set out below for your information, and an up to date version (including any changes) will be posted on the public register.

Indicative date	Stage in assessment process
26 August to 13 September 2021	Lodgement of applications and supporting submissions.
28 September 2021	Draft determinations with interim authorisations.
September/October 2021	Public consultation on draft determinations including any conference if called.
November 2021	Applicant responds to issues raised in the draft determinations and public consultation
November 2021	Final determinations.

This letter has been placed on the ACCC's public register. If you have any questions or wish to discuss any aspect of this matter, please do not hesitate to contact Alex Cicchini on (03) 9910 9552 (or alex.cicchini@acc.gov.au) or Hannah Ransom on (02) 6243 1255 (or hannah.ransom@acc.gov.au), or exemptions@acc.gov.au.

Yours sincerely,



David Hatfield
Director
Competition Exemptions