



Our ref: AA1000671
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24 July 2024

Dear Leigh

Re: Application for authorisation (AA1000671) from St. Luke's Medical and Hospital Benefits Association – ACCC request for information

I refer to St. Luke's Medical and Hospital Benefits Association's (**St Lukes**) application for authorisation lodged with the Australian Competition and Consumer Commission (**ACCC**) on 8 May 2024 seeking authorisation to enter into and give effect to certain pricing arrangement provisions in agreements with participating dental providers via the 'St Lukes Gap Free Network'. I also refer to St Lukes' responses to the ACCC's request for information dated 13 June and 18 June 2024.

To assist the ACCC's consideration of St Lukes' substantive application for authorisation, we request that St Lukes provide further information as set out in Attachment A to this letter by **7 August 2024**.

This letter, including Attachment A, will be placed on the ACCC's [Authorisations Public Register](#). A copy of St Lukes' response will also be placed on the Authorisations Public Register, subject to any request to exclude certain information from the public register. For further information please refer to the ACCC's [Guidelines for excluding information from the public register](#).

Should you have any questions in relation to any aspect of this information request, please do not hesitate to contact myself on (02) 9230 9188 () or Rebecca Ryan on (02) 6243 1300 ().

Yours sincerely

[Redacted signature]

Naomi Menon
Director
Competition Exemptions

Attachment A

St. Luke's Medical and Hospital Benefits Association application for authorisation AA1000671 – ACCC request for information

24 July 2024

Metric Reports

1. We note St Lukes' response to the ACCC's information request dated 13 June 2024 confirms St Lukes' is also seeking authorisation for the ability to issue 'Dental Services Utilisation and Servicing Metrics' reports (**Metric Reports**) to Participating Dental Partner Providers regarding their services delivery and billing to St Lukes members.
 - a. We note that St Lukes considers it does not '*anticipate that this conduct will actually give rise to competition concerns*'. Please clarify why St Lukes is seeking authorisation for the Metric Reports. We note that the ACCC is empowered to grant authorisation for conduct to which one or more of the competition provisions of the *Competition and Consumer Act 2010* (Cth) would or might apply.
 - b. We also note that St Lukes has confirmed '*the Metrics Reports will contain data regarding each Participating Dental Partner Providers' service delivery and billing of St Lukes members and how their practices compare to a de-identified data set of their peers (i.e. other Tasmanian dentists)*'. Please provide further information regarding the preparation and circulation of the Metric Reports, including:
 - i. what data/information will be collected from Participating Dental Partner Providers and how will this be collected;
 - ii. how will confidential information be treated;
 - iii. how will the Metric Reports be prepared and how will they be circulated to Participating Dental Partner Providers;
 - iv. what specific data/information is proposed to be presented to Participating Dental Partner Providers in the Metric Reports;
 - v. will the Metric Reports include competitively sensitive data/information in de-identified single form or aggregated form only (i.e. maximum, minimum and average/median results) of Participating Dental Partner Providers and/or Applicant Dental Practices.

St Lukes' Applicant Dental Practices

2. We note that St Lukes will have control over the services provided in an Applicant Dental Practice and that its dental practices will be open to both St Lukes members and the general public at large. We also note that St Lukes' Applicant Dental Practices may compete with other dental practices in Tasmania (including the Participating Dental Partner Providers) and that St Lukes will have access to the usual fee schedules of those Participating Dental Partner Providers per clause 5.8 of the St Lukes Gap Free Network Terms & Conditions.
 - a. Please provide further information regarding how St Lukes intends to set its prices at its Applicant Dental Practices.
 - b. Please clarify how St Lukes intends to manage any commercially sensitive data/information it may collect from the Participating Dental Partner Providers for the Metric Reports.

Discounts and benefits

3. We refer to part 7 of St Lukes' response to the ACCC's request for further information dated 13 June 2024. Please clarify under the St Lukes Gap Free Network Terms & Conditions whether and by how much Participating Dental Partner Providers will be required to extend discounts to St Lukes' members:
 - a. If the Participating Dental Partner Provider is also a member of another health insurer's capped-fee or no-gap services program that imposes a maximum fee below St Lukes' Maximum Chargeable Fees for the same or similar service.
 - b. If the Participating Dental Partner Provider offers percentage (rather than fixed dollar) discounts off its usual fees to particular classes of non-member patients, such as health care card holders or seniors.
 - c. If the Participating Dental Partner Provider offers discounts on a discretionary basis based on a patient's financial or other personal circumstances.

Future without the Proposed Conduct

4. In applying the authorisation test, the ACCC compares the likely future with the conduct that is the subject of the authorisation, to the likely future without the conduct. St Lukes' submission dated 18 June 2024 states that an alternative model it could potentially adopt includes '*opening Applicant Practices without seeking to collaborate with the existing dental community*'.

Please confirm/clarify whether St Lukes is likely to pursue this model in the event the proposed conduct is not authorised. If St Lukes has considered other options in the event the proposed conduct is not authorised, please provide details.

Interim authorisation request

5. Thank you for the clarification provided regarding St Lukes interim authorisation request dated 13 June 2024. We note that, if interim authorisation is granted, St Lukes submits that it '*would present the Conditions to potential dental partner providers and, if they agree to participate in the Network, would require them to sign the Conditions*'.
 - a. Please confirm whether St Lukes proposes to share any commercially sensitive information (such as the 'Maximum Chargeable Fees') with potential Participating Dental Partner Providers if the requested interim authorisation is granted.
 - b. If not already addressed in your response to the above, please clarify whether St Lukes is also seeking interim authorisation to collect the information intended to inform the Metric Reports.

Gap Free representation

6. We note the concerns raised by interested parties regarding the proposed naming of the program 'St Lukes Gap Free Network'.¹ We also note St Lukes' submission dated 13 June 2024 that '*the nature and extent of the gap free services will be made clear in all promotional material*' for the network and in membership documentation, and that the provision of gap free services is a common benefit amongst other private health funds and that the term 'gap free' only referring to a specific list of service '*is well understood by consumers*'.

¹ Submissions by [A Dental Practice \(25 June 2024\)](#) and [A Dental Practice \(27 June 2024\)](#).

- a. Please explain how the nature and extent of the gap free services under the proposed 'St Lukes Gap Free Network' will be made clear in promotional material and membership documentation.
- b. Please confirm whether this will be made clear in all promotional material and membership documentation or just in certain instances.
- c. Please provide examples of all promotional material and membership documentation which explains the nature and extent of the gap free services under the proposed 'St Lukes Gap Free Network'.
- d. Please provide further information supporting the claim that the term 'gap free' only referring to a specific list of services '*is well understood by consumers*' (for example, consumer surveys).