



Susan Philp
Director, Adjudication
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601
susan.philp@accc.gov.au

24 June 2020
Matter 82700322
By Email

Dear Ms Philp

Application for authorisation AA1000507 (NSW) - Request for further information

We refer to your email dated 19 June 2020 requesting further information from the State of New South Wales, as represented by the Ministry of Health (the **Ministry**), in relation to the interim authorisation granted to the Ministry on 1 May 2020.

Set out below is the response from the Ministry.

1 In what circumstances would the NSW Ministry of Health enter into agreements with private healthcare operators to provide services to public patients in their facilities?

From time to time, NSW public health organisations may enter into agreements with private healthcare operators to acquire specified services from those private operators for the benefit of public patients. These arrangements vary depending on the needs and circumstances of each public health organisation. For example, public health organisations may purchase certain surgical services to assist with the management of elective surgery wait lists or to address a shortage of available services in public healthcare facilities at a particular time or in a particular geographic area.

2 In broad terms, what form would this agreement take?

Such arrangements will usually be implemented pursuant to bilateral agreements between the relevant public health organisation acquiring the service (usually a local health district) and the private operator providing the service. The duration of such arrangements will depend on the requirements of the particular public health organisation at the time. Shorter term arrangements (e.g. 6 months) or rolling arrangements (that last as long as required to deal with a service constraint) may be put in place to meet temporary requirements of a public health organisation. Longer term arrangements may be put in place in particular geographical areas where particular public health services are unavailable.

Under these arrangements, the private operators are remunerated on commercial terms for the services they provide to public patients.

Please contact us if you have any queries regarding this letter.

Yours sincerely



Sarah Benbow
Partner
Herbert Smith Freehills



Philip Aitken
Senior Associate
Herbert Smith Freehills



Herbert Smith Freehills LLP and its subsidiaries and Herbert Smith Freehills, an Australian Partnership ABN 98 773 882 646, are separate member firms of the international legal practice known as Herbert Smith Freehills.