

11 May 2020

Ms Ellie Dwyer
Analyst - Adjudication
Australian Competition and Consumer Commission
Level 17, 2 Lonsdale Street
Melbourne VIC 3000

Dear Ms Dwyer

Application for authorisation - Medicines Australia - response to submissions from ACCC's initial public consultation process

1. We refer to your email to Clayton Utz dated 5 May 2020 attaching the three submissions made in response to the ACCC's initial public consultation process in respect of Medicines Australia's (**MA**) application for authorisation and inviting MA to respond to the submissions.
2. MA appreciates the support of those interested parties that have made submissions to the ACCC during the ACCC's initial public consultation process, and welcomes the opportunity to respond.
3. MA's application for authorisation to permit members of the MA/GBMA Working Group to engage in the Proposed Conduct, is made in response to extraordinary circumstances. Its focus is on ensuring that Critical Medicines and Devices have continuity of supply to the Australian public at this time.
4. In responding to the challenges of COVID-19, MA understands that the steps that may need to be taken by MA/GBMA Working Group members are similarly extraordinary. In pre-COVID-19 times, these measures would not be necessary. MA therefore reiterates that the measures are temporary and limited to responding to the challenges of COVID-19, for a period of 6 months from the date final authorisation is granted.
5. MA recognises and understands the issues raised by the Pharmacy Guild of Australia and the New South Wales Ministry of Health in their respective submissions.
6. Since the interim authorisation was granted on 3 April 2020, the relevant Federal Government bodies, in particular the Therapeutic Goods Administration (**TGA**) and Department of Health (**DOH**), have been centrally involved in discussions of the MA/GBMA Working Group. Any material decisions or actions arising from those discussions are at the request, or with the express involvement and endorsement, of those government bodies. MA has also performed an important role, separate but related to that under the authorisation, of informing these government bodies of any anticipated supply issues advised to it by members.
7. MA would like to assure NSW Health and other interested parties that MA intends for any discussions between the MA/GBMA Working Group continue to occur in the same manner.
8. MA also understands that the risks to supply faced by pharmacies, large and small, which play a critical role in facilitating the supply of Critical Medicines and Devices to Australian consumers, may be magnified at this time. Should meetings of the MA/GBMA working group need to address

specific issues in the supply chain that may affect supply to pharmacies, MA is confident that the involvement of the TGA, DOH and relevant government bodies in those meetings will seek to facilitate fair supply without any undue preferencing of MA/GBMA customers, whilst at the same time balancing any particular areas of public need.

9. MA remains vigilant in seeking to identify potential challenges to the supply of Critical Medicines and Devices arising as a result of COVID-19. Apart from precautionary information sharing to date, supply shortages have not risen to the level where actions covered by the ACCC's interim authorisation have been necessary. We hope that this situation continues. MA is, however, cautious of the potential impact a second wave of infections may have on continued supply, including due to the relaxing of government imposed restrictions. As such, MA remains of the view that the Proposed Conduct under its application for authorisation is necessary for a period of 6 months after the grant of final authorisation.
10. MA will continue to ensure that any material decisions that are required to be taken to address continuity of supply issues balance the primary needs of the public as well as other interested parties, as appropriate. This includes working with its members, the GBMA and its members and other notified participants of the MA/GBMA working group, as well as the ACCC and other government bodies.

Please do not hesitate to contact us for further information.

Yours sincerely,



Chief Executive Officer
Medicines Australia