

5 November 2021

BY EMAIL ONLY

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Dear Mr Hatfield

State of Queensland as represented by Queensland Health – Response to Submissions by Interested Parties

1. On 27 August 2021, Queensland Health lodged an application for interim authorisation and revocation of Authorisation AA1000493 and substitution of a new authorisation.
2. On 28 September 2021, the ACCC issued its draft determination, proposing to revoke authorisation AA1000493 and substitute authorisation AA1000572. The ACCC also granted interim authorisation in relation to the same conduct and parties, and with the same conditions, as specified in Authorisation AA1000493 (**Interim Authorisation**).
3. On 22 October 2021, the ACCC provided two submissions received from interested parties in relation to the draft determination, the Australian Society of Orthopaedic Surgeons (**ASOS Submission**) and the Australian Medical Association (**AMA Submission**) (together, the **Submissions**).
4. The purpose of this letter is to provide Queensland Health's response to the Submissions.
5. Queensland Health rejects the suggestion that it is incentivised to inappropriately shift patient care from the public system to the private system. Queensland Health also disagrees with the assertion that there will be any long term impacts on competition if the ACCC grants the authorisation sought.
6. Queensland Health considers that the conduct for which authorisation is proposed to be granted is a necessary and proportionate response to ensure the efficient, effective and economic operation of Queensland's hospitals, both public and private, during the continued COVID-19 pandemic.
7. As recognised by the ACCC and the Submissions, significant challenges continue to exist as a result of the ongoing pandemic. Queensland Health considers that there is risk that Queensland's health services will be put under pressure in responding to the pandemic, particularly as interstate and national borders open. Despite best efforts, there is ongoing uncertainty around the effects of the vaccination roll out and increasing COVID-19 case numbers on the public and private health system.
8. The ACCC is proposing to grant authorisation of the conduct only in so far as it is for the sole purpose of dealing with the effects of the pandemic in Queensland, and only for a period of 18 months. While it is difficult to predict how the pandemic will continue to unfold, Queensland Health currently anticipates that, after that time, no further authorisation of the conduct will be required.

9. The ACCC has appropriate oversight of the arrangements, with reporting conditions imposed on the parties by the Interim Authorisation, and proposed to be imposed for the length of the authorisation if granted.

Please let us know if the ACCC has any questions.

Yours faithfully
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Partner: Kathryn Finlayson

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