



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2005/494
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Mr Ian Thompson
Executive Director, Policy Division
ACT Health
GPO Box 825
Canberra City ACT 2600

Dear Mr Thompson

Canberra After Hours Locum Medical Service Application for Authorisation A90954 – request for interim authorisation

The Australian Competition and Consumer Commission ('the ACCC') has considered the request of the Canberra After Hours Locum Medical Service ('CALMS') for interim authorisation in respect of the above application for authorisation.

Based on the information you provided, the ACCC has decided to grant interim authorisation under the *Trade Practices Act 1974* ('the Act') in relation to a capped fee structure for the provision of after hours primary medical care in the ACT.

The effect of the interim authorisation is that doctors practising on the CALMS roster are protected from action by the ACCC or any other party for potential breaches of section 45 of the Act, in relation to agreements on fees in accordance with the proposed fee structure set out in CALMS application for authorisation. The ACCC may review interim authorisation at any time.



The ACCC notes that interim authorisation has been granted on the basis that:

- although the urgency for interim authorisation appears limited, it would assist ACT Health promote the new CALMS service;
- should interim authorisation be granted and substantive authorisation be subsequently denied, the proposed capped fee structure could be abandoned with relative ease;
- a number of factors off-set the anti-competitive concerns of the proposed fee cap structure; and
- the arrangement for which authorisation is sought would appear to have the potential to generate a not insignificant degree of public benefit.

While the ACCC has granted interim authorisation, it notes that it would be concerned over any widespread upward movement in fees towards the level of the fee caps in response to interim authorisation. Accordingly, the ACCC requests that CALMS emphasise this concern to the doctors on its roster and stress that doctors remain free to set their fees below the fee cap.

Please be aware that the ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not it will ultimately grant authorisation, which the ACCC must decide on the merits of the substantive application. Under section 91(2AB) of the Act, the ACCC may revoke an interim authorisation at any time.

If you wish to discuss this matter further please contact Sharon Clancy on (02) 6243 1217 or Claire Woods on (02) 6243 1236.

Yours sincerely



Scott Gregson
A/g General Manager
Adjudication Branch