



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: A91024  
Contact Officer: Sheridan de Kruiff  
Contact Phone: 02 6243 1236

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
ph (02) 6243 1111  
fax (02) 6243 1199  
[www.accc.gov.au](http://www.accc.gov.au)

20 December 2006

[address]

Dear [salutation],

**Royal Australian College of General Practitioners (RACGP) A91024 –  
Application for revocation and substitution.**

The Australian Competition and Consumer Commission (the ACCC) has received an application from the Royal Australian College of General Practitioners (RACGP) for the revocation of authorisation A90795 and its substitution by a new authorisation A91024.

Authorisation A90795 was granted by the ACCC on 19 December 2002 for four years. It allows General Practitioners (GPs) and Other Medical Practitioners (OMPs) within certain business structures to agree on the fees they charge patients and is due to expire on 10 January 2007.

**Background**

The ACCC is the independent Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). A key objective of the Act is to prevent anti-competitive arrangements or conduct, thereby encouraging competition and efficiency in business resulting in a greater choice for consumers in price, quality and service.

The Act, however, allows the ACCC to grant immunity from legal action for anti-competitive conduct in certain circumstances. One way businesses may obtain immunity is to apply for what is known as an 'authorisation' from the ACCC. Broadly, the ACCC may 'authorise' businesses to engage in anti-competitive arrangements where it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment.

In assessing the public benefits and detriments of an authorisation application, the ACCC undertakes a public consultation process seeking comments on the application from interested parties. Following an initial consultation process, the ACCC will issue a draft decision for comment. The ACCC will then reconsider the application in light of any further submissions, and release its final decision.



Parties to an authorisation may apply for what is known as 'revocation and substitution'. The ACCC treats an application for revocation and substitution as a fresh application and the processes above are followed.

### **The application**

On 13 December 2006, the RACGP applied for revocation and substitution of its authorisation. The RACGP is seeking immunity under the substitute authorisation for the following arrangements:

- GPs and OMPs working in certain business structures agreeing on patient fees
- GPs and OMPs working in the above business agreeing on fees that any locums will charge patients for their services, and

GPs and OMPs working in the above certain business agreeing on fees that they charge as VMOs to a hospital (hospital agreements).

A copy of the application is **enclosed** for your information. This document is also available on the ACCC's website: [www.accc.gov.au](http://www.accc.gov.au) (by following the Public Registers and Authorisations links).

### **Request for submissions**

To assist the ACCC in its consideration of the application it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition (or any other public detriment) from the proposed arrangements.

The ACCC would also appreciate your views on the following specific issues:

1. Relevant developments and initiatives in the GP sector since 2002
2. The extent to which the 2002 authorisation has been relied upon by eligible practices
3. Whether, and to what extent, the authorisation has had an impact on the fees charged by GPs in metropolitan, regional and rural areas, and
4. The likely benefits and detriments of the new aspect of the substitute authorisation relating to hospital agreements.

### **Interim authorisation**

The RACGP has requested interim authorisation. Interim authorisation protects the arrangements from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

The ACCC has considered the request for interim authorisation. The ACCC has decided to grant interim authorisation to the parts of the substitute authorisation currently covered by authorisation A90795. That is, allowing certain GP practices to agree on fees. The ACCC considers that this will preserve the status quo while the substitute application is considered.

The ACCC has denied the request for interim authorisation regarding hospital agreements. The ACCC considers it inappropriate to grant interim authorisation before this conduct has been adequately considered by the ACCC.

**Further information**

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

The ACCC welcomes submissions regarding the substitute authorisation and/or interim authorisation.

You may request that confidential information you provide in a submission to the ACCC not be placed on the Public Register. Information excluded from the Public Register will still be considered by the ACCC when reaching its decision. Guidelines for requesting that information be excluded from the public register are **enclosed**.

If you wish to lodge a submission, please address your submission to:

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Submissions may also be lodged by email to [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au) or by facsimile on 02 6243 1211.

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information. Please ensure that your submission reaches the ACCC by cob Thursday **25 January 2007**. The ACCC would appreciate if you could provide an email address so that future correspondence may be sent electronically.

If you do not wish to provide a submission at this stage but would like to be kept informed in relation to the application for authorisation, please send an email to the address provided below. You may also forward this correspondence to any other party you believe may be interested in this matter.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please feel free to contact Sheridan de Kruiff on [sheridan.dekruiff@accc.gov.au](mailto:sheridan.dekruiff@accc.gov.au) or on 02 6243 1236.

Yours sincerely



Scott Gregson  
General Manager  
Adjudication Branch

**Royal Australian College of General Practitioners (RACGP) A91024 –  
Indicative Timetable**

<b>13 December 2006</b>	Lodgement of application and supporting submission.
<b>20 December 2006</b>	ACCC releases decision regarding interim authorisation.  Public consultation process begins.
<b>25 January 2007</b>	Closing date for submissions from interested parties
<b>7 February 2007</b>	Applicants respond to issues raised in the public consultation process
<b>February / March 2007</b>	ACCC assessment
<b>March / April 2007</b>	Draft determination issued
<b>April / May 2007</b>	Public consultation on draft determination including any conference if called
<b>May 2007</b>	Final determination issued

## **RACGP Authorisation A91024 - interested parties consulted - 20 December 2006**

1. ACT Community and Health Services Complaints Commissioner
2. ACT Health
3. Australian Association of Practice Managers
4. Australian College of Rural and Remote Medicine
5. Australian Consumers Association
6. Australian General Practice Network
7. Australian Health Ministers' Advisory Council
8. Australian Healthcare Association
9. Australian Healthcare Reform Alliance
10. Australian Indigenous Doctors' Association
11. Australian Medical Association
12. Australian Medical Association (ACT)
13. Australian Medical Association (NSW)
14. Australian Medical Association (NT)
15. Australian Medical Association (QLD)
16. Australian Medical Association (SA)
17. Australian Medical Association (TAS)
18. Australian Medical Association (VIC)
19. Australian Medical Association (WA)
20. Australian Practice Nurse Association
21. Australian Private Hospitals Association
22. Australian Rural and Remote Workforce Agencies Group
23. Commonwealth Department of Health and Ageing
24. Consumers Health Forum
25. General Practice Registrars Association
26. Health and Community Services Complaints Commission (NT)
27. Health Care Complaints Commission (NSW)
28. Health Complaints Commission Tasmania
29. Health Quality and Complaints Commission (QLD)
30. Health Services Commissioner (Vic)
31. Human Rights and Equal Opportunity Commission
32. Medical Board of Queensland
33. Medical Board of South Australia
34. Medical Board of the ACT
35. Medical Board of the Northern Territory
36. Medical Board of Western Australia
37. Medical Council of Tasmania
38. Medical Indemnity Industry Association of Australia
39. Medical Practitioners Board of Victoria
40. National Aboriginal Community Controlled Health Organisation
41. National Rural Health Alliance
42. NSW Department of Health
43. NSW Medical Board
44. NT Department of Health and Community Services
45. Office of Health Review (WA)
46. Queensland Health
47. Royal College of Nursing, Australia
48. Rural Doctors Association of Australia
49. Rural Doctors Workforce Agency Inc
50. SA Department of Health
51. Symbion Health Limited
52. TAS Department of Health and Human Services
53. Victorian Department of Human Services
54. WA Department of Health