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19 October 2007

Scott Gregson
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601
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Dear Mr Gregson,

Submission in Response to Collective Bargaining Notification CB 00005 by the Australian Medical Association (Vic) Pty Ltd on 12 October 2007

The Australian Society of Anaesthetists (ASA) appreciates the opportunity to review and comment on CB 00005. There are nine anaesthetists identified as participants in the Collective Bargaining Notification, hence the Society has a keen interest in the AMA's submission. The ASA supports the intention of the submission.

As the ACCC will be aware, the mix of public and private patients in Australia continues to shift toward the private sector. As recently as a decade ago, four sessions of work in a public hospital were not considered unusual. Today the number is more likely two sessions. At the same time, private medical practitioners provide 48% of the medical services in public hospitals in Victoria. The trend is consistent and is unlikely to revert without a colossal injection of funds by both levels of Government into the public hospital system. Consequently, the point made by the AMA with respect to medical practitioners considering work in the public sector more as a social responsibility than an economic necessity is, in general, accurate and valid. The public sector has difficulty in attracting health workers because it is unable to offer competitive remuneration.

The AMA's submission (CB 00005) will facilitate one group (of medical service providers) to negotiate with equity with Werribee Mercy Hospital. Without the approval to collectively bargain the negotiating 'power' remains with the Werribee Mercy Hospital – a patently unfair basis for negotiations. Secondly, the medical service providers cannot jointly prepare integrated packages of conditions and fees without the approved notification. There are clear economies of scale under the AMA's submission. The ASA believes providing collective bargaining opportunities will enable market forces to prevail and deliver sustainable remuneration and employment conditions.

The approval of a notification only permits negotiations to commence. It does not 'force' either party to agree on conditions and prices nor does it require that the negotiations remain exclusive between two parties. Werribee Mercy Hospital will be under no compulsion to 'deal' exclusively with the participants. Any manner of medical service suppliers, including incorporated organisations, will be able to compete against the participants. Further, there is little or no chance of a collective boycott occurring in the event of a failure of the two parties to reach agreement, as the participants will have been forewarned that this would likely represent an anti-competitive act.

* Please quote our reference in all correspondence.

The ASA contends the AMA's submission reflects the sound commercial practice. Many of the objections (particularly from the Department of Human Services – Victoria) articulated in the Draft Objection Notice CB00004 with respect to Latrobe Regional Hospital (12 October 2007) are assertions untested by going to the market. It is assumed that the same objections will be made to CB 00005. Without a reasonable analytical model it only hyperbole to assert collective bargaining in this instance will not deliver quality medial services at commercially competitive rates.

Yours sincerely,



Peter Lawrence
Executive Director

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