

**Randall, Kristy**

**From:** Justin Oliver [Justin.Oliver@minterellison.com]  
**Sent:** Wednesday, 12 November 2008 10:43 AM  
**To:** Balint, Ilona  
**Cc:** Palisi, Joanne; Randall, Kristy  
**Subject:** Australian Dental Association - applications for authorisation A91094 & 91095  
**Importance:** High

Dear Ms Balint,

We refer to the ACCC's draft decision in relation to the ADA's applications for authorisation (A91094 and A91095).

There is one issue upon which the ADA wishes to comment in response to the draft decision.

In paragraph 7.7 of the draft decision, the proposed authorisation is expressed to apply to "agreements as to the fees to be charged for dental services provided within shared practices which operate as a team and share patient records, common facilities, a common trading name and common policies and procedures".

The ADA is concerned that the inclusion of the words "which operate as a team" may introduce some uncertainty into the scope of the authorisation.

This is not, in the ADA's submission, a concept that has a well understood legal meaning and may lead to uncertainty about whether conduct is in fact authorised. Moreover, it is not clear whether those words add to the concept of a shared practice as it would be defined by the other characteristics that are referred to in paragraph 7.7 (i.e. sharing patient records, common facilities, a common trading name and common procedures and policies).

The ADA asks that the ACCC consider removing the words "which operate as a team" from its final determination in order to avoid any uncertainty as to the scope of the authorised conduct.

Please do not hesitate to contact us if you have any further questions.

The ADA has no objection to this email being placed on the public register.

Kind regards

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