

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Dr Chadwick

Exclusive Dealing Notification N93645 lodged by St Vincent's Private Hospital

I refer to your letter of 20 November 2008 to the Director-General of the NSW Health Department inviting comment on the exclusive dealing notification lodged by St Vincent's Private Hospital (**SV Private**). The Director-General has asked me to respond on her behalf.

The NSW Health Department's main interest in responding to the application is its potential impact on the medical workforce in the broader public health sector. In this regard, it should also be noted that whilst St Vincent's Public Hospital (**SV Public**) is controlled and operated by St Vincent's Hospital Sydney Ltd, it is a public hospital for the purposes of the *Health Services Act 1997* (NSW), and is substantially funded by NSW Health.

As the Department understands SV Private's application, the benefits claimed to flow from the proposed conduct are essentially based on an assertion that in the absence of the requirement anaesthetists, or a significant number of anaesthetists, would not seek appointment at SV Public, and that SV Public would be unable to procure the services of appropriate anaesthetists.

In formulating this response, the Department has consulted with South Eastern Sydney and Illawarra Area Health Service (**SESAHS**), the area health service into whose geographical area SV Public falls. Based on information provided by SESAHS, the Department's understanding is that SV Public does not have any current or foreseeable shortage of anaesthetists, and that indeed if anything there is an oversupply of anaesthetists in that area. If that is correct, it would appear to raise a question as to the public benefits claimed by SV Private in the notification. However, Department suggests that the issue of anaesthetic workforce availability SV Public is a matter the ACCC should raise directly with SV Public, if it has not already done so.

If you have any questions, or wish to discuss further, please contact Dean Bell, Principal Legal Officer, on (02) 9391 9601.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Leanne O'Shannessy', written in a cursive style.

Leanne O'Shannessy
General Counsel, and Director of Legal and Legislation

9 December 2008