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To: Isabelle Arnaud From: VHIA

Company: ACCC Pages: 8

Fax No: 02 6243 1199 Date: ~~26/02/08~~ 15/03/08

Re: ROAA

Message

Final Submission Attached

Grace O'Connor

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15 March 2007

Ms. Isabelle Arnaud
Director
Adjudication Branch
Australian Competition &
Consumer Commission
GPO Box 3131
Canberra ACT 2601

Fax: (02) 6243 1199

Dear Ms. Arnaud

Re: Application for authorization A91078

In our previous submissions we have outlined the reasons why this application by the RDAA should not succeed. In particular we have stated that in the case of Victoria, the application should fail.

The reasons we have provided were as follows:

1. The RDAA application itself lacks merit. It was badly argued, and lacked detail.

2. The RDAA submission in response to the parties (18 February 2008), consisted of a series of assertions to the very detailed submissions made by the Department Health Services ("DHS" Victoria), the Victorian Hospitals' Industrial Association ("VHIA") and the VHA.

3. The RDAA's application may have some merit in relation to the other states, primarily because a central system of negotiations already exists. This is not the case in Victoria.

4. The VHIA, VHA and DHS clearly outlined why the application should fail. This is based on the principles asserted by the ACCC itself. That is, the application lacked merit, and the public detriment would outweigh any public benefit.

5. Evidence provided by the parties was, that the costs of health services would rise across Victoria, and such costs would flow through and onto the specialist's area of medical services. This is despite the fact that the RDAA did not in any way seek to represent the specialist sector. Nevertheless, this is a consequence should the ACCC confirm its autorisation. The additional and unintended effect will also be to hand to the RDAA another market in terms of its membership function.

6. The Victorian submissions stated clearly that this application would have a negative impact on recruitment and retention in the State.

7. The ACCC asserts, no evidence is provided, that a small public benefit will be provided and outweigh the limited public detriment.

8. The ACCC has received evidence from all the public hospitals in Victoria which states clearly that the public detriment will be significant in terms of the costs and recruitment and retention of General Practitioners. This detriment, the ACCC asserts is not only limited, but is mitigated by a small public benefit. It identifies this "small public benefit" as being the enhancement of effective representation of rural doctors and the removal of legal risks associated with the RDAA negotiating with State and territory Health Department on behalf of its members.

9. For the ACCC to argue that a benefit to the RDAA is a "public benefit", begs belief. The benefit is to the RDAA, not the public. As stated, the public will face higher costs. Moreover for the ACCC to assert that the RDAA will be more effective in representing rural doctors is to ignore the substantial body of evidence which concludes that the RDAA is not representative, has limited membership, and lacks the resources on a state level to "effectively" represent anyone.

10. The other major reason the ACCC provides in its reasons to grant authorization appears to be the voluntary nature of the arrangements and the absence of collective boycott conduct. In other words, the parties can simply do what they have always done, and tell the RDAA that they are not prepared to enter into a common schedule. This attitude by the ACCC, to rely on the parties to retain the status quo and yet provide the RDAA with the authority and capacity to negotiate collectively, is what differentiates the bureaucratic decision makers from the real world. The question here is, ***"What would change if a common schedule is in fact negotiated."*** It is not an issue whether this is done or not done, whether it

is voluntary or not. The question is, **"Should a common schedule be the result, will this result in public detriment, and if so, does the detriment outweigh the public interest?**

11. The Victorian Submissions have all outlined the public detriment and the impact thereof should the authorization be granted. The ACCC has made a mockery of these submissions by ignoring the facts. It submitted by the VHIA that the ACCC is in breach of its own Act by granting this autorisation. As stated by the ACCC, ***"The ACCC may only grant authorisation if it is satisfied that, in all the circumstances, the proposed collective bargaining arrangement is likely to result in a public benefit that will outweigh any public detriment."***

12. The only public benefit appears to be the benefits accrued to the RDAA, whereas the actual **public** detriment is substantial and supported by the Victorian evidence. This all points to major detriments such as the rise in medical services costs; the flow on to specialists; the recruitment and retention problem that will arise, as well as the impact on clinical governance. If these detriments are off-set by the public benefits to the RDAA as asserted by the ACCC, then this view, flies in the face of the Victorian evidence that has been provided. It is submitted that the voluntary nature of the negotiations is irrelevant, and hardly a matter for consideration. The issue remains whether the public benefit outweighs any public detriment, and our submission, this case has not been made out.

In conclusion, it submitted therefore by the VHIA that the ACCC should not provide authorization in this case, and withdraws its Draft Determination.

Yours sincerely
VICTORIAN HOSPITALS' INDUSTRIAL ASSOCIATION

Ignatius Oostermeyer
A/Chief Executive Officer
10208SD/Further Submission/RDAA/ACCC