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Ms I Arnaud
Director
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Ms Arnaud

Application for authorisation A91078 lodged by the Rural Doctor's Association of Australia Ltd (RDAA) - interested party consultation

I refer to your letter to the Australian Medical Association (AMA) dated 6 March 2008 in relation to the above.

I note the content of the application of the RDAA and the summary of the process. In relation to the content of the draft determination, I would like to take this opportunity to correct some factual errors. Please note that we are not opposing the RDAA's application but simply seeking to ensure that the decision is factually correct.

Our submission in response is as follows:

Western Australia
The draft determination fails to recognise the pre-eminent role of AMA Western Australia (AMAWA) in relation to rural practitioners. Up until the extension of the *Trade Practices Act 1974* (TPA) in the mid 1990s the AMA was the sole negotiator of VMO contracts, conditions and related matters. That ceased when the TPA was extended.

Since the mid 1990s AMAWA has not directly negotiated VMO contracts but has lobbied extensively over their contracts, indemnity, and rural matters generally. AMAWA also negotiated an MOU governing clinical privileges, conduct and governance including medical input. Detailed advice on the meaning of provisions and options has also been provided to individual doctors.

In addition the AMAWA has made annual submissions and lobbied the state government on adjustments and appropriate indexation to the state government's Fees Schedule it uses to pay Visiting Medical Practitioners. The State Government has generally accepted the AMA's submissions.

AMAWA currently negotiates and maintains detailed salaried agreements for numerous salaried practitioners employed throughout rural Western Australia, particularly throughout the North West and Regional Centres, and in the Southern Goldfields regions such as Geraldton, Kalgoorlie, Bunbury, Busselton and Albany.

Queensland
The draft determination with respect to the RDAA application refers to the state government (acting through the Department of Health, the Department of Corrective Services and the Department of Communities) as negotiating an agreement with the Queensland Branch of the Australian Medical Association concerning the supply of VMO services. In response to the above statement, it is important to note that Mater Misercordiae Health Services Brisbane Ltd is also party to the agreement, which is commonly called the 'VMO Agreement'.

In 1989, AMA Queensland represented a number of doctors as their Agent before the Queensland Industrial Relations Commission, and it is the Agent for the Applicants in Case No B227 of 1989 that is listed as a party to the VMO Agreement. It has become common practice for AMA Queensland representatives, as well as representatives from the VMO Committee to have a negotiating seat at the table, and AMA Queensland relies on this practice.

New South Wales
The draft determination does not recognise the key role of the AMA NSW in the provision of industrial representation for all Visiting Medical Officers (hereinafter '*VMOs*') in New South Wales. AMA(NSW) makes every effort to ensure all members' concerns are heard and representations made on their behalf. In New South Wales the arrangements for the contracting of doctors in state hospitals and facilities are not unilaterally determined by the State Health Department (hereinafter '*NSW Health*'). AMA(NSW) has a statutory role under the provisions of the *Health Services Act* 1997 (hereinafter '*HSA*') to recommend to the Minister for Health (section 87) and/or seek the appointment of an arbitrator (section 89) to determine the terms and conditions and rates of remuneration for sessional and fee-for-service VMOs.

In any arbitration proceedings under the HSA AMA(NSW) has a right of representation on behalf of all sessional and fee-for-service VMOs (not just those VMOs who are members of AMA(NSW)). Recently, AMA NSW consulted with the RDA NSW in relation to the most recent VMO determination negotiations, and recognises the role the RDA NSW plays by negotiating the Rural Doctors' Settlement Package.

In addition to its statutory role, AMA(NSW) has a well-established collaborative working relationship with NSW Health. This relationship is evidenced by the consent position reached regarding the new Fee-for-Service and Sessional Determinations in 2007. The consent position ensures the ongoing provision of medical services in the New South Wales Public Hospital system across the State, including in rural areas, and avoided the parties needing to expend considerable financial resources (as were expended in the early 1990s) on a contested arbitration process.

Other Issues

Submission by ACT Health
ACT Health is correct in submitting that they do not have any hospitals that could be classified as rural, however there are a number of General Practitioners holding VMO contracts. AMAACT currently represents these doctors as a matter of individual

choice. The ACT Government sought and was granted an authorisation by the ACCC to permit collective negotiation of VMO contracts

Scope to vary the terms of a contract
The draft determination suggests strongly that individual VMOs have very little scope to vary the terms and conditions of their contracts. This statement does not correctly reflect the current situation. In the majority of the states, there is capacity for VMOs to vary their terms and conditions of employment to reflect their particular practice needs and that of the hospitals and populations they serve. This may involve a variety of aspects from theatre access, after hours needs and quality and safety factors. Addressing these may involve individual negotiation under the contract, lobbying, meeting with key interest groups etc. In all the states and territories in Australia the AMA plays a pivotal role in providing advice and assistance in respect to the issues and processes.

Scope of Authorisation
The proposed authorisation is limited to RDAA members who are rural generalists and general practitioners. According to the RDAA, a 'rural generalist' is a rural doctor who is eligible for the awarding of a fellowship by the Australian College of Remote and Rural Medicine and has the same status as a general practitioner who has vocational registration recognised by the Commonwealth Government.

The description put forward by the RDAA is not correct. The concept of a rural generalist does not have any formal status. In 2007, the Australian Medical Council granted initial accreditation to the Australian College of Rural and Remote Medicine (ACRRM) to provide general practice training.

The Australian College of Rural and Remote Medicine provides training within Australian General Practice Training, so the initial accreditation relates to ACRRM as a standards body and provider of specific training and professional development programs for the specialty of general practice.

Following the AMC decision, the Commonwealth Government recognised Fellows of ACRRM as general practitioners under Medicare from April 2007. The scope of the Authorisation should therefore reflect the fact that ACRRM Fellows are general practitioners.

Should you require further information, do not hesitate to contact my office on (02) 6270 5400.

Yours sincerely

Mr Francis Sullivan
Secretary General

28 March 2008