

14 April 2008

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**

Thank you for the meeting on Friday 11 April. The discussions were useful and provided the VHIA with the opportunity to explain its position.

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.

In our submission of March 2008 we made the further point that the ACCC's reasons to grant the authorization because of the voluntary nature of the arrangements and the absence of collective boycott conduct are too simplistic.

This attitude by the ACCC, as stated and detailed in our discussions on Friday 11 April, 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 VHIA argued that there is no reason to believe that the RDAA will not use this authorization to the benefit of its members and to accommodate its own structural weaknesses. Why would the RDAA make this application if it were not to seek its implementation by negotiating a common fee schedule? *"Why indeed!"*

The question here is, ***"What would change if a common schedule is in fact negotiated."*** The assertion by the ACCC that the Victorian Department of Health may simply ignore such a request is mere speculation.

VHIA argued that the appropriate question for the ACC is, ***"Should a common schedule be the result, will this result in public detriment, and if so, does the detriment outweigh the public interest?"***

The VHIA also submitted that the ACCC maybe in breach of its own Act by granting this authorisation. 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.”***

As we stated at our meeting, we are of the view that the RDAA will be able to bring sufficient pressure on government that may result in a common fee schedule. The reasons why rural doctors are in a powerful position is their capacity to ‘awake’ the public interest in rural issues. The rural sector, albeit the smallest in terms of total health services delivered, is a very sensitive area for government. A well placed campaign that appears to be ‘reasonable’ will be efficient, effective, and produce results. It should also be stated that such a course of action will greatly benefit the RDAA in terms of its profile and its size.

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

In the alternative, it is submitted that due to substantial different relationships between the applicant and the hospitals in Victoria and the likelihood of substantial increases in the cost of medical services because a common schedule is likely to eventuate, the ACCC should amend the Draft Determination with the effect of excluding Victoria from the Determination.

Yours sincerely

**VICTORIAN HOSPITALS’ INDUSTRIAL ASSOCIATION**

A handwritten signature in black ink, appearing to read 'I. Oostermeyer', is written over a white rectangular background.

**Ignatius Oostermeyer**

Acting Chief Executive Officer

10237SD/Final Submission/RDAA/ACCC