

Ms Joanne Palisi
Director
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Ms Palisi

Application for authorisation A91088 lodged by the Australian Medical Association (NSW) Limited ("AMA")

I refer to the previous submission of the NSW Health Department to the above authorisation application sent to the ACCC on 4 June 2008.

Thank you for the opportunity to respond to the further submission to the ACCC on behalf of the AMA dated 12 June 2008.

The NSW Health Department's submission raised two substantial issues of concern about the AMA's application – firstly, that it was unclear as to whether the application was intended to include a right to engage in collective boycott activity; and secondly, that it appeared to seek authorisation to negotiate with public health organisations in respect of the terms and conditions of VMOs working in NSW public hospitals.

As to the first issue raised by the Department, I note that the AMA's further submission expressly states (on page 5) that the AMA does not seek authorisation for collective boycotts. In the event the ACCC were to issue a draft determination in respect of the AMA's application, the Department requests that the draft determination expressly states that it does not extend to collective boycott activity.

As to the second issue raised by the Department, the Department notes that the AMA's answer to question 2 posed by the ACCC states that "*...the role of PHOs and VMOs in the negotiation of terms and conditions, under the current system is limited*". Further, the AMA notes that "*Rate negotiations do not take place between VMOs (with or without the assistance of AMA) and PHOs*". The Department respectfully submits that these answers support the Department's position in its submission of 4 June 2008 that public health organisations do not play anything other than a limited role in the establishment of terms and conditions for VMOs.

The AMA's further submission also states that AMA may provide assistance to individual VMOs in relation to the negotiation of routine hours and on call hours with public health organisations. The Department submits that to the extent the AMA continues to provide such assistance it does not involve any

potential breach of the *Trade Practices Act*, and it does not require authorisation.

Accordingly, the NSW Health Department submits that in the event the ACCC were to grant a draft determination in this matter, it should be limited to an authorisation permitting the AMA to negotiate on behalf of VMOs working in NSW public hospitals with the NSW Health Department only.

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

Yours sincerely



Leanne O'Shannessy
Acting General Counsel, and Director of Legal and Legislation
25 June 2008