



**Australian
Competition &
Consumer
Commission**

Our Ref: C2008/1844
Your Ref: MWG 159576-1675
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22 May 2009

Mr Michael Gorton
Russell Kennedy
PO Box 5146AA
MELBOURNE VIC 3001

By facsimile 03 9609 1600

Dear Mr Gorton

**Re: Australasian College of Cosmetic Surgery application for authorisation
A91106 – submission provided by Royal Australasian College of Surgeons**

Thank you for your submission on behalf of the Royal Australasian College of Surgeons (RACS), dated 14 May 2009, in relation to the above listed application for authorisation. The submission has been placed on the Australian Competition and Consumer Commission's (ACCC) public register.

Authorisation is sought by the Australasian College of Cosmetic Surgery for its Code of Practice (the Code). The ACCC will take the comments made in the RACS submission into account in making a final decision on the application.

The submission also raises two issues of process that I wish to address directly. Firstly, however, I wish to assure you that the ACCC recognises the importance of all interested parties having the opportunity to comment on applications for authorisation in line with the processes outlined in the *Trade Practices Act 1974*.

In relation to the specific points raised in the submission, RACS notes its previous submissions on the application that the ACCC should not entertain major revisions to the Code and seeks an assurance from the ACCC that further amendments to the Code, major or minor, will not be considered.

Applicants are able to seek to amend applications for authorisation while the application is being considered by the ACCC. Whether the ACCC accepts an amendment to an application is decided on a case by case basis. The ACCC can not fetter its discretion to accept amendments to an authorisation application by giving assurances of the type that you have sought. This is because the ACCC will not be in a position to form a concluded view about whether it would or

would not accept amendments to an application for authorisation unless or until the details of any proposed amendment is known.

RACS also seeks the ACCC's assurance that the relevant period for consideration of the application will not be further extended.

As advised in the ACCC's letter dated 4 May 2009, the ACCC may extend the relevant period for consideration of an application for authorisation if the applicant agrees. At the request of the ACCC, the Australasian College of Cosmetic Surgery has agreed to extend the period for consideration of its application until 30 July 2009.

Whether the ACCC would request a further extension to the period for considering the application would depend on the specific circumstances. As with any application for authorisation, the ACCC is unable to provide a definitive assurance that it will, or will not, seek to further extend the relevant period for considering the application. Nor would it be appropriate for the ACCC to fetter its discretion in this regard.

However, as also advised in the ACCC's letter of 4 May 2009, notwithstanding the extension of the relevant period for consideration of the current application the ACCC at this stage expects to release a final determination in this matter in mid June.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact Gavin Jones on 03 9290 1475.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Chadwick', with a long horizontal flourish extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch