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25 June 2010

Ms. Erin Donohue

Australian Competition and

Consumer Commission

GPO Box 3131

CANBERRA ACT 2601

Dear Erin,

Australian Competition and Consumer Commission (ACCC) Draft Determination-A91217

References: A. ACCC letter from Dr. Richard Chadwick General Manager Adjudication Branch (internal reference unknown) dated 09 June 2010

B. Telephone Discussion Ms. Donohue/Mr. Gallagher of 25 June 2010

Background

The Australian Society of Ophthalmologists (ASO) was established in 1982 and is the peak body representing the professional (non-academic) interests of ophthalmologists. Most recently it was heavily involved with Government from May 2009 until February 2010 over the issue of cataract rebates to patients. The ASO represents nearly 600 ophthalmologists and ophthalmology registrars across Australia.

Despite ASO's representation and profile, the association did not become aware of the ACCC's consideration of a request from Vision Group Holdings Limited for authorisation until only late on 22 June 2010 when it was forwarded a copy of reference A. Indeed, during our discussions at Reference B, you confirmed that the ASO was not on the addressee list for distribution of ACCC documentation in relation to this application.

ASO Consideration of the Draft Determination

Immediately the association received Reference A, an urgent teleconference of the ASO Executive was called for 24 June 2010 at 7pm. This teleconference was held but during the discussion it became clear, that there were areas where, because

the ASO had not been in any way involved in this application process, there was insufficient knowledge and understanding of the background leading to the ACCC interim decision. In addition however, there were some specific concerns in relation to the period for which it was proposed to grant authorisation. This period seemed to be unusually long.

After further discussion, it was decided that the ASO should request a Pre-Decision Conference. This should not necessarily lead to the conclusion that the ASO is opposed to this application and the draft determination but rather that the association would seek to get a greater understanding of the background leading to the draft determination.

ASO Request

The ASO requests that the ACCC hold a Pre-Decision Conference in relation to the Vision Group Holdings Limited application. The ASO does not wish it to be implied that it is against granting authorisation. It would like at the Pre-Decision Conference to:

- Gain a greater understanding of the background factors considered by the ACCC which in turn led to the draft determination,
- Inquire into the applicability of these same determining principles applying to all similar style ophthalmology practices, and
- Seek a reconsideration of period proposed to allow authorisation under this draft determination, perhaps from 5 years to something significantly less than this to ensure there has been no detriment to patients or patient services.

Conclusion

The ASO thanks the ACCC for giving this issue consideration. In addition the ASO would ask that the ASO is added to the ACCC data base for inclusion of distribution of information on future issues relating to ophthalmology or eye services.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kerry Gallagher', written in a cursive style.

Mr. Kerry Gallagher

CEO