



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2012/1047  
Contact Officer: Gina D'Ettorre  
Contact Phone: 03 9290 1483

GPO Box 3131  
Canberra ACT 2601

23 Marcus Clarke Street  
Canberra ACT 2601

tel: (02) 6243 1111  
fax: (02) 6243 1199

[www.accc.gov.au](http://www.accc.gov.au)

6 December 2012

Dear Sir/Madam

**eRx Script Exchange Pty Ltd application for authorisation A91348 - interim authorisation decision**

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation in respect of the application for authorisation lodged by eRx Script Exchange Pty Ltd (eRx) on 13 November 2012. A copy of the ACCC decision is attached.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Competition and Consumer Act 2010* while the ACCC considers and evaluates the merits of the application.

**Next steps**

For your information, the next step in the process is for the ACCC to release a draft determination which will take account of any submissions from eRx and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will give both eRx and interested parties the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

As noted in the attached decision, the ACCC may review its decision on interim authorisation at any time. In this regard the ACCC will reconsider this decision at the time of issuing its draft determination. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

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 me on 03 6243 1266 or Gina D'Ettorre on 03 9290 1483.

Yours sincerely

David Hatfield  
Director  
Adjudication Branch



**eRx Script Exchange Pty Ltd –  
application for authorisation A91348  
Interim authorisation decision**

**6 December 2012**

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation to eRx Script Exchange to allow it to enter into and give effect to a contract with MediSecure Pty Ltd (MDS) to facilitate interoperability between the parties' electronic pharmaceutical prescription exchange systems (PES).

Interim authorisation commences immediately and will remain in place until it is revoked or the date the ACCC's final determination comes into effect.

**THE APPLICATION FOR AUTHORISATION**

eRx Script Exchange is seeking authorisation to enter into a contract with MDS which has the purpose of enabling it to make its electronic pharmaceutical PES interoperable with MDS's PES and vice versa. Authorisation is sought because a provision of the proposed contract (clause 14), provides that, before a technical solution for interoperability can be found, a commercial interchange agreement must be struck between MDS and eRx and MDS and eRx agree that, where a qualifying prescription is collected by one PES and dispensed by the other PES, eRx and MDS will share equally in the fee which is charged to the pharmacy user and the Commonwealth by the dispensing PES.

**THE AUTHORISATION PROCESS**

The ACCC can grant protection against legal action under the competition provisions of the *Competition and Consumer Act 2010* (the Act) if it is satisfied that the benefit to the public from the conduct outweighs any public detriment. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

**INTERIM AUTHORISATION**

Section 91 of the Act allows the ACCC to grant interim authorisation without making a decision on the merits of the application.

## **CONSULTATION**

Upon receipt of this application, the ACCC invited submissions from interested parties in order to consider the request for interim authorisation. The ACCC did not receive any public submissions in relation to the request for interim authorisation. The Department of Health and Aging has provided a submission in support of the substantive application for authorisation.

## **REASONS FOR DECISION**

In granting interim authorisation the ACCC has taken into account that:

- denying interim authorisation will cause eRx to fail to meet its obligations under the funding agreement with the Australian Government and could lead to unnecessary delays in the implementation of interoperability of the prescription exchange systems
- there is likely to be minimal, if any, impact on competition from the arrangement during the period of interim authorisation and
- should the ACCC decide not to grant authorisation the arrangement can be unwound without any ongoing anti-competitive detriment.

The ACCC also notes that no interested parties were opposed to the arrangement and that the Department of Health and Aging supports the application for authorisation.

## **RECONSIDERATION OF DECISION**

The ACCC may review its decision on interim authorisation at any time. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted.

Further information in relation to the proposed arrangements, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website [www.accc.gov.au/authorisationsregister](http://www.accc.gov.au/authorisationsregister).