



**Australian
Competition &
Consumer
Commission**

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

Our Ref: 47807
Contact Officer: Luke Griffin
Contact Phone: 02 6243 1114

22 December 2011

Mr Robert Cox
Managing Director
R.J. Engineering
PO Box 201
Mt Kuring-Gai, NSW 2080

Dear Mr Cox,

**Collective Bargaining Notification lodged by Medical Technology Association of
Australia CB00204 – CB00205**

I refer to the above collective bargaining notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 16 December 2011.

The notified conduct

The Medical Technology Association of Australia (MTAA) has lodged collective bargaining notifications on behalf of the following six of its members:

- Global Orthopaedic Technology Pty Ltd
- Johnson & Johnson Medical Pty Ltd
- Medtronic Australasia Pty Ltd
- Smith & Nephew Surgical Pty Ltd
- Stryker Australia Pty Ltd and Zimmer Pty Ltd
- Zimmer Pty Ltd.

MTAA proposes to enter into negotiations with two target businesses, Smartline Machinery Pty Ltd and R. J Cox Engineering, to acquire surgical instrument transport cases to be used to transport surgical instruments and medical supplies to hospitals. The negotiations are proposed to relate to proposed pricing and volume-based price breaks provided by the manufacturer to MTAA who will then negotiate key contract terms and conditions with the preferred manufacturer on behalf of the six participant companies.

The arrangement does not involve a collective boycott.

Statutory protection conferred by the notification commences 14 days after lodgement, namely on 30 December 2011.

ACCC consideration

The ACCC may revoke the immunity provided by a collective bargaining notification, at any time, if the ACCC considers the relevant tests in section 93AC are satisfied.

Generally, if the ACCC concludes that the benefit to the public likely to result from the collective bargaining arrangement will not outweigh the detriment to the public, the ACCC can remove the immunity provided by the notification.

The ACCC considers the collective bargaining arrangements are likely to result in public benefits in the form of economies of scale and transaction cost savings in particular.

Further, the ACCC considers that the potential for anti-competitive detriment is limited, in particular by the voluntary nature of the arrangement for both targets and participants of the group. The arrangements do not include a collective boycott.

On the basis of the information available, the ACCC considers that the likely benefit to the public from the collective bargaining arrangement will outweigh the anti-competitive detriment to the public. As a result, the ACCC does not intend to take any further action in relation to the notifications at this stage.

A copy of 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 Luke Griffin on (02) 6243 1114.

Yours sincerely



David Hatfield
A/g General Manager
Adjudication Branch