



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2013/398
Contact Officer: Gina D'Ettorre
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13 June 2013

Ms Jenny Johnson
Chief Executive Officer
Rural Doctors Association of Australia

By email: ceo@rdaa.com.au

Dear Ms Johnson

Rural Doctors Association of Australia application for authorisation A91376 - interim authorisation decision

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation to enable RDAA and its constituent state associations to continue to collectively negotiate with state and territory health departments the terms of contracts for general practitioners or rural generalist and visiting medical officers (rural doctors).

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.

The ACCC has decided not to grant authorisation to enable RDAA and its constituent state associations to collectively negotiate with Medicare Locals for the provision of healthcare services by rural doctors, or to provide advice to its members regarding remuneration for the provision of services to Medicare Locals.

A copy of the ACCC's decision is attached.

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 RDAA and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will give both RDAA and interested parties the opportunity to provide further submissions 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 Gina D'Ettorre on 03 9290 1483.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long horizontal line extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch



**Rural Doctors Association of Australia –
application for authorisation A91376
Interim authorisation decision
13 June 2013**

The application for re-authorisation and request for interim

The Rural Doctors Association of Australia (RDAA) currently has an authorisation which was granted on 14 May 2008 and which expires on 30 June 2013.

RDAA seeks re-authorisation of the arrangements to enable RDAA and its constituent state associations to collectively negotiate with state and territory health departments the terms of contracts for general practitioners or rural generalist visiting medical officers in rural areas (collectively referred to as rural doctors), particularly with respect to payments for services provided to public patients and for on-call services. RDAA is also seeking to extend the arrangements to cover collective negotiations between RDAA and Medicare Locals and RDAA and Local Hospital Networks.

RDAA has sought re-authorisation for five years.

RDAA sought interim authorisation to allow it to continue to collectively negotiate with state and territory health departments the terms of contracts for rural doctors while the substantive application is being considered. RDAA also sought interim authorisation for new conduct to commence collective negotiations with Medicare Locals. RDAA has not sought interim authorisation to commence collective negotiations with Local Hospital Networks.

Decision

Section 91 of the *Competition and Consumer Act 2010* (the Act) allows the ACCC to grant interim authorisation without making a decision on the merits of the application.

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation to enable RDAA to continue to collectively negotiate with state and territory health departments the terms of contracts for rural doctors.

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

For the reasons set out below, interim authorisation has not been granted to enable RDAA to commence collective negotiations with Medicare Locals for the provision of healthcare services by rural doctors, or to RDAA providing advice to its members regarding remuneration for the provision of services to Medicare Locals. The ACCC will consider this proposed arrangement further in its assessment of RDAA's substantive application for authorisation.

The authorisation process

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the Act. Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Consultation

Upon receipt of the application for authorisation, the ACCC invited submissions from over 100 potentially interested parties, including government departments, industry associations, consumer organisations and Medicare Locals, in order to consider the request for interim authorisation. The ACCC received one submission from the Australian Medicare Local Alliance (AMLA) in which it raised a number of concerns with the proposed arrangements.

Relevant to interim authorisation, AMLA raised concerns that allowing RDAA to collectively negotiate with Medicare Locals may delay current negotiations and therefore delay the provision of services to rural communities, and potentially increase the cost of the provision of those services.

Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website www.accc.gov.au/authorisations.

Reasons for decision

The ACCC notes it has previously recognised that public benefits may result from RDAA collectively negotiating with state and territory health departments. In addition, allowing RDAA to continue to collectively negotiate with state and territory health departments will maintain the status quo and provide rural doctors with some certainty while the ACCC considers the substantive application for authorisation.

However, in relation to extending interim authorisation to RDAA negotiating with Medicare Locals, the ACCC notes the concerns raised by AMLA and the potential for the arrangements to lessen competition in the provision of healthcare services to Medicare Locals.

Unlike state and territory health departments, Medicare Locals do not negotiate state-wide, single fee arrangements. Medicare Locals are much smaller entities established to coordinate tailored solutions for the delivery of health care in geographically defined areas and may only have a relatively small number of medical practitioners in their area. Sharing price information amongst practitioners has the potential to significantly reduce competition in the provision of healthcare services to Medicare Locals. Shared price information may also reduce the scope for negotiation of specifically tailored solutions.

Further, allowing RDAA, on an interim basis, to provide advice to medical practitioners about negotiations with and fees offered by Medicare Locals to other medical practitioners cannot be 'undone' in a situation where authorisation may ultimately not be granted.

The ACCC currently has insufficient information to fully consider the potential impact of these arrangements. The ACCC will seek further information from interested parties about the potential impact of allowing RDAA to negotiate with Medicare Locals as part of its assessment of the substantive application.

For these reasons, the ACCC has decided not to grant interim authorisation in respect of negotiations between RDAA and Medicare Locals at this time.

Reconsideration of interim authorisation

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