



**Australian
Competition &
Consumer
Commission**

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6 November 2014

Ms Fiona Crosbie
Partner
Allens

By email: Fiona.Crosbie@allens.com.au
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Deborah.Monk@medicinesaustralia.com.au

Dear Ms Crosbie

Medicines Australia Limited application for revocation of authorisations A91316-A91320 and substitution of new authorisations A91436-A91440

I refer to your letter dated 31 October 2014 regarding the above application for reauthorisation (revocation and substitution) of edition 18 of Medicines Australia's Code of Conduct.

The ACCC agrees to Medicines Australia's requests:

- for an extension of time until **21 November 2014** to make a submission in response to the draft determination issued on 17 October 2014
- to hold the pre-decision conference requested by the Royal Australian College of General Practitioners (RACGP) on a date after 21 November 2014 – further details are set out below.

I note that as a result of the additional time required for these steps in the process, the ACCC will not be able to make a final determination in relation to this matter before the existing authorisation of edition 17 of the Code expires on 11 January 2015. Consequently, if Medicines Australia considers that it requires statutory protection against legal action under the competition provisions of the *Competition and Consumer Act 2010* (the Act) in the period between 11 January 2015 and the ACCC's final determination, Medicines Australia may wish to consider applying for interim authorisation.

As discussed between Darrell Channing and Catherine Bembrick this morning, the ACCC will undertake a short consultation process as part of its consideration of any request for interim authorisation. In order to facilitate this consultation and a decision by the ACCC

before the end of 2014, Medicines Australia would need to lodge any request for interim authorisation as soon as possible and no later than 14 November 2014.

Pre-decision conference

As you know, the RACGP has requested that the ACCC convene a conference in relation to the draft determination proposing to grant conditional authorisation to edition 18 of the Code.

The ACCC will hold the conference on at **1pm (AEDT) on 28 November 2014** at the ACCC's Canberra office with video conferencing facilities available in the ACCC's offices in Adelaide, Brisbane, Melbourne and Sydney and a dial-in facility for interested parties in other locations. The conference will be chaired by Commissioner Jill Walker.

Under the Act, the conference may be attended by the applicant and other interested parties. Please advise the ACCC of the names of Medicines Australia's representatives who will be attending, their position titles, the ACCC office in which they will attend, and indicate who will be Medicines Australia's chief spokesperson. Please provide this information by **5pm (AEDT) on 21 November 2014**. You may address this information to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission

By email: adjudication@acc.gov.au

You can also notify the ACCC by post to GPO Box 3131, Canberra ACT 2601, or by facsimile on (02) 6243 1212.

I also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

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 Darrell Channing on (02) 6243 4925 or Tess Macrae on (03) 9290 1835.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch

AN OUTLINE OF THE PROCEDURES USUALLY FOLLOWED AT CONFERENCES IN RELATION TO APPLICATIONS FOR AUTHORISATION

The Australian Competition and Consumer Commission (ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible.

An interested party attending a conference may have the assistance of outside legal or other professional advisers, however, they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefits and detriments are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you should identify yourself to ACCC staff before the conference begins. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the *Competition and Consumer Act 2010* and the manner in which the conference will be conducted.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) Any document you present without making any request for it to be excluded from the public register will be placed on the ACCC's public register.

If you intend to present a submission at the conference and you wish it (or certain details in it) to be excluded from the public register, you should make your request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. (See the ACCC's [Guidelines for excluding information from the public register](#)).

2. General procedures

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion on any given topic may be heard at the one time.

- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

3. Other matters

- (a) Following the pre-determination conference, the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.
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