



Australian
Competition &
Consumer
Commission

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5 November 2014

Dear Sir/Madam

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

The Royal Australian College of General Practitioners (RACGP) has requested that the ACCC convene a conference in relation to the draft determination issued on 17 October 2014 proposing to grant conditional authorisation to edition 18 of Medicines Australia's Code of Conduct.

The ACCC concluded in its draft determination that it was satisfied, subject to a condition of authorisation, that the public benefit flowing from the proposed arrangements was likely to outweigh any anti-competitive detriment and proposed to grant conditional authorisation to the application for five years. A copy of the application and draft determination can be found on the ACCC's website <www.accc.gov.au/AuthorisationsRegister>.

Pre-decision conference

A pre-decision conference provides an opportunity for applicants and interested parties to make oral submissions to the ACCC about its draft determination.

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 *Competition and Consumer Act 2010* (the Act), the conference may be attended by the applicant and other interested parties. If you wish to attend, you must notify the ACCC of your intention by **5pm (AEDT) on 21 November 2014**. Notifications must be in writing and addressed 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.

You should provide details of a contact name, telephone number, e-mail address or facsimile number, and mailing address so that you can be notified of any late changes to conference arrangements. Please also indicate in which ACCC office you wish to attend.

If you represent a company or organisation you should identify the company or organisation and also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

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.

If you require any further information in regard to the conference or wish to clarify whether you may be considered an 'interested person' within the terms of the Act, please do not hesitate to contact the ACCC to discuss.

Extension of time to make submissions in relation to the draft determination

In its letter to you dated 17 October 2014, the ACCC invited you to make a submission in response to the draft determination by 7 November 2014.

The ACCC has agreed to a request by Medicines Australia for an extension of time until 21 November 2014 to respond to the draft determination, and to hold the conference after that date.

In light of this, the ACCC considers it appropriate for interested parties to have additional time to respond to the draft determination. Therefore, if you have not already done so, and wish to make a submission in response to the ACCC's draft determination, please lodge your submission by **21 November 2014**. Submissions should be emailed to adjudication@acc.gov.au with the subject "A91436-A91440 – Medicines Australia – submission".

Timetable

The ACCC will continue to progress its assessment of the application in a timely manner. However, I note that as a result of the extension of the due date for submissions and the timing of the conference, the ACCC will not be able to make a final determination in relation to this matter before the end of the year.

An updated indicative timetable is set out below for your information.

Indicative date	Stage in assessment process
2 July 2014	Lodgement of applications and supporting submission.
3 July 2014	Public consultation process begins.
17 October 2014	Draft determination.
21 November 2014	Closing date for submissions in response to the draft determination.
28 November 2014	Pre-decision conference.
December 2014	Consideration of any further submissions following conference.
Early 2015	Final determination.

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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