



**Australian Dental Association Inc –
Application for revocation of AA1000638 and the substitution of
authorisation AA1000669
Interim authorisation decision
6 June 2024**

Decision

1. The Australian Competition and Consumer Commission (the **ACCC**) has decided to suspend the operation of authorisation AA1000638 and has granted this interim authorisation in respect of the application for authorisation AA1000669 in substitution for the authorisation suspended. Application for revocation of authorisation AA1000638 and substitution of authorisation AA1000669, was lodged by the Australian Dental Association Inc (**ADA**) on 26 April 2024.
2. Interim authorisation is granted to enable dental practitioners to continue to agree on the fees to be shared for dental services provided within a shared practice.
3. Interim authorisation commences immediately and remains in place until it is revoked, the application for revocation and substitution is withdrawn, or the date the ACCC's final determination comes into effect.

The application for authorisation

4. The ADA is a not-for-profit professional organisation representing dentists. Membership is voluntary and includes practicing dentists, students of dentistry and retired dentists in Australia. The ADA is a national organisation with branches in every state and territory of Australia.
5. The ADA seeks authorisation for 5 years for the making of and giving effect to contracts, arrangements and understandings between 2 or more Dental Practitioners as to the fees to be charged for Dental Services provided in a practice, where:
 - (a) at least one party to the contract, arrangement or understanding is a member of the ADA; and
 - (b) the parties to the contract, arrangement or understanding operate at particular premises in a way that presents to patients as a shared practice (for example, by using a common practice trading name) being a practice in which independent practitioners at a common premises with a common reception share:
 - i. staff, for example, dental hygienists, administrative and support staff;
 - ii. dental records and treatment of patients by other members of the practice; and
 - iii. dental equipment and supplies.(the **Proposed Conduct**).
6. 'Dental Practitioner' means a dental practitioner registered with the Dental Board of Australia from time to time, and 'Dental Services' means any service provided by a dental practitioner.

The authorisation process

7. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth) (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.

Interim authorisation

8. Section 91 of the Act allows the ACCC, where it considers it appropriate, to grant interim authorisation. This allows the parties to engage in the Proposed Conduct while the ACCC is considering the substantive application.
9. The ADA requested interim authorisation on the basis that:
 - The current authorisation expires on 16 June 2024.
 - Interim authorisation will not change the current market status quo and maintain the Proposed Conduct's public benefits, in particular the benefits to patients due to dental practitioners in 'shared practices' being able to work together as a team.
 - The risk of any public detriment resulting from the Proposed Conduct is low given that it is limited to price setting within and not between practices.
 - Interim authorisation would apply for a limited time period.

Consultation

10. The ACCC invited submissions from a range of potentially interested parties, including major relevant industry associations, consumer groups, state and federal government, on the application and request for interim authorisation.¹ The ACCC has received 3 submissions to date from interested parties: one submission from Bupa Dental Care, which supported the application for authorisation, and 2 submissions from Private Healthcare Australia, which did not oppose the application and request for interim authorisation.
11. 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

12. In granting interim authorisation, the ACCC considers that:
 - The current authorisation will expire on 16 June 2024, and interim authorisation of the Proposed Conduct will maintain the status quo that existed under the previous authorisation while the ACCC considers the substantive application for revocation and substitution.
 - Interim authorisation is likely to avoid disruption and additional administrative burden to dental practitioners operating in shared practices during the period in which the ACCC considers the substantive application for revocation and substitution.
 - Although the ACCC has not reached any concluded views about the application for revocation and substitution, the ACCC concluded in the previous authorisation that the conduct was likely to result in public benefits and that these outweighed the public detriments that were likely to result from the conduct.

¹ The public submissions received are available from the ACCC's [public register](#).

Reconsideration of interim authorisation

13. The ACCC may review the 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 the final authorisation will be granted.