

MSD

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14 May 2020

Simon Bell
Australian Competition & Consumer Commission
Assistant Director
Adjudication Branch, Merger and Authorisation Review Division
Level 2
23 Marcus Clarke Street
Canberra ACT 2601

Dear Mr Bell

Thank you for the opportunity to provide feedback on the interim authorisation the ACCC granted to Medicines Australia, its members and the Generic and Biosimilar Medicines Association and its members to implement a coordinated strategy in relation to the supply of essential medicines and related supplies in response to the current COVID-19 pandemic.

Managing the global supply chain of pharmaceutical products, even in the absence of a pandemic, is a complex process driven by multiple sites of manufacture and varying demand from individual countries. To understand potential impacts, our teams have been thoroughly assessing our supply chain. This includes contacting our direct suppliers and our suppliers that source from affected areas and tracking distribution and logistics to track import and export status. We are monitoring major ports, alternative ports, air cargo shipments, and third-party logistics partners. We will continue to track closely and provide any updates as needed.

In situations where there is a sole supplier of an essential medicine (or related supply) the visibility into stock movements becomes even more critical to ensure the stock is where it is needed. Where there are multiple suppliers and demand is outstripping supply, often driven by API supply or site activity, those challenges may need to be met by suppliers working together to ensure that essential medicines and related supplies continue to be able to be provided to Australian patients in a timely manner.

The interim authorisation provided by the ACCC helps support the management of the supply chain by providing increased visibility for demand planning across suppliers and within the supply chain. Given the unpredictable and global nature of this pandemic, and the potential for sudden and dramatic increases in demand for certain products, we continue to assess demand for our medicines and vaccines daily. If needed, we work with our customers including national health authorities to understand underlying demand, and, where possible, increase production volumes and/or re-direct inventory between countries, with appropriate regulatory approvals. If these alternatives cannot address the demand, we allocate product based on demand, inventory, and need.

We believe the success of this approach relies on the following principles that are assisted by the conduct permitted under the interim authorisation:

- Identification of the core issue that requires a level of collaboration to deliver a public benefit, including the supply of critical medicines
- A broad authorisation that covers the many different situations that can arise from this core issue

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- Facilitation of engagement by the TGA and Medicines Australia
- Recognition that collaboration in itself is not automatically anti-competitive

Notwithstanding recent reductions in case numbers in Australia, MSD is cautious of any perceived mitigation in the challenges to supply in the near future.

MSD welcomes the approach undertaken by the ACCC in granting the interim authorisation as it will help to ensure that Australian patients are able to access the medicines that they need as we respond to COVID-19.

We would welcome the opportunity to discuss this matter with you at a later date.

Yours faithfully



Michael Azrak
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