

ACCC
Via online submission

Health Partners is seeking a 10 year authorisation. The ADA requests that the ACCC consider a much shorter term, to allow the ACCC to conduct a more comprehensive review of price-capping arrangements between private health insurers and dental practices, including whether all such arrangements should be submitted for authorisation.

Health Partners has sought authorisation based on the risk that Part IV Division 1 of the CCA (specifically provisions of this Division that relate to arrangements which have the purpose or effect of fixing, controlling or maintaining price) may apply where the insurer operates its own dental practices in geographic proximity to dental practices that are subject to its price-capping arrangements and therefore may be considered to be in competition with those practices. A similar risk was identified as the basis for HCF seeking its authorisation for its price-capping arrangements in 2018 (AA1000402) which is due to expire on 1 June 2023.

The assumption appears to have been made that if an insurer does not operate its own practices in geographic proximity to any dental practices that are subject to its price-capping arrangements authorisation is not required. This has resulted in an ad hoc position with respect to authorisation of price-capping arrangements.

The ADA has concerns about this position, in particular because:

- dental practices who are subject to price-capping via common arrangements with the same insurer may be competitors,*
- there is imprecision in the boundaries of when proximity means dental practices may in competition with each other.*

The ADA has also raised long-standing concerns about the overall impact of price-capping arrangements and whether they are genuinely in the public interest.

At the time of the HCF authorisation in 2018, the ADA asked the ACCC to consider a shorter term than the 10 years sought by HCF, given the evolving nature of the arrangements between private health insurers and dental practices, in order to allow the ACCC the opportunity to scrutinise the impact of price-capping, who actually benefits, and whether these arrangements give rise to more public detriments than benefits. The ACCC granted a shorter term (5 years) but has not yet had the opportunity to undertake this scrutiny.

The ADA therefore requests that the ACCC consider conducting a comprehensive review of price-capping arrangements between private health insurers and dental practices before granting any further long term authorisations, including:

- whether all such arrangements should be submitted for authorisation (for example, as 'hub and spoke' arrangements), and*
- the potential for public detriments (for example, 'waterbed effects').*

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