

25 June 2024

Tess Macrae  
Director, Competition Exemptions  
Australian Competition and Consumer Commission

*Lodged via web form accessible on public register page*

Dear Tess

**Re: St. Luke's Medical and Hospital Benefits Association application for authorisation AA1000671 – interested party consultation**

**Context**

In response to your letter of 14 June 2024, the Australian Dental Association (ADA) would like to comment on the application for authorisation from St. Luke's Medical and Hospital Benefits Association (St Lukes).

St Lukes is seeking authorisation under the *Competition and Consumer Act 2010*. Authorisation would give it legal protection from competition laws to enter into and give effect to certain pricing arrangement provisions in agreements with dental practitioners via the 'St Lukes Gap Free Network'. St Lukes is seeking authorisation for 10 years.

**Comment**

The ADA has long-standing concerns about the overall impact of arrangements between private health insurers (PHIs) and dental practices (under both voluntary and involuntary terms and conditions) from the perspective of *competition in dental services and consumer harms*. Incrementally and insidiously, financial service providers have reached into the healthcare relationship between dentist and patient in a way that risks influencing both treatment decisions and the basis on which patients choose a dentist.

The ADA's focus in commenting on PHI authorisations has been to ensure it is understood that these types of arrangements involve an intersection between two different markets, one involving financial services (insurance) and the other healthcare services (dental services). The ADA has maintained the position that consumers should be entitled to benefit through competition *in both markets*, and competition in one should never be allowed to detract from competition in the other.

To that end, the ADA has consistently advocated for the ACCC to take a cautious approach to PHI authorisations mindful of the insidious detriment the ADA has raised in the wider picture relating to PHI arrangements (across the board and under both voluntary and involuntary terms and conditions), in particular by:

- granting authorisation for a short term only (no more than 5 years), so impacts can be monitored and tested more frequently, and
- limiting the scope of authorisation, as appropriate, having regard to the scale and scope of the specific conduct for which authorisation would be granted.

In terms of the wider picture, the ADA continues to advocate for two fundamental outcomes:

1. That consumers should be able to choose their dentist, and their insurer, based on competition on the merits in each activity. Rebates to consumers offered by insurers should be the same regardless of which dentist the consumer chooses to visit, as this is a healthcare decision by the patient.
2. That consumers should be able to have confidence that their choice to use private health insurance will never result in their insurer being able to undermine clinical confidentiality or treatment decisions agreed upon by them with their chosen dentist in a clinical setting.

The ADA intends to review the ACCC's draft determination when it is published and provide a submission on the draft determination if there are any issues that the ADA believes appropriate to raise in relation to this specific arrangement, having regard to the draft determination.

We would appreciate if the ACCC would add the ADA to its list of interested parties for this matter and notify us once the draft determination is published.

Thank you for your time and consideration. Should you wish to discuss further any matters raised in this submission, please contact Ms Eithne Irving, Interim Chief Executive Officer at [ceo@ada.org.au](mailto:ceo@ada.org.au).

Yours sincerely



Eithne Irving  
Chief Executive Officer (Interim)  
Australian Dental Association Inc.