Mr Michael Pappa
Competition Exemptions Branch
Australian Competition and Consumer Commission

By email: exemptions@accc.gov.au

23 July 2021

Dear Mr Pappa

Catholic Health Australia (CHA) appreciates the opportunity to respond to the matters raised at the pre-decision conference (PDC) regarding the application for authorisation received from Honeysuckle Health Pty Ltd (HH) and nib health funds ltd (nib).

CHA is Australia's largest non-government grouping of health, community, and aged care services accounting for around 15% of hospital- based healthcare in Australia. Our health members also provide around 25% of private hospital care, 5% of public hospital care, 12% of aged care facilities, and 20% of home care and support for the elderly. Our collective membership accounts for six major hospital groups that provide services across all Australian states and territories, constituting over 80 health facilities that service over 1.5 million episodes of care annually.

Market cap conditions

CHA members continue to share concerns about HH's and nib's application to seek authorisation to establish a buying group to negotiate and administer hospital purchaser provider agreements (HPPAs). CHA opposes the applicants request for the Broad Clinical Partners Program (CPP) to increase the ACCC proposed condition of 40% market share to 60%. As outlined in our previous submission, a majority market share in any given state or territory would result in public detriment by reducing the competition for services.

Buying group inefficiencies

The existence of a buying group does not necessitate or justify authorising a new one. Nor does it automatically generate the benefits asserted in the application without further analysis. CHA contests the ACCC Draft Determination findings of a public benefit in establishing such a buying group and raised these concerns in the PDC. Principally, the establishment of a buying group does not automatically generate efficiencies as the ACCC claimed in the Determination "…the Proposed Conduct is likely to result in some public benefits in the form of better input into contracts, better information for participants in the HH Buying Group and some transaction cost savings, mainly for healthcare payers other than

private health insurers".[1] AHSA, an existing buying group for private health funds, have some of the highest fees and premium indexations that exceed the industry average.

Managed care conditions

Given the privacy obligations between health funds and health providers, CHA is not in a position to provide specific details on where HPPA contracts may be administered in a way that the public detriment outweighs claimed public benefits. However, CHA members have provided examples where HPPAs are delivered in a way that is considered a form of managed care that is detrimental to consumers.

CHA can confirm that elements of managed care models currently exist in the Australian system but these do not necessarily lead to the public benefits that the Applicants have asserted. CHA recommends ACCC give serious consideration to the failures of managed care in the Australian context and the growing incidence of insurers denying and delaying some or all of claims that result in higher out of pockets for consumers.

The CPP can influence choice of provider and treatments in a manner that threatens the autonomy of the medical profession. Examples have been heard in the recent forum where health funds have been known to provide financial benefits to doctors to encourage them to refer patients into particular programs. There is no transparency for the patient in the restricted referral pathways when a patient presents to their medical practitioner. The targeting of patients into nib sponsored services directly threaten one of the fundamental features that underpin the Australian private health system centred on patient choice. As the Consumer's Health Forum has indicated, research shows that people take out private health insurance policies because of the choice in doctor it provides to them. Without the opportunity to exercise choice in their provider, consumers will begin to question the benefits of the private health sector.

CHA members agree that value-based healthcare does offer opportunities for improved models of service delivery that are currently being implemented across health networks. CHA contends that there are already successful examples of value-based models that are rejected by health funds when the value to consumers exceeds the value to the health fund.

HH and nib have asserted in their application that value-based health care is "the future" and intends to use international standards in contracting these services. However, health funds have been shown to ignore agreed Australian standards set by the Australian Safety and Quality Committee that apply to pricing for safety and quality, as well as cherry-picking or ignoring recommended practice from industry approved guidelines for rehabilitation and mental health. The Department of Health is currently engaged with associated agencies to develop and expand value-based care in Australia designed to improve patient outcomes. These standards should be set by the appropriate authorities and not dictated by health funds through HPPAs that are not reflective of best practice clinical recommendations in the Australian context.

Length of authorisation

The proposals outlined in the Application, including supplemental documents, do not give assurance that the concerns identified have addressed the privacy protections, consumer protections, and industry

[1] ACCC Draft Determination. 21 May 2021.
file:///S:/Health%20Policy/ACCC/Honeysuckle/Draft%20Determination%20-%2021.05.21%20-%20PR%20-%20AA1000542%20-%20Honeysuckle%20Health%20and%20nib.pdf

concerns raised. CHA is not certain how the ACCC will monitor the buying group's progress to ensure the public benefits and detriments are adequately accounted for.

CHA agrees with the medical groups, professional associations, and consumer advocacy bodies that the concerns raised in the PDC are too great and requests the ACCC reconsider granting authorisation to HH and nib to form this buying group on the grounds that the public benefit test has not been adequately met while the list of public detriments continues to grow. Until protections are in place to reduce the risks outlined in the PDC and subsequent applications, this buying group should not be established within the Australian health system.

Yours sincerely

Pat Garcia
Chief Executive Officer
Catholic Health Australia

Catholic Health Australia ABN 30 351 500 103
Suite 5.03, 60 Marcus Clarke Street, Canberra ACT 2601
PO Box 245, Civic Square ACT 2608
02 6203 2777 www.cha.org.au