
From: Shirley Prager
Sent: Sunday, 25 July 2021 8:10 PM
To: Exemptions
Subject: Application for authorisation AA1000542 Lodged by Honeysuckle Health and nib ACCC
Honeysuckle Health Determination - 4 Questions - Code of Conduct

Dear Mr Ridgeway/Exemptions at ACCC,

Here is my further submission re Honeysuckle Health (HH) and nib application for authorisation AA1000542. I note there was not time for me to speak at the recent ACCC HH and nib Conference on Thursday 8 July.

I have 4 Questions concerning the ACCC Honeysuckle Health Determination.

In making a determination I note that the ACCC is obliged to obey its Code of Conduct for Commission Members and Associate Members.

1. I note that the Members must exercise their statutory powers and functions in accordance with four key obligations:

- "1. to act honestly and lawfully
- 2. to act in good faith
- 3. to act with due care and skill, and
- 4. to avoid conflicts between personal and official interests." (1)

Question 1.

What education, training and experience have ACCC decision makers had that enables them to have the skill to predict the level of detriment or benefit to the physical and mental health of the Australian community that would result from granting the Honeysuckle Health application ?

(1) Reference

ACCC Code of Conduct for Commission Members and Associate Members December 2019

2." Members may become the target of interest groups seeking to influence the ACCC on a variety of issues. Dealings with interest groups should be conducted in a manner that does not give rise to any appearance of improper influence or conflict of interest. It is advisable for members to ascertain what company or interests each interest group represents so that informed judgements may be made about the appropriateness of such dealings. Where representations are being made on behalf of a foreign government or the agency of a foreign government, special care needs to be exercised as foreign policy or national security considerations may apply. In such cases, members should advise the Chair of the representation who may refer the matter to the Department of Foreign Affairs and Trade (DFAT). The Chair may of course refer matters in which he or she is directly involved to DFAT where appropriate." (1)

Question 2

What investigations has the ACCC Commissioners and employees performed to ascertain the relationship between Honeysuckle Health and the Peoples Republic of China ?

Since both NIB and Cigna have a presence in China and Honeysuckle Health is planning to utilise data analytics which is likely to be a risk to Australia's security, has the ACCC referred the Honeysuckle Health matter to DFAT ? If not, why not ?

3. "Australian Public Service Values

Interaction with members of the Australian Public Service

Commissioners interact with ACCC staff on a daily basis. In the main, ACCC staff are employed under the PSA by the Australian Public Service (APS), with the exception of consultants engaged by the ACCC. Unlike private employees, APS employees are governed by the PSA which requires them to adhere (as a matter of law) to the APS Values, APS Employment Principles and APS Code of Conduct.

The APS Values are as follows:

Impartial

The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.

Committed to service

The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.

Accountable

The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.”(1)

Question 3

What is the best available evidence that has been obtained by ACCC from Honeysuckle Health that guarantees the Australian public that they will never be exposed to US Style Managed Care practices by Honeysuckle Health or by any future buyer of the Honeysuckle Health company if the HH application is granted by the ACCC ?

4 "Decision-making

Members may have to account for the exercise of their statutory powers to the Parliament (or one of its committees), the Auditor-General, the Ombudsman and the courts.

The general grounds for challenging administrative decisions made under legislation are set out in the Administrative Decisions (Judicial Review) Act 1977. In essence the basic requirements for decision-making include:

- ☐ each decision needs to be within the scope of the power provided by the legislation;
- ☐ the procedure for reaching the decision needs to meet basic standards of fairness, allowing all sides to present their cases, and must also comply with any special requirements set by the legislation;
- ☐ each decision needs to be made on the merits of the case, with the decision-maker unbiased and acting in good faith; and
- ☐ conclusions must be soundly based in reason, in particular they must reflect a proper understanding of the law, draw on reasonable evidence for findings of fact, take account of all relevant considerations and not take account of irrelevant considerations.

The ACCC makes statutory decisions through the Commission, aided by specialist subject- matter committees (as outlined under 'Role of Commissioners' above). The agency is governed, and has its administration overseen, by corporate governance committees.” (1)

Question 4

The detrimental practices and ambitions of NIB (eg elimination of Australia's Medicare system)and Cigna (eg detrimental practices in the USA) are known. Are these ambitions and detrimental practices relevant or irrelevant considerations to the ACCC's findings of fact in relation to estimation of likely detriment to the mental and physical health of the Australian population in the matter of the HH application to the ACCC ?

Please confirm you have received this submission.

I give my permission for this submission to be displayed on the ACCC website.

Yours sincerely,

Dr Shirley Prager
Consultant Psychiatrist
Past President
National Association Practising Psychiatrists (NAPP)