

10 March 2021

Darryl Channing  
Director  
Competition Exemptions Branch  
Australian Competition and Consumer  
Commission

Michael Pappa  
Analyst  
Competition Exemptions Branch  
Australian Competition and Consumer  
Commission

By email [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au)

Dear Mr Channing and Mr Pappa

### **AA1000542 – Honeysuckle Health and nib – Supplementary Submission**

Healthscope makes this supplementary submission in relation to the response to interested party submissions lodged by Honeysuckle Health Ltd (*Honeysuckle*) and nib health funds limited (*nib*) (together, the *Applicants*) on 19 February 2021.

While Healthscope maintains the concerns raised in its submission of 5 February 2021, Healthscope considers it necessary prior to the ACCC's draft determination to address the Applicants' concession that 'it would be reasonable for the ACCC to impose conditions' to address interested parties' concerns about the potential scope of the HH Buying Group.<sup>1</sup> Healthscope agrees. However, the solution suggested by the Applicants fails to sufficiently mitigate this concern.

- First, the Applicants maintain that it is unlikely that any of the major insurers will join the buying group.<sup>2</sup> This, of course, misunderstands the authorisation process which requires an assessment of the scope of the proposed conduct for which authorised is sought. As described in the application, the proposed conduct is open to 100% of the market and contemplates lesser forms of coordination even where a major payer does not join the HH Buying Group.
- Second, the Applicants' proposed condition is merely for Honeysuckle to inform the ACCC of new participants in the HH Buying Group. This is not an appropriate condition. It would require the ACCC to re-determine with each new member whether the proposed conduct would result in a net public benefit. This imposes a heavy administrative burden on the ACCC, leads to less certainty as to the continuity of any agreements reached with the HH Buying Group, and again neglects to recognise that the ACCC's current task is determining whether the application, as drafted, results in a net public benefit.

Healthscope recognises that buying groups which enable smaller players to combine their bargaining power will often generate public benefits. However, the conditions around the authorised conduct and scope of this buying group must be clear. In Healthscope's submission, an appropriate condition to address the scope concern is for membership of the buying group to be limited to insurers with a revenue below a certain threshold. Such a condition would ensure that the buying group is only open to smaller insurers, assisting those smaller players to improve their bargaining position whilst not distorting the competitive process in respect of larger insurers.

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<sup>1</sup> Applicants' submission dated 19 February 2021, para 2.3.

<sup>2</sup> Applicants' submission dated 19 February 2021, para 2.2.

To assist the ACCC, there could also be an associated notification condition whereby the ACCC is notified of any new members to the buying group. This would allow the ACCC to satisfy itself that new members are, in fact, below the specified threshold.

In light of the above and the matters discussed in Healthscope's 5 February 2021 submission, Healthscope submits that Honeysuckle and nib's application for authorisation continues to raise significant competition concerns, without compelling public benefits. Healthscope submits that authorisation of the proposed conduct is not appropriate in its current form.

Again, Healthscope would be pleased to meet with the ACCC to discuss these issues and provide further information.

Please do not hesitate to contact me if you would like to discuss this letter in any more detail.

Yours sincerely



Richard Holbeach  
General Counsel and Company Secretary  
Healthscope Operations Pty Ltd