

01 October 2021

Mr Daryl Channing
Director, Competition Exemptions
ACCC
23 Marcus Clarke Street
CANBERRA, ACT 2601

Objection to WA Primary Health Alliance (WAPHA) application AA1000577 – Interim authorisation

Dear Daryl,

MediSecure will respond more substantively to the substantive authorisation aspect of application AA1000577 according to the published timelines. This letter addresses MediSecure's objection to the interim authorisation request only. Therefore, it is less thorough than our anticipated response to the full application and deals only broadly with the issues of urgency, public interest, and harm to the market.

Urgency

The WAPHA argument for urgency is based on a requirement to complete the development phase under Contract A before the participating PHNs are required to renew their existing data extraction licenses.

This argument for urgency necessarily presupposes that substantive authorisation will be granted and that, therefore, Contract B transition can commence immediately following Contract A, eliminating the license renewal requirement. Were Contract B transition not to commence at the end of the interim authorisation period, all licenses would require renewal before the end of quarter two.

However, the WAPHA submission also states (2.4.1 (h)) that the Applicant does not intend to enter into the bilateral contracts referred to as Contract B until substantive authorisation is granted.

Therefore, unless substantive authorisation is granted before 30 April 2022, affected PHNs will necessarily have to renew their licenses, negating the argument for urgency.

Public Interest

The public interest is already competently served by the extraction services provided by the incumbent commercial vendors. This service competence is evidenced by the absence of arguments presented by WAPHA that suggest the status quo currently harms the public interest as a result of:

- Deficiencies in the data extracted by the incumbents; or
- Inappropriate inferences derived from the downstream analysis of those data

There is, therefore, no compelling public benefit argument in bringing Contract A forward before the decision on substantive authorisation. Conversely, a potential public detriment argument can be levelled if:

- Interim authorisation is granted;
- Contract B transition commences; but
- Substantive authorisation is subsequently denied.

WAPHA recognises in its submission that the primary benefit arising from GP system data extraction is using those data to improve the commissioning and coordination of care within each PHN's geography. One critical component to delivering that benefit is maintaining a longitudinally stable data set that ensures analyses compare consistently defined data objects over time.

The scenario described above will require the participating PHNs to return to the commercial market for data extraction services at the end of the 12-month license for Primary Sense anticipated in paragraph 2.1.10. This migration and return will create a break in the longitudinal data set used to inform the commissioning and coordination of care, introducing the risk of inappropriate inferences:

- Immediately upon migration; and
- Longitudinally as a disparate data structure sits in the continually populated data set.

MediSecure's view is, therefore, that the balance of public interest is best served by ensuring any data extraction tool migration occurs only once. Further, any tool migration should be supported by a robust data transformation schema from old to new data models, adequately referenced in any ACCC submission.

Market Harm

MediSecure's view is that the overall application and the assertion of urgency relate more to gaining market presence than to preventing license renewal. Further, any public interest argument is unrelated to a need for urgency.

This view is reinforced by:

- The assumption that the negotiation of an early exit clause in any renewed contract is well within the procurement competency of organisations whose primary purpose is to commission tens of millions of dollars of health delivery services each year.
- The leading public benefit argument being centred on cost reductions that can only be realised by delivering a new, free of charge entrant as a publicly funded disrupter to an established commercial market; and
- The contradiction inherent in the argument that participating PHNs can choose to use Primary Sense 2 and a commercially provided data extraction tool.

Once a market presence is established, locking out established providers based on a price differential funded by the public purse, the reestablishment of disrupted client relationships and business revenue is unlikely. On that basis, MediSecure believes that the interim authority should be rejected.

Yours Sincerely,



Paul Frosdick
Chief Executive Officer