

Joe Saunders
Director
Adjudication
Australian Competition & Consumer Commission
By email only: adjudication@accc.gov.au

Our ref H20/44197-1

Dear Mr Saunders

Medicines Australia – AA1000486

I refer to your letter to interested parties of 6 April 2020.

The impact of COVID-19 on the availability and supply of medicines and other products is of critical importance to the NSW Health. NSW Health considers that it is premature to make a detailed submission at this point in the process because the impacts of COVID-19 on availability of medicines is evolving and the effectiveness of the authorised conduct in mitigating the impacts of COVID-19 on supply chains is not yet clear.

NSW Health invites the ACCC to consider the below matters.

- The conduct to be authorised should be limited to conduct which is for a purpose requested by the Commonwealth or one or more State or Territory governments. That appears to be the intent of the descriptions of the conduct but it could be made clearer.
- There is a clear relationship between this application and the application by National Pharmaceutical Services Association. Each of the applications concerns conduct intended to mitigate disruptions from COVID-19 to the availability of medicines and other products: one is primarily concerned with the importer/manufacturer level in the supply chain and the other with the wholesaler/distributor level. The effectiveness of collaboration at one level of the supply chain may be affected by the nature and extent of collaboration at the other level. The authorised conduct should extend to exchange of information with the other level of the supply chain where that is directed or requested by the Commonwealth or one or more State or Territory governments.
- Working together to respond to tenders or requests for supply (including sharing information or joint tenders) of Critical Medicines and Critical Devices should only be authorised if and to the extent that it is at the request of the Commonwealth or one or more State or Territory governments.

NSW Health may wish to make a further submission following publication of the draft Determination and requests to be informed of the progress of the application. Please address future correspondence concerning this application to Andrew Mullen, Principal Legal Officer, at [REDACTED].

Yours sincerely

[REDACTED]
Leanne O'Shannessy,
Executive Director, Legal and Regulatory Services and General Counsel
NSW Ministry of Health

30/4/20