

4 November 2021

BY EMAIL ONLY

David Hatfield
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Australian Competition & Consumer Commission
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Dear Mr Hatfield

State of Victoria as represented by the Department of Health – response to submissions on draft determination AA100567

1. We act for the State of Victoria as represented by the Department of Health (the **Department**).
2. On 28 September 2021, the Australian Competition and Consumer Commission (**ACCC**) issued a draft determination and interim authorisation in relation to the Department's application for re-authorisation in respect of the co-ordination of healthcare services in response to the COVID-19 pandemic (**ACCC Draft Determination**).
3. On 21 October 2021, the Australian Medical Association (**AMA**) and the Australian Society of Orthopaedic Surgeons (**ASOS**) each made a submission raising concerns in relation to the private healthcare arrangements relating to COVID-19 in place across a number of States and Territories in Australia and the ACCC's draft determinations in relation to those arrangements (together the **Submissions**).
4. The purpose of this letter is to provide a response to the Submissions for and on behalf of the Department.
5. The Department notes that Victoria is currently in COVID-19 peak status, with the daily case numbers having been above 1,000 cases per day for some time until very recently. There are currently thousands of active cases state-wide and several hundred people hospitalised with COVID-19 and COVID-19 related admissions.
6. In this context, it is clear that the arrangements the Department has implemented are necessary and justified. The Department acts in accordance with health advice and bases its decisions on a range of factors which includes the health advice, evidence based best practice and associated data and modelling made available to the Department. These arrangements are necessary for the effective and continuous operation of Victoria's health system and to protect the Victorian health system from being overwhelmed as a result of surging COVID-19 cases.
7. The Submissions raise a number of allegations that the state health departments are using public-in-private arrangements beyond necessity. Whilst the Submissions are not necessarily directed towards one State or Territory, the Department wishes to note specifically that the current public-in-private patient treatment arrangements in Victoria are a necessary response to the current stage of the pandemic.
8. Given the ongoing presence of COVID-19 in Victoria, and the uncertainty around the potential for surging cases in the future, it is important that the Department has the continued ability to

coordinate the state-wide provision of healthcare services, in order to maximise healthcare capacity and ensure the ongoing operation of hospital facilities.

9. In the Department's view, the coordination measures put in place to date have operated as intended and have provided a clear public benefit to the people of Victoria. The Department also considers the ACCC has had adequate oversight of these activities through the Department's regular reporting obligations to the ACCC. Accordingly, the Department supports the ACCC's Draft Determination in its current form.

Yours faithfully

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