



Australian Government

Department of Health and Aged Care

Mr David Hatfield
Director, Competition Exemptions
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601
Online via [MEAD Submission Request for Application · ACCC](#)

Dear Mr Hatfield

RE: AA1000641 – Authorisation application by Fred IT Group Pty Ltd concerning transitional arrangements (electronic prescription services)

Thank you for the opportunity for the Commonwealth of Australia (the Commonwealth) to comment on the application by Fred IT Group Pty Ltd (Fred IT) seeking authorisation from the ACCC to make arrangements with MediSecure Ltd (MediSecure), to facilitate a transition from multiple parties providing services in respect of publicly funded electronic prescriptions to Fred IT being the sole provider.

In March 2022, the Commonwealth represented by the Department of Health and Aged Care released an open Request for Tender for the provision of electronic prescription services. In May 2023, the Commonwealth entered into a contract with Fred IT to be the sole supplier of electronic prescription services. The other incumbent provider of these services, MediSecure, was unsuccessful in the RFT process. As a result, there is a likely need for MediSecure's customers and any associated prescriptions to be transitioned to Fred IT.

The Commonwealth supports the application by Fred IT to discuss and conduct transition arrangements with MediSecure. The Commonwealth is of the view that these arrangements will enable the most seamless and efficient transition to the Government's selected solution which will provide greater value money to the Australian people, while ensuring the protection of all parties involved as they act in good faith to affect this transition.

The Commonwealth has reviewed all submissions in relation to this application and submits the following comments for the ACCC's consideration.

1. The completed procurement process and outcome

The vast majority of matters raised by submissions are related to procurement matters (i.e. the Commonwealth's decision to select a sole supplier and to select Fred IT as that supplier, as well as the Commonwealth's decision to move to a direct funding model). The Commonwealth notes that these decisions have already been made by the Commonwealth and are not the subject of Fred IT's application, which actually relates to the ability of Fred IT and MediSecure to meaningfully work on transition activities with each other.

The Commonwealth is, however, happy to reiterate here what has already been communicated to the industry on numerous occasions in respect of the request for tender process:

- the procurement process conducted by the Commonwealth was based on industry research and engagement, including an open Request for Information (RFI) process seeking input from industry on supplier numbers and costing models. The industry had the opportunity to contribute its views at that time to inform the RFT.
- the procurement process was conducted in accordance with the Commonwealth Procurement Rules and as per those rules, the decision to select Fred IT as the sole provider was made based on best value for money and the other matters required by the rules.

2. The timing of transition

The Commonwealth has concerns that some submissions may be seeking to use the ACCC process as means of delaying transition or to undermine the Commonwealth's decision to select a sole supplier of electronic prescribing services under the procurement process.

It should be noted that any delays in transition introduce significant risks for industry participants and the ability of the Australian people to access electronic prescribing services. Specifically, if an interim determination is not granted, Fred IT and MediSecure are unlikely to be able to engage in meaningful transition discussions and conduct transition activities, and in turn, customers of MediSecure may not receive payments for dispensed prescriptions for a longer period.

Further, the Commonwealth is concerned by MediSecure's submission that *'funding is required to ensure that MediSecure is able to continue to operate and employ the necessary staff and meet its debt obligations'*. Should MediSecure not continue its operations or meet its debt obligations, the Commonwealth can foresee a risk that members of the public may lose access to certain electronic prescriptions.

In light of the above, granting Fred IT's application has the advantage of permitting Fred IT and MediSecure to discuss transition arrangements, which could expedite the transition of prescriptions to Fred IT's system, providing greater certainty to prescription holders in light of those prescriptions being located in the Fred IT prescription delivery service.

3. The irreversible nature of actions undertaken on the basis of the interim authorisation being granted and then at a later date, a full authorisation not being granted

Following a procurement process, the Commonwealth has decided to fund a single provider of electronic prescription services, Fred IT.

Irrespective of the outcome of this application (both the interim and final determination), the Commonwealth's decision will not be reversed. If the interim and/or final determination is not granted, the Commonwealth will be required to seek out an alternative method to engage the parties to affect the transition in a way that does not risk them being in breach of competition laws and which ensures the ongoing continuity of the electronic prescribing ecosystem.

As the Commonwealth will proceed to implement its best value for money solution regardless of the outcome of this application, the actions taken by industry if an interim determination is granted will not require reversal.

If you have any queries in relation to this submission, please contact Martina Foot on [REDACTED] or via email to martina.foot@health.gov.au.

Yours sincerely



Daniel McCabe
First Assistant Secretary
Medicare Benefits and Digital Health Division

14 June 2023