

**From:** [Steven Faux](#)  
**To:** [Associate Middleton](#); [REDACTED]  
**Cc:** [FA - Middleton J](#)  
**Subject:** RE: ACT 4 and 5 of 2021 - Re Authorisation AA1000542 Determination (4046201)[NRF-APAC.FID3014396] [ME-ME.FID6493469] [SEC=OFFICIAL] - RESPONSE TO ACCC FURTHER INTERESTED PARTIES  
**Date:** Tuesday, 1 March 2022 6:03:04 AM

---

Caution: This is an external email. DO NOT click links or open attachments unless you recognise the sender and know the content is safe.

Dear Mr Lloyd,

In response to the ACCC supplementary paragraph 33(b) to the ACCC note to his honour entitled **(Further Interested Parties)**, the RMSANZ would like to make the following points.

1. The RMSANZ note that the ACCC were not expecting such a large number of submissions and that their infrastructure particularly Microsoft Teams may have been technically inadequate to host a conference with larger numbers that expected.
2. Further the RMSANZ note that the ACCC states that "It was still possible for any person, including each of the Further Interested Parties, to request to attend the conference in response to the notice of the conference". We ask, respectfully, if these further interested parties could request to attend, how might the technical difficulties with Microsoft teams be overcome to actually allow them to attend?
3. The RMSANZ seeks clarification on this question: Was the Microsoft teams platform able to accommodate any further interested parties who wished to attend the predetermination conference?

Thank you for taking the time to consider this response.

**Prof Steven Faux** — MBBS BA FRACGP FAFRM (RACP) FFPMANZCA GAICD

Rehabilitation and Pain Physician

Conjoint Professor, St Vincent's Clinical School, University of New South Wales

Adjunct Professor, School of Medicine

University of Notre Dame University, Darlinghurst, Sydney

Director – St Vincent's Hospitals Departments of Rehabilitation Medicine and Pain Medicine

St Vincent's Hospital, Darlinghurst

For all appointments/meetings and general enquiries please contact my P.A. [REDACTED]

Ph: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

---

**From:** Steven Faux

**Sent:** Wednesday, 23 February 2022 11:51 AM

To: Associate Middleton] [REDACTED]

**Subject:** RE: ACT 4 and 5 of 2021 - Re Authorisation AA1000542 Determination (4046201)[NRF-APAC.FID3014396] [ME-ME.FID6493469] [SEC=OFFICIAL]

Dear Mr Lloyd

Thank you for the opportunity to respond to his honour.

We have not had an opportunity to read the 51 submissions, but have read the ACCC spread sheet related to the 51 submissions.

In response to the ACCC submission to the Competition Tribunal we make the following points.

1. The RMSANZ is not opposed to the Australian Competition Tribunal's continued review of the ACCC determination in Honeysuckle Health/nib.
2. Notwithstanding point 1 above, we note that the Arguments referred to in paragraphs 16 (a) and 16 (b) appear to be novel arguments and the content of those submissions can be viewed as relevant to the determination. Honeysuckle Health has acknowledged that it may seek out workers compensation funders to join its buying group and has already commenced discussions with i-care ( a third party and workers compensation funder). Further, the issue regarding medico-legal risk for clients and access to a complaints mechanism for clients represents an issue (not previously mentioned in submissions) that could contribute to a public detriment. As such the RMSANZ would ask that the authors of those submissions be given the option to intervene in these proceedings. We suggest this, in the spirit of identifying an acceptable solution as expressed by the ACCC at paragraph 20.
3. The RMSANZ disagrees with the ACCC's submission at paragraph 30 that the ACCC is not bound to consider submissions received from people other than those identified by the ACCC as being "interested" parties. RMSANZ understands that the ACCC's common practice is to publish details of any application for authorisation on its web site, together with the form of letter addressed to interested parties. To the extent that might not be captured by s90(6)(a), RMSANZ considers that the publication of this letter on its website satisfies s90(6)(c). In the present proceedings, the RMSANZ was not directly invited to participate in the authorisation process, yet has significant interest and has commenced an application for review. To suggest that the ACCC should not have been bound to consider the RMSANZ's submission risks undermining public confidence in the integrity of the ACCC's process. To the extent that the Tribunal proposes to express a view on this issue, the RMSANZ may wish to be heard further.

4. Finally with respect to the email of Ms Alix Friedman (Minter Ellison for HH/nib), RMSANZ opposes the request to block “such significant extensions to the timeframes for filing of statements of facts and evidence” and is agreeable to the 3 week extension suggested by the ACCC to the Tribunal.

The RMSANZ reserves the right to make further submissions on this matter.

Thank you for considering our response.

**Prof Steven Faux** — MBBS BA FRACGP FAFRM (RACP) FFPMANZCA GAICD  
Rehabilitation and Pain Physician  
Conjoint Professor, St Vincent’s Clinical School, University of New South Wales  
Adjunct Professor, School of Medicine  
University of Notre Dame University, Darlinghurst, Sydney  
Director – St Vincent’s Hospitals Departments of Rehabilitation Medicine and Pain Medicine  
St Vincent’s Hospital, Darlinghurst

For all appointments/meetings and general enquiries please contact my P.A. [REDACTED]

[REDACTED]

Ph: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

---

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]