



# Rural Doctors Association of Australia Ltd

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*Caring for the Country*

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RDAA/021131

Mr Warwick Wilkinson  
Chair  
Panel to Review the Impact of the  
Practices Act on Rural Medical Practice  
Dept of Health & Ageing

Dear Mr Wilkinson

**Re: Responsibility for interpreting public benefit**

Thank you for the opportunity to meet with the Panel again as it moves into the final stage of the Review. Like the members of the Rural Doctors Associations (RDAs) in the States and the Northern Territory, the Rural Doctors Association of Australia (RDAA) appreciated the opportunity to discuss our issues with the Panel and to suggest strategies to alleviate an unintended negative impact of the Trade Practices Act (TPA) on rural communities.

In this context, we have considered the question put to us in our second meeting with the Panel: is the current process for assessing public benefit in applications for authorization for actions which contravene Part W of the Act adequate? Is there a better way of doing this?

Our submission, like a number of others presented to the Review, indicated that while we supported the purpose of the TPA, the way in which it is currently implemented can distort progress towards its objective: *the welfare of all Australians*.

Authorisations are granted on the grounds of public benefit. However, as this concept is not defined in the Act, its interpretation can be framed in terms or paradigms which may not be the most appropriate in particular situations. Although the Australian Competition and Consumer Commission (ACCC) has concluded that *public benefit should be considered in very broad terms as anything of value to society*, its explicit *primary emphasis on encouraging competition and improving efficiency* naturally leads to a strong, and sometimes apparently exclusive, focus on quantifiable economic factors.

Therefore responsibility for interpreting public interest might properly be ascribed elsewhere. However, the establishment of another entity charged to do this would be unacceptable on many grounds.

We suggest that the authorisation process should include the formation of an ad hoc committee to assess the specific public benefit aspects of each application for authorisation and advise the ACCC on its implications.

The proposed committee should be small, consisting of no more than five members with expertise and experience relevant to the particular application and the jurisdiction it covers. The ACCC and the Trade Practices Tribunal have set out indicative areas of public benefit which would suggest the inclusion of representatives of local business interests and consumer perspectives. The other three would logically be drawn from the sector involved in the particular application (eg in the case of rural doctors, a representative of medical interests), the level of government appropriate to the proposed extent of the authorisation (shire council, State government etc) and one member with relevant overall expertise or experience (for example in social planning or population health).

The committee members should be acceptable to both the applicant and the ACCC and all should be paid a standard sitting fee and have their expenses -travel, accommodation, child care, etc -covered. The make-up of the committee should reflect the demographic profile of the population concerned.

The committee's assessment of the public benefit implications of both the application and the final decision should be reported in the final determination.

Though such committees would increase the costs (though they should not increase the charges) of the authorisation process, they would be outweighed by the benefits of decisions based on a better understanding of what public benefit means in a specific context and more confidence and trust in the ACCC in the community.

Please contact our policy advisor Susan Stratigos on 02 6273 9303 should you have any comments or queries about this suggestion. We would be happy to discuss it, or other ways of addressing this question, with the Panel or the ACCC.

Again, with many thanks for the time and interest you have given us and rural doctors across the country.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Ken Mackey'.

Ken Mackey  
President

Cc Brian Curren; Susan Stratigos