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Your ref: COR 2019 2336

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5 July 2022

Mr Simon McGregor
Coroner
Coroner's Court of Victoria

By email: cpuresponses@coronerscourt.vic.gov.au

Re: Inquest into the death of Peta Hickey

Dear Coroner McGregor,

This letter responds to the recommendation addressed to the Australian Competition and Consumer Commission (**ACCC**) in your Findings in the inquest into the death of Ms Peta Hickey (**Findings**) dated 22 November 2021.

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The primary responsibilities of the ACCC are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010 (CCA)*, regulate national infrastructure and undertake market studies.

The ACCC's [Compliance & Enforcement Policy and Priorities](#) (the **Compliance and Enforcement Policy**) sets out the principles the ACCC adopts to achieve compliance with the law, and outlines the ACCC's enforcement powers, functions, priorities and strategies. The Policy notes that the ACCC cannot pursue all matters that come to our attention and its role is to focus on those circumstances that will, or have the potential to, impact consumers experiencing vulnerability, harm the competitive process or result in widespread consumer or small business detriment. The ACCC exercises discretion to direct resources to matters that provide the greatest overall benefit.

In the context of a number of recommendations relating to the workplace health industry you recommend:

That the Australian Competition and Consumer Commission consider whether enforcement action is appropriate against Priority Care Health Solutions, MRI Now or related corporate entities for unconscionable, misleading and/or deceptive conduct in their businesses which:

- a) gave clients the impression that the business directly employs medical practitioners, when it does not; and
- b) gave the impression to diagnostic imaging practices that a medical practitioner has reviewed a patient before requesting a scan, when they have not.

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The ACCC has carefully considered your Findings, particularly the description of the conduct involved by the businesses providing workplace health services. We have also reviewed the complaints we have received about business conduct in that industry which have not identified any broader concerns.

I note that the majority of your recommendations were directed at the medical profession and associated regulatory, professional and supervisory bodies. This is relevant to the ACCC's consideration as we generally do not become involved in industry or sector specific issues where those industries or sectors are supervised by specialist regulators. We consider that their specialist remit combined with professional expertise means they are best placed to assess and address concerns about that industry or sector.

To improve Australian Consumer Law (**ACL**) compliance we have written to the Australian Institute of Health & Safety noting the application of ACL to health-related businesses. We have asked that they share this information with their members. We have also written to the Royal Australian and New Zealand College of Radiologists noting your findings, radiologists' obligations under the ACL and requesting that they distribute our letter to their members.

Having regard to our assessment outlined above, we are not proposing to undertake any enforcement activity at this time.

Please contact Richard Fleming, General Manager, Consumer and Compliance Strategies on 02 6243 1278 if anyone from your office would like to discuss this letter further.

Yours sincerely



Rami Greiss
Executive General Manager
Consumer and Fair Trading