

Submission to the Commerce Commission – correction and clarification of evidence provided during the NZGA authorisation process

Submitted by: []

Date: 6 October 2026

Re: New Zealand Gynaecology Association – Application for authorisation to collectively negotiate with Southern Cross Health Insurance and/or hospitals

Purpose of this submission

I make this submission in my capacity as a gynaecologist who was interviewed by the Commerce Commission as part of its investigation of the NZGA authorisation application. I am making this submission because I remain concerned that a statement attributed to me in the draft determination does not accurately represent my evidence or my view, despite my having raised this issue with the Commission during the information-disclosure consultation process and subsequently reviewing the relevant transcript. I also wish to clarify several other matters that I raised during my interview which, to my reading of the draft determination, have either not been reflected or have not been given the significance I intended. I believe that these issues potentially impact public benefit, as the misrepresentation and omission could contribute to a decision that negatively impacts patients and the care that they receive.

I appreciate that the Commission must assess evidence from a range of parties and is not required to accept the opinions of individual interviewees. My concern is narrower: where evidence is attributed to an individual, it should accurately represent what that individual said and believed.

My concerns are summarised in the six points below.

- 1) A statement attributed to me is not an accurate representation of my evidence

The draft determination states: "Another gynaecologist considered that gynaecologists' fees had increased to unacceptably high levels and that some reduction was warranted." I was advised that this comment was attributed to me.

I do not hold this view and did not intend to express it as my own opinion.

As I explained to the Commission when I reviewed the information disclosed to me, I have no knowledge of gynaecologists' fees other than my own. I am therefore not in a position to conclude that gynaecologists' fees generally have increased to "unacceptably high levels". What I recalled, and what the subsequently supplied transcript appears to confirm, is that this proposition arose from information or assertions provided by Southern Cross Health Insurance (SCHI). My comments were therefore directed to the proposition being put to me by SCHI, rather than an independent conclusion that I had reached myself.

I subsequently proposed the following wording to the Commission as a fair reflection of my position: "Another gynaecologist expressed awareness from information provided from SCHI sources that SCHI considered that gynaecologists' fees had increased to unacceptably high levels and, if that is truly the case, some reduction would be warranted." I consider this distinction important.

The statement in the draft determination transforms an assertion attributed to SCHI, which I was discussing during my interview, into an independent opinion of mine. That is materially different evidence.

I therefore respectfully request that the final determination does not rely on the statement presently attributed to me, and that the statement is either removed or amended so that it accurately reflects the source and conditional nature of the proposition.

This is particularly important because the proposition that current gynaecological fees are excessively high appears to be relevant to the Commission's consideration of allocative efficiency and whether the proposed reductions in fees represent an efficiency gain. It would be inappropriate for that analysis to receive apparent independent support from my evidence when I did not provide such support.

Reference of relevance to the above point:

My original email dated 16/9/2026 to [] objecting to the attribution: "Thank you for your clarifications and for sharing this part of the transcript with me. I think it does demonstrate (which was my recollection) that I was basing my comments regarding gynaecological fees creeping up to an unacceptably high level on what we were advised by Southern Cross - indeed it is the opinion of SCHI shared with some gynaecologists, not mine, as I'm not in a position to hold this opinion, nor do I hold it. So it would not be a fair reflection to state "Another gynaecologist considered that gynaecologists' fees had increased to unacceptably high levels and that some reduction was warranted" - rather, if this point is needed, the following would fairly reflect my opinion and the point I was trying to make: Another gynaecologist expressed awareness from information provided from SCHI sources that SCHI considered that gynaecologists' fees had increased to unacceptably high levels and, if that is truly the case, some reduction would be warranted. I will leave to your judgement the matter of whether inclusion of my secondary point of a 10% fee reduction or fee freeze for a couple of years might encourage SCHI to bargain more reasonably, and thereby hopefully encourage a few more gynaecologists 'onside'. Once again, thank you for taking the time to meticulously consider this matter from all angles - I really appreciate it."

2) My position concerning a possible modest fee reduction or temporary fee freeze

As part of my evidence, I also discussed a possible alternative approach involving approximately a 10% fee reduction or a temporary fee freeze for a couple of years.

My point was not that gynaecologists' existing fees were excessive. Rather, I was considering whether a modest and temporary adjustment might assist in moving SCHI towards a more reasonable bargaining position and encourage more gynaecologists to

participate in the proposed arrangements, thereby avoiding a situation in which a substantial proportion of gynaecologists became unwilling to contract under the proposed terms.

That was a pragmatic observation about how negotiations might be advanced, which might encourage greater participation from gynaecologists and enable more constructive bargaining. It should not be interpreted as evidence that I considered the proposed reductions in gynaecological surgical fees to be economically justified.

Indeed, there is a very substantial distinction between saying that a temporary, modest adjustment might facilitate agreement and saying that the much larger reductions proposed by SCHI are justified by existing fees being unacceptably high.

3) Other matters raised during my interview

I also recall spending considerable time with the Commission discussing matters that I consider important to understanding the likely effects of the proposed SCHI arrangements.

In particular, I discussed:

- (a) The difficult position in which gynaecologists had been placed by SCHI's negotiating stance and its efforts to fast-track gynaecological surgical contracts

Notably, SCHI's negotiating approach placed individual gynaecologists in a difficult position, with pressure to accept a major change in their contractual arrangements before there had been adequate collective clinical and commercial discussion. This is important because it bears directly on the Commission's assumption that the counterfactual would be relatively smooth. Indeed, the Commission ultimately assumes in the draft determination that individual gynaecologists would incur only minimal transaction costs in the counterfactual, while collective bargaining would create significant transaction costs – which makes my evidence about why gynaecologists were seeking collective engagement in the first place particularly relevant.

- (b) The consequent loss of trust that I experienced as a gynaecological surgeon in SCHI

The Commission's draft determination contains no substantive discussion of my individual loss of confidence/trust in SCHI, how SCHI's negotiating behaviour produced that reaction, whether that experience was indicative of the broader reaction among gynaecologists, or whether the resulting relationship between SCHI and the specialist workforce might affect participation in affiliated provider contracts. While loss of trust is itself not of economic benefit or detriment, its significance is evidential, helping to explain how SCHI's negotiating behaviour impacted gynaecologists' confidence in the process and thus their willingness to engage and/or accept affiliated provider contracts, and hence the likelihood of their participation in the counterfactual. Again, my evidence provides a reason why the Commission's conclusion assuming relatively limited resistance and relatively straightforward individual contracting may not be realistic.

- (c) My concern about the effect of the proposed substantial reduction in gynaecological surgical fees on my livelihood and on my family

I appreciate that the Commission discusses and acknowledges the financial viability issue, but my evidence is different. Rather than simply reflecting that some gynaecologists might find the fees financially unattractive, this is a personal account of my concern about my livelihood as a practising gynaecologist and the consequences for my family (a first-hand observation about the magnitude of the proposed change and how a practising specialist perceives its consequences) which does not appear to be reflected in the Commission's draft determination. There are indeed aggregated propositions about migration, financial viability, private practice income, and workforce supply – these are all correct in my opinion, but the evidential force of my direct testimony is absent. The Commission's draft determination recognises that individual gynaecologists have personal and financial factors affecting migration and practice decisions and even expressly recognises family considerations as a reason why a gynaecologist might remain in New Zealand (owing to financial consequences from dismantling NZ private practices), hence accepting that personal/family circumstances matter, but my own direct and personal evidence about the financial impact of the proposed fee reduction on my livelihood and family does not appear to have been brought into that analysis.

- (d) My assessment that other gynaecologists were likely to have similar concerns

The general proposition that other gynaecologists does appear in the draft determination. However, my evidence was more specific and a reflection of my professional judgement (as a practising gynaecologist speaking from my experience of the profession) – that I am concerned not only about my own livelihood, but my gauge is that other gynaecologists are likely to have a similar viewpoint. This is again important because the Commission's draft determination describes the evidence supporting the supply benefit is weak and ultimately describes it as "small and theoretical" and my evidence is relevant to whether that conclusion was justified.

- 4) The importance of these matters to the Commission's counterfactual

I believe my evidence is particularly relevant to the Commission's assessment of the counterfactual.

The draft determination appears to place considerable weight on the proposition that SCHI can implement its affiliated provider model and that sufficient gynaecologists will ultimately participate.

My evidence was relevant to a different question: whether SCHI can realistically obtain widespread and sustainable participation on the proposed terms without material resistance, changes in practice, reduced willingness to undertake complex work, or other consequences for private gynaecological capacity.

In my view, these are not merely questions of whether individual gynaecologists will ultimately sign contracts. They concern the sustainability and composition of the private gynaecological workforce – and the impact this will have on patients.

A gynaecologist may remain in private practice while nevertheless reducing the proportion of their practice devoted to complex surgery, declining particular procedures, reducing their private workload, or reconsidering whether private practice remains worthwhile. Consequently, a counterfactual based simply on the assumption that SCHI will obtain "sufficient coverage" may not adequately capture the effects on the type and capacity of services available, particularly for more complex surgery.

5) Evidential significance and fair treatment of interview evidence

I am not suggesting that my individual evidence should determine the Commission's conclusion.

My concern is that the evidence should be accurately represented and that, where I subsequently identified an apparent mischaracterisation and provided the Commission with the relevant transcript and proposed corrected wording, that correction should be taken into account in the final determination.

6) Broader relevance to the draft determination

Finally, I respectfully suggest that this issue illustrates a broader evidential difficulty in the draft determination.

The Commission is necessarily required to make judgements from evidence that is sometimes incomplete, contested or qualitative. In such circumstances, the distinction between what a witness independently believes, what a witness has been told by another party, and what a witness is describing as a possibility is important.

That distinction is particularly important in this case because the draft determination places weight on assumptions concerning current fee levels, the likely response of gynaecologists to the SCHI proposal, the sustainability of private practice and the likely effects of the proposed Affiliated Provider model.

I therefore ask that my evidence be corrected and reconsidered in its proper context before the Commission reaches its final determination.

I make this submission respectfully and with appreciation for the opportunity to clarify the evidence I provided.

Conclusion

In these circumstances, I respectfully ask the Commission to:

- (a) Remove or correct the statement that I considered gynaecologists' fees to have increased to unacceptably high levels and that some reduction was warranted;
- (b) Ensure that any reference to this issue makes clear that the proposition originated from information provided by SCHI and was not my independent opinion;
- (c) Consider my comments concerning the potential effect of SCHI's negotiating approach on gynaecologists' willingness to participate and on their practice decisions;
- (d) Consider my evidence concerning the effect of the proposed fee reductions on the sustainability of my own practice and the likely concerns of other gynaecologists;
- (e) Ensure that my evidence is not relied upon as independent support for the proposition that existing gynaecological fees are excessive or that substantial fee reductions are therefore economically justified.

Reflecting on the way that my evidence has been managed by the Commission to date – I am keen to see improved evidential symmetry in the final determination. I am strongly of the view that my interview evidence has been selectively represented. I respectfully request that the Commission ensures the final determination does not rely on evidence that I have specifically identified as inaccurately attributed. I wish to raise the question whether the Commission's statement at the beginning of the determination that the evidence supporting the detriments is "stronger and more comprehensive" and therefore receives greater weight could be reflecting which parts of interview evidence were extracted and relied upon, and which parts were not reflected?

My deepest concern is that the deterrent to gynaecologists signing up to affiliated provider contracts will be most marked for those with the most highly specialised expertise and the most experience – if so, the impact will be detrimental for patient care, an important public detriment.