

Submission to the Commerce Commission

Submitted by: Endo Warriors Aotearoa (CC60609)

About Endo Warriors Aotearoa

Endo Warriors Aotearoa is a lived-experience-led registered charity established in 2020. We provide endometriosis education, community support, advocacy, and practical assistance, with a focus on improving equitable access to information and healthcare. Through our work, we regularly hear from people experiencing prolonged diagnostic delays, barriers to specialist referrals, difficulties accessing surgery, and significant financial hardship associated with managing endometriosis.

Our position

Endo Warriors Aotearoa recognises the importance of ensuring healthcare remains financially sustainable. We also recognise that changes to healthcare funding arrangements can have significant consequences for patients, particularly those requiring complex or multidisciplinary treatment.

Our primary interest in the NZGA authorisation application is whether the proposed arrangements, and the processes through which they are negotiated, will protect access to safe, timely, and clinically appropriate gynaecological care.

We support meaningful clinical engagement in the development of funding arrangements, particularly where those arrangements may affect treatment decisions.

We ask the Commission to carefully consider whether the proposed collective negotiation arrangements could produce demonstrable public benefits through improved clinical input, patient access, and continuity of care, and how these benefits compare with any competition-related detriments.

We understand that the Commission's Draft Determination proposes declining NZGA's application for collective bargaining authorisation. We recognise that collective negotiation may create competition-related risks. However, we ask the Commission to examine whether its assessment sufficiently accounts for the potential patient benefits of meaningful clinical involvement in developing funding arrangements, particularly for complex and multidisciplinary gynaecological care.

We also ask the Commission to consider whether appropriate conditions or limitations on any authorisation could address competition concerns while enabling clinical engagement that may benefit patients.

Complex endometriosis requires individualised care

Endometriosis is a complex, whole-body-impacting condition that can involve the bowel, bladder, ureters, and other structures. Some patients require extensive surgery, treatment of multiple areas of disease, or input from more than one surgical specialty. We are concerned that funding arrangements which do not adequately recognise this complexity could create additional barriers to clinically appropriate treatment.

In particular, it is important that funding and procedure coding systems do not unintentionally discourage surgeons from undertaking clinically appropriate combinations of procedures during a single operation. Where multiple operations are clinically avoidable, unnecessary additional procedures may expose patients to further anaesthesia, recovery periods, disruption to employment and whānau responsibilities, and additional physical and financial burdens.

Access to experienced specialists

We are also concerned about the possibility of reduced access to experienced surgeons undertaking complex endometriosis procedures. NZGA representatives have advised us that some members are considering reducing their work or withdrawing from complex private surgery if the proposed arrangements proceed.

We recognise that these are concerns reported by NZGA and that the extent of any future workforce impact requires independent assessment.

Nevertheless, any material reduction in specialist capacity could have consequences for patients and may increase demand on public services already experiencing substantial pressure.

Equity and existing barriers to care

Many people with endometriosis already face significant barriers to timely diagnosis and treatment. These barriers can be particularly challenging for Māori, Pacific peoples, rainbow communities, disabled people, and those experiencing financial hardship.

Although the proposed funding arrangements relate primarily to private healthcare, their effects may extend beyond insured patients if specialist capacity or access to private treatment changes. It is therefore important that any assessment of public benefits and detriments considers patients who are not directly insured by Southern Cross.

Patient outcomes and accountability

We encourage consideration of safeguards and ongoing evaluation of any substantial changes to gynaecological funding arrangements.

Relevant measures could include:

- Access to complex endometriosis surgery.
- Availability of appropriately experienced specialists.
- Waiting times and cancelled or deferred procedures.

- The ability to fund clinically appropriate combinations of procedures.
- Changes in patient out-of-pocket costs.
- Rates of potentially avoidable repeat surgeries.
- Impacts on public-sector demand.
- Equity of access and patient-reported outcomes.

We also encourage meaningful engagement with patient advocacy organisations when changes could affect access to treatment.

Matters we ask the Commission to consider in its Final Determination

Endo Warriors Aotearoa (EWA) acknowledges the Commerce Commission's preliminary conclusion that the likely detriments of NZGA's proposed collective bargaining arrangements outweigh the public benefits established by the evidence currently available.

We recognise that the Commission must assess the likely effects of granting authorisation compared with what would occur without authorisation. Our submission is intended to highlight patient-centred considerations that we believe warrant careful examination before the Final Determination is issued.

1. Clinical input, surgical complexity and patient outcomes

Draft Determination: paragraphs 228–236

The Commission has considered whether the proposed arrangements would produce improved health outcomes and has provisionally concluded that the evidence does not establish that such improvements are likely.

EWA asks the Commission to give particular attention to the implications for people requiring complex endometriosis surgery. Endometriosis can involve multiple organs and areas of the body. Surgical treatment may require extensive excision, management of unexpected findings, or the involvement of several surgical specialties during a single operation.

We are concerned about whether funding and procedure coding arrangements adequately recognise this complexity and allow clinically appropriate combinations of procedures. We acknowledge that Southern Cross has advised the Commission that its coding arrangements provide flexibility for complex procedures and unexpected surgical findings. We also acknowledge that NZGA has raised concerns about whether these mechanisms are sufficient.

We ask the Commission to consider whether further independent clinical evidence could help establish how these arrangements would operate in practice, particularly for complex endometriosis surgery.

Importantly, we recognise that improvements to procedure coding may be achievable through clinical consultation without collective bargaining authorisation. The relevant question is whether authorisation would produce additional, demonstrable benefits for patients beyond those achievable through existing consultation processes.

2. Availability of experienced specialists and access to complex surgery

Draft Determination: paragraphs 142–148 and 423–426

The Commission's assessment anticipates that Southern Cross will be able to secure sufficient provider participation and geographic coverage under its Affiliated Provider Scheme without collective bargaining authorisation. EWA asks that this assessment distinguish between general access to gynaecological surgery and access to surgeons with the specific experience required to manage complex endometriosis. The availability of a gynaecologist in a particular region does not necessarily establish that patients can access the specialist expertise required for extensive or multidisciplinary procedures.

NZGA representatives have advised EWA that some clinicians are considering reducing their involvement in complex private surgery. We recognise that these statements have not been independently verified and do not establish that any workforce changes will occur. Nevertheless, we ask whether the available evidence adequately distinguishes between overall surgical capacity and the availability of complex surgical services.

We also ask that any further assessment consider whether collective bargaining authorisation itself would be likely to preserve access to these services, rather than assuming that such an outcome would follow from authorisation.

3. Potential consequences for the public healthcare system

Draft Determination: paragraphs 423–426

EWA recognises that the Commission has considered possible consequences for public healthcare and has not been persuaded that the proposed collective bargaining arrangements would reduce pressure on public services.

We ask that the Final Determination continue to consider potential effects in both directions. Reduced access to complex private surgery could result in some patients seeking treatment through the public system. Conversely, increased insurance premiums, reduced coverage or higher patient costs arising from collective bargaining could also increase reliance on public healthcare.

For patients with endometriosis, delays in accessing appropriate specialist treatment can have significant consequences for pain, daily functioning, employment, education and whānau responsibilities.

We do not suggest that either outcome has been established. Rather, we encourage the Commission to consider whether further evidence could clarify the likely scale and direction of any effects on public healthcare arising specifically from the proposed arrangements.

4. Competition risks, affordability and possible safeguards

Draft Determination: paragraphs 336–339 and 430–435

EWA acknowledges the Commission's concerns that collective bargaining could result in higher surgical fees, increased health insurance premiums or reduced insurance coverage.

These are important patient considerations. Greater costs or reduced coverage could create additional barriers to accessing treatment, particularly for people already experiencing financial hardship.

We also acknowledge that the Commission has considered possible conditions on authorisation, including restricting negotiations to non-price matters, and has provisionally concluded that the conditions examined would not sufficiently address its concerns.

EWA does not seek to dispute those findings without supporting evidence. However, we ask the Commission to consider whether any further evidence or more narrowly defined arrangements could demonstrate additional patient benefits while adequately addressing the identified competition risks.

In particular, we encourage consideration of whether meaningful clinical engagement on procedure coding, surgical complexity and patient safety can be achieved without requiring collective negotiation over clinician fees.

5. Patient experience, equity and evidence of public benefit

Draft Determination: paragraphs 228–229 and 423–426

EWA welcomes the Commission's recognition that public benefits can include health outcomes and are not limited to economic efficiencies. As a lived-experience-led charity, we believe patient experiences provide important context when considering the potential consequences of changes to healthcare funding arrangements.

People living with endometriosis already encounter substantial barriers to diagnosis, specialist assessment and appropriate treatment. These barriers can be particularly significant for Māori, Pacific peoples, disabled people, rainbow communities and those experiencing financial hardship.

We encourage the Commission to consider patient-centred evidence when assessing the likelihood and significance of any claimed health benefits, including evidence relating to:

- Access to experienced surgeons for complex endometriosis.
- Delays, cancellations or deferrals of clinically appropriate surgery.
- The ability to undertake necessary combined procedures.
- Rates of potentially avoidable repeat surgeries.
- Patient out-of-pocket costs and insurance affordability.
- Impacts on public healthcare demand.
- Equity of access and patient-reported outcomes.

We recognise that patient experiences alone cannot establish that collective bargaining authorisation would deliver better outcomes. However, they can help identify which outcomes matter to patients and where further evidence may be needed.

Our request

EWA does not suggest that the potential benefits of NZGA's proposed arrangements have been established or that authorisation should be granted regardless of competition-related detriments.

We ask the Commission to ensure that its Final Determination gives appropriate consideration to the specific needs of patients requiring complex and multidisciplinary gynaecological care, the evidence supporting or challenging claimed health benefits, and the potential consequences of both granting and declining authorisation.

Our priority is that patients are not disadvantaged by funding arrangements that fail to adequately recognise the complexity of their condition and the care they require.

Conclusion

Endo Warriors Aotearoa supports the principle that clinical expertise and patient needs must be central to decisions about funding gynaecological care.

We ask the Commerce Commission to give careful consideration to the potential public benefits of meaningful clinical engagement, including whether the proposed collective bargaining arrangements could deliver demonstrable improvements in patient outcomes and access to complex care that would not otherwise be achieved.

At the same time, we recognise that the Commission must assess those benefits alongside competition-related risks and potential costs to patients.

EWA does not seek to determine individual clinician remuneration or endorse particular commercial fee arrangements. Our role is to advocate for people living with endometriosis and ensure their needs are considered when decisions are made that could affect access to safe, timely and clinically appropriate care.

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