

**New Zealand Gynaecology Association Inc application for authorisation and interim authorisation: Response to the Commerce Commission's statement of preliminary issues**

19 June 2026

**To:** The Registrar, New Zealand Commerce Commission

1. nib nz limited is New Zealand's second largest private health insurer. We are part of the nib Group, a trusted international health partner that provides health insurance to over 1.9 million Australian and New Zealand residents.
2. Our purpose is to help New Zealanders and their families live healthier, happier lives, and to help local businesses who want to protect their employees. We do this by aiming to offer insurance that's easy to use and affordable while also helping connect our members to the right tools and services to improve their health and wellbeing.
3. As New Zealand's second largest health insurer, we are motivated to ensure that healthcare and private health insurance remain accessible and affordable for New Zealanders.
4. Based on the information available to us, we are concerned that, if granted, the New Zealand Gynaecology Association's (**NZGA's**) applications for authorisation and interim authorisation to collectively bargain with Southern Cross would result in New Zealanders paying more for healthcare. We do not believe that outcome would benefit New Zealand.
5. The application raises complex issues and has a potentially wide-ranging impact. For example, appropriate fee levels for a specialist's services, appropriate clinical outcomes for patients, and access to healthcare are all difficult questions and often involve competing considerations.
6. Therefore, we do not believe that granting interim authorisation would be appropriate. An interim authorisation could give rise to effects that may be difficult to reverse if the Commission were later to conclude that the NZGA's proposed collective action is not in the public interest.
7. In the balance of this letter, we provide context for our concerns. Specifically:
  - 7.1 information on the increasing healthcare costs and the even more rapid rise in gynaecology costs;
  - 7.2 the potential for NZGA's collective action against Southern Cross to have wider impacts beyond the NZGA and Southern Cross and, which, if approved is likely to become the method for purchasing specialist healthcare services generally;
  - 7.3 our concern that it is not clear how the authorisation would lead to the public benefits claimed and would, in fact, negatively impact the cost of specialist services to the detriment of the public; and
  - 7.4 why interim authorisation is not appropriate in this case.
8. Information that is confidential to nib is highlighted in yellow and enclosed in square brackets. We have also provided a redacted public version. The redacted information is confidential and commercially sensitive to nib, and disclosure of that information would unreasonably prejudice nib's commercial position.

## Healthcare costs are increasing; gynaecology costs are increasing at a faster rate

9.

[REDACTED]

## NZGA's proposed collective action would have impacts beyond the NZGA and Southern Cross and if approved is likely to become the method for purchasing specialist healthcare services generally

10. This authorisation relates to the relationship between gynaecologists and Southern Cross. However, it potentially has much wider impacts in two ways.
11. First, as the application notes, Southern Cross is over 60% of the private health insurance market. For its part, NZGA represents over 90% of all gynaecologists working in the private sector in New Zealand.
12. From nib's perspective, whatever might be agreed as the result of the NZGA's collective action is likely to become a floor for the remainder of the private health care market, whether funded by other health insurance companies or self-funded by patients.
13. While we acknowledge that the NZGA has indicated that it is seeking to put competition protocols in place, those protections are unlikely to protect other health insurers or self-funded patients from the spillover impact of NZGA members having agreed an appropriate collective price and terms.
14. We accept that if Southern Cross' proposal is as the NZGA describes it, a common rate and common terms may emerge regardless of the NZGA's collective action. However, even in that scenario, our concern is that the rate that would emerge from collective action is likely to result in higher healthcare costs than in the absence of NZGA's collective action. To the extent collective bargaining results in higher healthcare costs, that would appear to involve a transfer of value from patients to gynaecologists.
15. Secondly, in 2025 gynaecology accounts for [REDACTED] of nib's claims costs. And not only will the Commission's decision influence gynaecology costs, but it will also set a precedent for other specialties. If the Commission were to authorise gynaecologists to engage in collective action against Southern Cross on the basis suggested, that may make it more difficult in practice for the Commission to decline comparable applications from other specialties.

## Not clear how proposed collective action will generate other public benefits

16. The NZGA's application devotes considerable time to establishing that collective bargaining can result in public benefits. nib does not contest that.
17. However, the fact that collective bargaining may result in public benefits in some cases does not mean that the NZGA's proposed collective action against Southern Cross will do so.
18. NZGA's application does not provide evidence sufficient to assess the extent of the public benefits said to arise from its proposed collective action. Given the complexity of the issues involved, nib does not believe that this is a case where the Commission can rely on a purely qualitative assessment of benefits and detriments.
19. The Commission's obligation is to quantify benefits and detriments to the extent practicable. While nib accepts that the Commission has not sought to quantify benefits and detriments in previous collective bargaining authorisations, it is not clear why a quantitative exercise is not practicable, and appropriate, in this case. nib anticipates that there would be a significant amount of empirical data available to the Commission to make such an assessment.

20. As one example, the application rests on the premise that there is unequal bargaining power between Southern Cross and NZGA.<sup>1</sup> However, that premise is difficult to reconcile with the NZGA's claim that there would be no public detriments.<sup>2</sup> If collective action makes a difference, then that would imply prices would increase to Southern Cross (and other insurers). Such an outcome is our concern, as explained above. Ultimately, such an outcome would represent a transfer from consumers to specialists (a price increase), with resulting allocative efficiency losses.
21. If, on the contrary, it is accepted that Southern Cross could prevent any price increase, then the only public benefits arise from collectively negotiated AP coding would better reflect clinical practice, reducing repeat procedures, and the exclusion of clinically appropriate combinations of surgery. However, not only is that likely to be a contestable proposition, but NZGA does not seek to quantify the extent of the issues. Moreover, it is not clear why the NZGA needs authorisation to engage in general collective bargaining – including price fixing –for these benefits to arise. Any such benefits should be achievable through clinical advocacy.
22. Claimed transaction costs savings are another good example of difficulties in the public benefit assessment.<sup>3</sup> Ironically, the NZGA claims a benefit in transaction cost savings when the essence of its complaint is that Southern Cross will not negotiate. If the NZGA is correct about that and the authorisation brings Southern Cross to the negotiating table, the authorisation may result in transaction costs increasing rather than decreasing.
23. Moreover, it is not clear to us that there would be a reduction in gynaecological services in the absence of an authorisation. Private gynaecological costs are significantly above public sector rates. That suggests there is significant scope for rates to decline before capacity would be reduced.
24. In any event, the point is that the public benefits claimed should be capable of quantification or, at least, NZGA should provide an indication of the scale of the issues it says exists. The applicant carries the burden of satisfying the Commission that there are public benefits from the authorised conduct. The NZGA has not yet undertaken that exercise in any meaningful way.

#### **Interim authorisation is not appropriate**

25. Interim authorisation is not appropriate in this case. Interim authorisation does not preserve the status quo. Rather, granting authorisation for the Standstill Agreement would authorise NZGA members to engage in a collective boycott, while authorising information exchange and collective bargaining would enable NZGA members to share competitively sensitive information and engage in coordinated pricing discussions before the Commission has had the opportunity to consider the impact of the application fully. Moreover, any “benefits” only arise if Southern Cross chooses to engage before a final determination. The application provides no evidence that this would occur and NZGA concedes it may not.<sup>4</sup>
26. Once NZGA members share information, it cannot be unshared if authorisation is declined. Any damage would have already happened. It follows that there is a risk that interim authorisation could have long-lasting impacts even if the Commission concludes that the NZGA's collective action is not in the public interest.

#### **Concluding comments**

27. As we have explained, our concern is that the authorisation may result in higher healthcare costs for patients. We do not believe that such an outcome would be in the public interest.

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<sup>1</sup> See, for example, NZGA Application at [5.20]- [5.34] and [11.13] - [11.15].

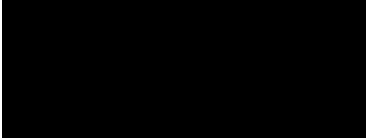
<sup>2</sup> NZGA Application at [11.25] and [11.37(b)].

<sup>3</sup> NZGA Application at [9.13] - [9.14] and [11.33] - [11.35].

<sup>4</sup> NZGA Application at [2.5] and [6.8].

28. For completeness, none of NZGA's proposed conditions address our concerns. The proposed conditions are about process and oversight.
29. We are happy to provide further information to assist the Commission in its assessment.

Yours sincerely



Skye Daniels  
CEO  
nib nz limited