

ADDITIONAL COMMENTS BY COALITION SENATORS

Private Health Insurance (National Joint Replacement Register Levy) Bill 2009

- 1.1 The Coalition believes that a number of issues raised by Submitters were not adequately addressed in the Chair's Report. The Coalition believes a number of problems could have been avoided with better industry consultation by the Department.

LACK OF INDUSTRY CONSULTATION

- 2.1 The Coalition is concerned at the number of submitters who gave evidence that the industry and stakeholders were not consulted by the Department of Health and Ageing before the Bill was introduced. As Lifehealthcare Distribution noted in its submission:

Certainly this kind of proposal should follow appropriate consultation to achieve a result fairly across the spectrum of stakeholder, and there has been no consultation so far from the department of Health and Ageing with the industry on this matter.¹

- 2.2 Whilst the Department gave evidence that it had briefed the Medical Technology Association of Australia (MTAA) on the Bill, the MTAA said that:

There has been no exchange of views on how best to implement this legislation through the rules. Although the Department intends that the levy on listings could be as low as zero, they conceded that they do not have accurate utilisation data on which they will presumably base exemptions. This is a process which should be understood as being practical and achievable before the legislation is passed.²

- 2.3 The Coalition is concerned that meaningful consultation did not take place before the Bill was released.

CONFLICT OF INTEREST

- 3.1 The Coalition recognises industry concern that allowing one stakeholder group, the Orthopaedic Association, to have sole management of the Registry could give the appearance of a conflict of interest. Mr Wiltshire of Medtronic Australasia said:

When any single group that is involved runs the entire process there is the potential for a conflict of interest. We do not suggest that the Orthopaedic Association has a particular conflict of interest. However, if data being collected that involves multiple stakeholders and only one stakeholder group

¹ Lifehealthcare Distribution Pty Ltd, *Submission 9*, p. 1.

² Medical Technology Association of Australia, *Submission 7 (Additional information)*, 15 June 2009.

owns the data and directs the design of the registry, there is always the potential for a conflict of interest.³

- 3.2 The MTAA point out that the UK National Joint Registry has industry members on its Steering Committee. The inclusion of a number of industry stakeholders allows potential conflicts of interest to be resolved in Committee. As the MTAA points out:

Joint replacements can fail for a number of reasons including as a result of the implant and the manner of surgical implantation and accordingly it will be important to balance all competing conflicts of interest in the management of this important resource.⁴

- 3.3 Industry consultation will be required by the Committee in order to address conflict of interest concerns held by stakeholder groups.

LEVY RATE SETTING MECHANISM

- 4.1 The Coalition notes that serious concerns were raised by several submitters with regards to the levy rate setting mechanism. For instance, the MTAA raises the following issue with the Department's comparisons to the United Kingdom model:

The Department of Health and Ageing officials have understated the difference between their proposal and the manner of the UK levy. The UK levy is based on an amount per procedure collected by the manufacturer which is essentially a utilisation driven process. The Department's proposal is related to listings in the Prostheses List and the legislation if passed, will provide no obligation to consider utilisation in determining the amount of the levy.⁵

- 4.2 Once again, more consultation with industry would have allowed the Department to consider and answer these concerns before releasing the Bill.

RECOMMENDATIONS

Recommendation 1

That the levy system and the funding of the Registry be reviewed in 12 months time.

Senator Sue Boyce
LP, Senator for Queensland

Senator Judith Adams
LP, Senator for Western Australia

³ Mr Andrew Wiltshire, Medtronic Australasia, *Proof Committee Hansard*, 11 June 2009, p. CA18.

⁴ Medical Technology Association of Australia, *Submission 7 (Additional information)*, 15 June 2009.

⁵ Medical Technology Association of Australia, *Submission 7 (Additional information)*, 15 June 2009.