

# News from SMA Council

## 1. SMA GUIDELINE ON FEES

Arising from the exchange of letters in *The Straits Times*' Forum page, we wish to inform members that the SMA Council has submitted an appeal to the relevant authorities to exclude the SMA Guideline on Fees from Section 34 of the Competition Act.

As informed in our letter which was published in the Forum page on 12 November 2008, we will also be applying to the Competition Commission of Singapore for guidance. The Council members will personally pay the \$3000 application fee. We will keep members updated on the matter.

For members' information, we have also reproduced the exchange of letters.

### 18 October 2008 Apply to CCS for guidance

I refer to Wednesday's article, 'Medical care is not a commodity'. It stated that the Singapore Medical Association (SMA) abandoned the Guidelines on Fees ('GOF') because it was encouraged to believe the GOF might contravene the Competition Act.

The SMA, on its own accord, withdrew the GOF in April, last year. We understand this was after SMA had consulted its legal advisers on whether the GOF would likely contravene the Competition Act.

As the administrator of the Competition Act, the Competition Commission of Singapore (CCS) would like to remind companies or associations to consider applying to CCS for guidance on whether any agreement or conduct is likely to infringe the Competition Act. This will allow CCS to initiate a study of the agreement or conduct in the light of industry and market conditions before it can specifically conclude whether any practice is anti-competitive and not beneficial economically. This application for guidance is not complicated and typically costs \$3,000 to cover part of the costs that will be incurred by CCS. SMA did not apply to CCS for any guidance with regard to its GOF.

As a general observation, price recommendations by industry bodies are regarded by competition agencies in most countries as harmful to competition because they may lead to price fixing or clustering of prices around the recommended levels.

Despite this general stance, CCS would like to emphasise that its ruling is always on a case-by-case basis as is the practice of other competition authorities. It therefore urges companies and associations wishing to seek its ruling on any conduct to approach CCS to initiate a study into the specific circumstances of each case and consider all the relevant factors before making our assessment.

In this context, CCS is willing to study any proposal SMA may wish to make in connection with fees. CCS can make a ruling on any fee guidelines only after a proper study of the exact nature and implementation of the guidelines, the market and industry conditions. The objective of this study is to establish whether any proposed guidelines are, on an overall basis, beneficial economically.

**Chin Yen Yen (Ms)**  
**Deputy Director (Corporate Communications)**  
**Competition Commission of Singapore**

### 28 October 2008 Good competition commission is willing to reconsider stance on medical fee guidelines

I refer to the column by Dr Lee Wei Ling, 'Medical care is not a commodity' (Oct 15), the letter, 'Apply to CCS for guidance' by the Competition Commission of Singapore (Oct 18), and the letter by Dr Tang Kok Foo, 'Why a medical fee guideline is vital' (Oct 22).

I applaud Dr Lee and Dr Tang for bringing up the issue of overcharging. Indeed, if we do not address this problem, the competitiveness of the private specialist sector will erode further. Certainly, private specialists' competitiveness is such an area of concern that the Minister for Health has said his ministry is considering letting patients use their Medisave overseas.

As someone who runs a health-care establishment, I concur that fee guidelines are useful and benefit the patient. I am also heartened to hear that CCS now says that 'in this context, CCS is willing to study any proposal SMA may wish to make in connection with fees. CCS can make a ruling on any fee guidelines only after a proper study of the exact nature and implementation of the guidelines, the market and industry conditions.

'The objective of this study is to establish whether any proposed guidelines are, on an overall basis, beneficial economically'. CCS also notes that SMA did not apply to it for guidance.

This is an obvious deviation from its former position where, shortly after the Singapore Medical Association (SMA) reluctantly withdrew its Guidelines on Fees (GOF) on April 1 last year, CCS said in a press statement that 'CCS welcomes this move by the SMA to remove its GOF. This would permit greater flexibility for fees to be set by the medical practitioners in line with their business costs. Such a move is more in line with today's circumstances. Consumers would therefore benefit from the greater transparency and competition of prices'. (April 3, 2007)

The chairman of CCS further stated: 'Even if the (SMA) GOF was not mandatory, it can become a signal to market players and result in prices clustered around a narrow range. With the guidelines acting as 'unofficial sanction' to peg fees at a certain level, doctors who are able to price their services more cheaply will have less incentive to do so'. (April 6, 2007)

In the light of this CCS position in April last year, perhaps it would have been a futile exercise for SMA to have applied to CCS for guidance and waste \$3,000.

Nonetheless, it is heartening to see that, despite the earlier CCS position last year that clearly opposed the continued existence of the SMA GOF, in response to Dr Lee's column, CCS is now willing to change direction and study any proposal from SMA to reinstate its GOF.

In the light of this turnaround, I hope SMA will work with the authorities to get the GOF back for patients and doctors' benefit.

**Christine Chen (Ms)**



30 October 2008

## SMA pleased by 'different stance' on fees

I REFER to the letters, 'Apply to CCS for guidance' by the Competition Commission of Singapore (Oct 18), and 'Good competition commission is willing to reconsider stance on medical fee guidelines' by Ms Christine Chen in ST Online Forum on Tuesday.

The correspondence between the Singapore Medical Association (SMA) and the Competition Commission of Singapore (CCS) and other authorities before SMA's withdrawal of its guideline on fees (GOF), spelling out the basis for and reasoning behind the SMA's decision to withdraw GOF, have been discussed at length at a press conference called by the SMA on April 4 last year. The discussions and outcome were extensively reported in the media then.

The relevant materials were uploaded onto the SMA website in April last year and remain there. Interested parties can access the information at [news.sma.org.sg/3904/GOF\\_CCS.pdf](http://news.sma.org.sg/3904/GOF_CCS.pdf).

We are pleased to note that currently, 'CCS is willing to study any proposal SMA may wish to make in connection with fees', which is, to the SMA, different from the situation in April last year.

**Dr Abdul Razakjr**  
**Honorary Secretary**  
**49<sup>th</sup> Council**  
**Singapore Medical Association**

3 November 2008

## Medical fee guidelines: No ruling

I refer to last Thursday's letter by the Singapore Medical Association (SMA), 'SMA pleased by 'different stance' on fees'.

When an association or other entity wishes the Competition Commission of Singapore (CCS) to give a ruling, it can apply for guidance or a decision from CCS. This application process has been in place since the Competition Act came into effect in 2006.

To date, CCS has not made any ruling on the Guidelines on Fees issued by the SMA since there has

not been any application for guidance or a decision by SMA. CCS is prepared to study any application by SMA on this matter. This situation is not different from that in April last year.

**Chin Yen Yen (Ms)**  
**Deputy Director (Corporate Communications)**  
**Competition Commission of Singapore**

12 November 2008

## Competition commission gave the wrong impression

I REFER to Ms Chin Yen Yen's letter, 'Medical fee guidelines: No ruling,' (Nov 3).

The Singapore Medical Association (SMA) would like to present the facts of the matter. The letter gave the incorrect impression that the SMA did not approach the Competition Commission of Singapore (CCS) for advice or guidance.

The SMA's letter to the then CCS chief executive officer on Feb 28 last year described the importance of the guideline on fees (GOF) in a climate of lopsided information, the undesirable consequences of its withdrawal, as well as the historical development of the guideline in the 1980s.

The CCS chief executive officer's reply on March 9 last year was noteworthy in its brevity. It did not suggest that the SMA apply to the commission for guidance, nor did it take up SMA's offer of a meeting.

While Ms Chin points out the application process, we do not think that this avenue precludes the commission from meeting the SMA, a non-profit, non-governmental organisation, run by volunteers in the name of public interest.

In the early 1980s, the Ministry of Health, SMA and the Association of Private Medical Practitioners of Singapore agreed on the need to publish a fee schedule so as to provide patients with greater transparency and allow them to make informed choices. This guideline has served its purpose for over 20 years.

Ms Christine Chen, in her Online Forum letter ('Good competition commission is willing to reconsider stance on medical fee guidelines, Oct 28), wrote: 'CCS said in a press statement that 'CCS welcomes this move by the SMA to remove its GOF'.

Elsewhere, the CCS chairman further stated that even if the SMA's guideline on fees was not mandatory, it can become a signal to market players and result in prices clustered around a narrow range.

While the above is not an official judgment by the commission on the fees guideline, its chairman's pronouncement must surely reflect its position on the subject. Now that it is willing to study an application from the SMA, we will apply for guidance.

The SMA council does not agree to use its funds because it would seem rather incongruent to pay fees to ascertain if the guideline on fees was legal when indeed it was mooted by the Ministry of Health in the 1980s.

The council members will personally pay the \$3,000 in fees and our lawyers are waiving their fees, and by doing so, the CCS can oblige us with a reply.

**Dr Chong Yeh Woei**  
**1<sup>st</sup> Vice-President**  
**49<sup>th</sup> Council**  
**Singapore Medical Association**

## 2. PROPOSED AMENDMENTS TO HOTA

In response to the recent public consultation on the proposed amendments to the Human Organ Transplant Act (HOTA), the SMA Council has submitted its feedback to MOH after extensive deliberation of the proposed amendments. The feedback paper is reproduced here for the information of members.

### 1. Introduction

The Singapore Medical Association (SMA) provides the following feedback to the proposed amendments to HOTA.

### 2. Lifting of upper age limit for deceased donors

SMA supports the proposed removal of the upper age limit of 60 years.

On a related point, we note that the World Health Organization (WHO) Global Knowledge Base on Transplantation (GKT) has highlighted that

*“...the difference in results between transplanted kidneys from living and from deceased donors is small, a fact that encourages the use of organs donated from cadavers whenever possible rather than taking the risk, however small, of harming a living donor.”<sup>1</sup>*

Therefore, the SMA strongly urges programmes that will increase the number of organs from deceased donors, e.g. programmes that increase public awareness, and those that optimise harvesting of available organs in hospitals.

### 3. Allowing paired matching

SMA strongly supports paired matching as a logical means of reducing wastage of donated organs resulting from tissue mismatch between a donor and his/her recipient. SMA also sees chain matching (i.e. matching involving three or more donor-recipient pairs) as a logical extension of paired matching.

### 4. Compensation of living donors

We are heartened to note that the Minister for Health has stated publicly that the moneys payable to donors should not be an inducement.

On a related note, SMA recommends use of the term “reimbursement” as distinct from “payment” or “compensation”. “Compensation” suggests an element of inducement, including a sum of money intended to replace a “donated” kidney that is “lost”. Such compensation would appear to be in conflict with WHO Guiding Principle 5, which clearly states:

*“Cells, tissues and organs should only be donated freely, without any monetary payment or other reward of monetary value”.*

Alignment with internationally-used terminology by using “reimbursement” instead of “compensation” will avoid misunderstanding that we are offering “reward of monetary value”.

SMA supports reimbursement as defined by

- Guiding Principle 5 of the WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation<sup>2</sup>

*“...reimbursing reasonable and verifiable expenses incurred by the donor, including loss of income, or paying the costs of recovering, processing, preserving and supplying human cells, tissues or organs for transplantation.”*

and

- Declaration of Istanbul on Organ Trafficking and Transplant Tourism<sup>3</sup>, both regarding what is reimbursable, and important details of the method:

*“6. Comprehensive reimbursement of the actual, documented costs of donating an organ does not constitute a payment for an organ, but is rather part of the legitimate costs of treating the recipient.*

*a. ...usually be made by the party responsible for the costs of treating the transplant recipient (such as a government health department or a health insurer);*

*b. ...should be calculated and administered using transparent methodology, consistent with national norms;*

- c. ...should be made directly to the party supplying the service (such as to the hospital that provided the donor's medical care);
  - d. Reimbursement of the donor's lost income and out-of-pockets expenses should be administered by the agency handling the transplant rather than paid directly from the recipient to the donor.
7. Legitimate expenses that may be reimbursed when documented include:
- a. the cost of any medical and psychological evaluations of potential living donors who are excluded from donation (e.g. because of medical or immunologic issues discovered during the evaluation process);
  - b. costs incurred in arranging and effecting the pre-, peri- and post-operative phases of the donation process (e.g. long-distance telephone calls, travel, accommodation and subsistence expenses);
  - c. medical expenses incurred for post-discharge care of the donor;
  - d. lost income in relation to donation (consistent with national norms)."

In addition, SMA strongly supports the position taken by the National Medical Ethics Committee (NMEC) in its press release on 7 Nov 2008, specifically paragraphs 3 and 4

*"3. Comprehensive reimbursement of costs of donating a kidney should be a financially neutral process to the donor, and would include any costs that the donor would otherwise not have incurred but for the transplant. Unlike gifts or rewards, comprehensive reimbursement is intended to restore the donor to his expected state, without any "incentive" or net financial gain.*

- 4. Comprehensive reimbursement of verifiable and legitimate costs of donating a kidney should be aligned with the recommendations of the Declaration of Istanbul and the WHO Guidelines, and could include:

- a. Expenses incurred by the kidney donor in relation to kidney donation (e.g. transport and medical costs);
- b. Loss of earnings by the kidney donor in the course of kidney donation and subsequent recuperation;
- c. Expenses following the donation of kidney (e.g. follow-up medical costs, higher insurance premiums referable to loss of a kidney)."

SMA also recommends that the HOTA amendments on reimbursement be limited to Singaporeans and PRs for now, so that the potential for abuse (e.g. organ trading) can be monitored. Section 5 (2) (b) of the existing Act already excludes foreigners for cadaveric organ donations, so this would not be inconsistent.

#### **5. Increasing penalties for organ trading**

SMA strongly supports increasing the penalties for organ trading.

#### **6. Additional recommendations**

SMA recommends that additional checks be put in place for living unrelated organ transplants, since these transplants are more susceptible to abuse. MOH (instead of hospital transplant ethics committees) should vet all living unrelated organ transplants. In addition, SMA strongly supports the position of the NMEC found in paragraph 5 of their press release, which states:

*"As there are concerns that post-donation care of the living kidney donors might not be effectively implemented for foreigners, any comprehensive reimbursement scheme should start with Singapore citizens and permanent residents." ■*

#### **References:**

- 1 [http://www.who.int/transplantation/gkt/statistics/kidney\\_outcomes/en/index.html](http://www.who.int/transplantation/gkt/statistics/kidney_outcomes/en/index.html)
- 2 [www.who.int/transplantation/TxGP08-en.pdf](http://www.who.int/transplantation/TxGP08-en.pdf)
- 3 [http://www.prnewswire.com/mnr/transplantationsociety/33914/docs/33914-Declaration\\_of\\_Istanbul-Lancet.pdf](http://www.prnewswire.com/mnr/transplantationsociety/33914/docs/33914-Declaration_of_Istanbul-Lancet.pdf)