



3 February 2006

Isabelle Arnaud
Director
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
Dickson ACT 2602

Dear Ms Arnaud,

Thank you for your letter inviting the Australian Nursing Federation to respond to the application from Medicines Australia for revocation and substitution of authorisations A90779-80.

We apologise for the late response and, further to our conversation with Bronwyn Davis on the 2 February 2006, thank you for the opportunity to respond today.

The Australian Nursing Federation wishes to make comments in relation to the following matters:

- The implications of the amendments to the proposed new Code;
- The extent to which the current Code is effective in: regulating the marketing of prescription products to health professionals; and regulating the relationship between the pharmaceutical industry and the general public.

The Australian Nursing Federation considers that there are parts of the existing Code which are ineffective and should be amended, and questions whether there are public benefits from the ACCC continuing to grant immunity to the Code.

Some of the concerns the Australian Nursing Federation holds about the existing Code, which do not appear to be addressed in the new edition, are that:

- It is ineffective in preventing direct to consumer advertising (prohibited under the Therapeutic Goods Act 1999);
- the current Code appears to condone direct to consumer advertising;¹
- many pharmaceutical companies may not be complying with the Code;²
- sanctions for breaches of the Code are inadequate, and bear no resemblance to the sales revenue of the product in question.³

The Australian Nursing Federation also holds concerns that:

- the marketing of prescription medicines is largely self regulated by the industry's own lobby group, Medicines Australia;
- the review and monitoring of the Code is conducted by committees on which there is large representation by Medicines Australia;⁴
- promotion of pharmaceuticals products has been shown to influence doctor's prescribing, and cause "leakage" and PBS cost blowouts due to prescribing of more expensive drugs;⁵

The industrial and professional organisation for nurses and midwives in Australia

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- the pharmaceutical industry spends considerably more money on marketing than they do on research and development, marketing which, “distorts the information flow to health professionals and consumers, creating unhealthy and expensive prescribing habits as well as unrealistic consumer expectations”;⁶
- despite evidence that direct-to-consumer advertising leads to increases in sales of prescription drugs, and patient pressure to prescribe advertised medicines, even when the therapeutic benefits are questionable, pharmaceutical companies in Australia get around the ban by support programs and campaigns targeting a specific condition or disease, and directing the public to phone lines or web sites for help;⁷
- there is not an independent, regulator to oversee the monitoring of the Code.

It is the view of the Australian Nursing Federation that: the Code in its current form is ineffective as a self regulated Code; the essential protection of the public by avoiding direct to consumer advertising is not upheld by the Code; and there are potential health and financial costs to the public by the authorisation of the Code.

If you have any further questions please do not hesitate to contact Fiona Armstrong, ANF Federal Professional Officer (03-96395211 fiona@anf.org.au) in the Melbourne office of the ANF.

Yours sincerely,



JILL ILIFFE
Federal Secretary

References

- 1 Harvey et al, *Pharmaceutical advertisements in prescribing software: an analysis*, Medical Journal of Australia, 2005, 183:2, pp.75-79.
- 2 ibid
- 3 Ruff, T. and H-M, H. *Doctors, drugs, information and ethics: a never ending story*, 2005, Medical Journal of Australia, 183:2, pp.73-74.
- 4 Medicines Australia, *Code of Conduct FAQ*, Available at www.medicinesaustralia.com.au, accessed 3 February 2006.
- 5 Harvey et al
- 6 ibid
- 7 Vitry, A. *Is Australia free from direct to consumer advertising?* Australian Prescriber, 2004, 27:1, pp.4-6.