



Australian Consumers' Association
ABN 35 799 246 568 ACN 000 281 925

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15th December, 2005

Mr Scott Gregson
The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

**Re: Application A90994-6 by Medicines Australia re revised Code of
Conduct [15th Ed]**

Dear Mr Gregson,

I refer to your letter dated 5th December 2005, regarding authorisation of version 15 of the Medicines Australia (MA) Code of Conduct. The Australian Consumers' Association (ACA) is opposed to an interim authorization. It should not be allowed on the grounds that this would give prima facie approval to a self-regulatory Code that is fundamentally flawed.

The Australian Consumers' Association (ACA) is a non-profit, non-party-political organisation. The ACA is completely independent. It is not a Government department or agency and it receives no ongoing funding from any Government. Neither does it receive subsidies from industry, manufacturers, unions or any other groups, nor does it take advertisements in any of its printed magazines or on its website. It currently has over 145,000 subscribers to its products. Being a peak independent consumer organisation, it should have been consulted in the drafting of the code. The ACA is disappointed that it was not included in the consultation.

The MA Code of Conduct does not operate in the public interest as it is ineffective. It gives the appearance of regulating drug advertising but does not in fact do so. For example research by Harvey et al found that the majority of advertising in a common prescribing software was non compliant with the code.

Fines of the size currently imposed, do not appear to deter repeat breaches and the nominal amount charged is insufficient. The fines are an insignificant amount for an industry this size and do not match the damage which could possibly result from a breach of the code.

A lack of regulation in the marketing of pharmaceuticals can cause leakage. 'Leakage' occurs where established drugs are used for indications for which the original sponsor had not sought marketing approval. This can contribute to the increase in the cost of the PBS which is passed on to consumers through co-payments to the PBS which increased again in January 2005.

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Version 15 of the code does not make any significant changes and the status quo remains, to the detriment of consumers. A more complete analysis of the deficiencies of Edition 15 of Medicines Australia Code will be provided by January 20, 2006.

Yours Sincerely,

Viola Korczak
Policy Officer