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Sent: Friday, 20 January 2006 6:51 AM
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Comments on Medicines Australia application for revocation and substitution (A90994-6)

The Code as detailed is ineffective in regulating the marketing of prescription products to health professionals. The ways in which negative impacts to the public result are detailed below.

The self regulatory nature of the Code is at the basis of the problems.

- The requirement that a complaint must be registered with the Committee means that many health professionals and members of the public who have concerns do not bother with complaints because it is too onerous a task, and time constraints and a belief in the effectiveness of the complaints process limit complaints. Once a complaint has been lodged, the Appeals mechanism steps in and the complainant then has to take on the power of a multinational company, write further submissions, find time to be involved in hearings etc. Recently a complaint was lodged detailing many possible breaches of the Code but these had been occurring for several years and it required several dedicated academics to detail the complaint and follow it through, after which it was agreed that there were breaches. The punishments amounted almost to nothing, partly because changes had already been made. Without significant penalties however, the industry will simply find other ways of doing the same thing, expecting that it will take a long time for another such well constructed complaint to force changes, if such a complaint ever does eventuate. This is a David and Goliath situation.
- The Committee and the Appeals Committee are constructed such that Medicines Australia almost has a majority on both committees and only one or perhaps two other members have to side with their view for a complaint to be dismissed. Why would members of the public bother?
- The Code is written in suitably vague terms such that it can be interpreted in favour of the industry very easily. Although the wording for what constitutes appropriate hospitality for instance, has been progressively tightened, it still leaves the Committee a large degree of interpretive latitude. For example, under Section 10.2 it is acceptable to provide *'Medical education given in conjunction with a meal outside a practice consistent with the quality expected by a professional attending a business meeting.'* This effectively means that we, as doctors, can continue to dine out at a top class restaurant every week on invitations from the industry.
  Under Section 6.2 *'Any hospitality provided by Companies either directly or by sponsorship or assistance to the meeting organisers of educational meetings, must be secondary to the educational purposes.'* The determination of the meaning of *'secondary'* is left to the committee.

The above results in influence on health professionals and the public which favours certain products to treat disease even when they are not the most cost effective and appropriate treatment. This can

either lead to less than optimal management of illness, or excessive costs to the health system with consequent opportunity costs leading to deficiencies in spending in other more appropriate areas.

Dr Tim Woodruff
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