

29 September 2010



Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition &
Consumer Commission
GPO Box 3131
Canberra, ACT, 2601

School of Public Health
Faculty of Health Sciences

Dear Dr Chadwick,

Re: Generic Medicines Industry Association (GMiA) Code of Practice 2nd Edition – application for authorisation A91218-A91219

I am responding to Tess Macrae's e-mail dated Sept 24, 2010 asking for comment on GMiA's response to the ACCC proposed condition C2 (their letter dated Sept 22, 2010).

GMiA assert, without providing any data, that,

- *"The current level of non-price benefits as a proportion of total benefits provided to pharmacy by each member of the Generic Medicines Industry Association is less than 1%",*
- *"insignificant",*
- *"directed at the enhancement of pharmacy services and / or building a business relationship between the supplier and the pharmacist", and*
"Importantly, the relationship between the supplier and the pharmacy does not influence or change the type of generic medicine dispensed and therefore there is little or no impact on the patient".

I cannot understand why GMiA cannot provide pooled data from its members on the exact monetary value (and type) of the non-price benefits provided to pharmacy as well as the monetary value (and type) of the price benefits. Pooled data would eliminate commercial-in-confidence concerns of individual companies and would enable an independent judgement to be made of the potential impact of such benefits.

Failure to disclose this data creates a perception that member companies of GMiA have something to hide.

The GMiA Code acknowledges that, *"Marketing of Generic Medicines typically seeks to change behaviour at the point of dispensing not at the point of prescribing"* (2.11 ii).

Their letter dated Sept 22, 2010 then asserts, *"Importantly, the relationship between the supplier and the pharmacy does not influence or change the type of generic medicine dispensed and therefore there is little or no impact on the patient"*.

As I have argued before, I dispute this reasoning. If a pharmacist switches patient's generic brands purely as a result of industry promotional activities such as cruises, reward schemes and discounting this is likely to produce unnecessary patient confusion, compliance problems and impaired health outcomes (because of the differing size, shape and colour of different brands of the same generic medicine).¹

In addition, non-price promotional deals with a generic manufacturer may significantly

¹ http://www.mja.com.au/public/issues/192_07_050410/ort10635_fm.html

influence the non-prescription medicines (S3, S2) stocked, and the advice a pharmacist provides to a consumer, not necessarily in the best interests of a consumer.

Furthermore, the government's desire for a "level promotional playing field"² requires that GMiA abide by similar conditions to those originally imposed on Medicines Australia by the ACCC, now voluntarily incorporated in the latter's code.

Finally, if the amount of non-price benefits is really as small as GMiA asserts there should be little administrative burden in complying with the proposed condition.

For all these reasons, I urge the ACCC to impose the condition.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T. J. King', is written over a light grey rectangular background.

Adjunct Senior Lecturer

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