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Australian Competition & Consumer Commission
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Dear Mark

I would like to submit a brief submission to the ACCC relating to the current review of the Medicines Australia code of conduct.

Summary

In short, given that the rational prescription of medicines is so critically important to both individual and public health, any potentially distorting influences on prescribing should be totally transparent and fully publicly disclosed. This submission, citing a series of systematic reviews and other evidence, respectfully suggests that the health of Australians may be better served by a new mandatory and comprehensive disclosure regime covering the relationships between the health industry and health professionals.

A model for disclosure

A model for mandatory and comprehensive disclosure exists with the United States *Physician Payments Sunshine Act*, included in the Affordable Care Act of 2010. As the ACCC will be aware that law requires accessible publication of all forms of benefits which flow from industry to health professionals. It will also require publication of dollar amounts and the names of the recipients. According to a recent announcement,¹ the Centers for Medicare and Medicaid Services in the United States is likely to require industry to begin routinely collecting such comprehensive data for subsequent disclosure from 2013.

Pre-empting that new national law in the United States, in compliance with certain state laws, or in response to previous court-imposed mandates, several of the pharmaceutical companies operating in Australia have already begun routine disclosure in the United States, along the lines that will be required by the *Physician Payments Sunshine Act*.

Evidence of marketing's distorting and unhealthy impacts

As cited in the literature below, there is abundant scientific evidence, much from systematic reviews, that a range of marketing strategies, including the

flows of financial and other benefits from industry to health professionals, can tend to have a deleterious effect on healthcare research, education and practise.

- A 2010 systematic review of the impact of pharmaceutical industry information found: “With rare exceptions, studies of exposure to information provided directly by pharmaceutical companies have found associations with higher prescribing frequency, higher costs, or lower prescribing quality or have not found significant associations.”²
- A 2010 systematic review found an important association between the attitudes of “key opinion leaders” towards a drug withdrawn because of serious safety concerns, and their links to industry. The paper concluded “there was a clear and strong link between the orientation of authors’ expressed views on the rosiglitazone controversy and their financial conflicts of interest with pharmaceutical companies”³
- A high-profile 2008 report on sponsorship of continuing medical education found that the responsibilities of the industry and of health professionals were “fundamentally incompatible,” that bias had become “woven into the very fabric of continuing education,” and recommended that all sponsorship from drug and device makers should be phased out.⁴
- A 2003 systematic review found company-funded studies were far more likely than other studies to have outcomes favouring the sponsor’s products,⁵ - a finding broadly in line with other research on this question, and an association confirmed in many subsequent studies.
- Leading thinkers within medicine, including journal editors of the most respected medical journals in the world are continually calling for much greater disclosure, and much greater levels of independence, in the relationships between industry and health professionals.^{6 7}

Recent experience in Australia

While a range of settlements in the United States has revealed widespread fraud, criminality and kickbacks within the pharmaceutical industry, including the historic 2012 GSK⁸ and 2009 Pfizer cases,⁹ there is also recent evidence in Australia suggesting inappropriate and unhealthy promotional influence has flourished under the current self-regulatory system.

- In 2011 a former senior saleswoman who worked with several large pharmaceutical companies described to the ABC how a network of paid “key opinion leaders” are routinely used to spread promotional influence for their sponsors, while the details of their payments and other benefits remains hidden from their patients and the public and from other health professionals.^{10 11}
- In 2008 documents and emails revealed how a leading educational provider offering supposedly “independent” education to thousands of health professionals worked closely with pharmaceutical company sponsors, who were able to influence speaker and topic selection at high profile educational meetings.¹²

Conclusion

In conclusion it seems timely that consideration be urgently given by the ACCC to comprehensive and mandatory disclosure of relationships between industry and health professionals, as per the transparency bench mark being set by the *Physician Payments Sunshine Act* in the United States.

Yours Sincerely,

Ray Moynihan
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¹ <http://blog.cms.gov/2012/05/03/information-on-implementation-of-the-physician-payments-sunshine-act/>

² Spurling GK, Mansfield PR, Montgomery BD, Lexchin J, Doust J, Othman N, et al. Information from pharmaceutical companies and the quality, quantity and cost of physician's prescribing: a systematic review. *PLOS Med* 2010;7(10):e1000352

³ Wang A, McCoy C, Murad M, Montori V. Association between industry affiliation and position on cardiovascular risk with rosiglitazone: cross sectional systematic review. *BMJ* 2010;340:c1344.

⁴ Fletcher S. Continuing education in the health professions: improving healthcare through lifelong learning: chairman's summary of the conference. Josiah Macy Jr Foundation, 2008. http://macyfoundation.org/docs/macy_pubs/Macy_ContEd_1_7_08.pdf.

⁵ Lexchin J, Bero LA, Djulbegovic B, Clark O. Pharmaceutical industry sponsorship and research outcome and quality: systematic review. *BMJ* 2003;326:1167-70.

⁶ Godlee F. Doctors, patients, and the drug industry. *BMJ* 2009;338:b463.

⁷ Rothman D, McDonald W, Berkowitz C, Chimonas S, DeAngelis C, Hale R, et al. Professional medical associations and their relationships with industry: a proposal for controlling conflict of interest. *JAMA* 2009;301:1367-72.

⁸ <http://www.fbi.gov/boston/press-releases/2012/glaxosmithkline-to-plead-guilty-and-pay-3-billion-to-resolve-fraud-allegations-and-failure-to-report-safety-data>

⁹ <http://www.hhs.gov/news/press/2009pres/09/20090902a.html>

¹⁰ A Noble Cause, October 16, 2011, ABC Radio National
<http://www.abc.net.au/radionational/programs/backgroundbriefing/a-noble-cause/3583670>

¹¹ Moynihan R, Payments to doctors in Australia are to be scrutinised after marketing tactics are exposed *BMJ* 2011;343:d6714

¹² Paying the Medical Piper, Sunday February 24, 2008 ABC Radio National
<http://www.abc.net.au/radionational/programs/backgroundbriefing/paying-the-medical-piper/3292578>