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9 November 2012

Mr Mark Basile and Ms Tess Macrae
Adjudication Branch
Competition and Consumer Commission
360 Elizabeth St
Melbourne VIC 3000

Dear Mr Basile and Ms Macrae

Medicines Australia: Application for Revocation and Substitution A91316, A91317, A91318, A91319 and A91320

As you know, we act for Medicines Australia in respect of its application for authorisation of Edition 17 of the Medicines Australia Code of Conduct (the **Code**). We refer to Dr Chadwick's letter dated 26 October 2012 which invites Medicines Australia to comment on the following:

- the accessibility of the complaints process for individuals;
- the accessibility of reporting tables to members of the public; and
- the inclusion of a consumer and a healthcare professional representative on the Medicines Australia Code Review Panel.

We provide a response to each of these questions below.

1. Complaints process for individuals

As noted in its previous submissions, Medicines Australia considers the complaints process prescribed by the Code to be user-friendly and easily accessible to non-industry complainants.

The process of lodging a complaint is identical for both industry and non-industry complainants in the sense that all complainants are required to submit a written complaint to Medicines Australia. However, Medicines Australia appreciates that there may be significant differences in the resources available to industry and non-industry complainants.

Medicines Australia ensures that non-industry complainants and, in particular, individuals are afforded extensive procedural fairness throughout the complaints process by:

- providing advice to complainants to prepare their initial complaint where assistance is needed. Medicines Australia provides a proforma complaint form on its website, which is intended to assist complainants formulate their complaint. We attach this proforma complaint form at Annexure A for your

reference. However, completion of the complaints form is not obligatory. A complaint by email or letter is also accepted.

- offering an independent complaints facilitator to all non-industry complainants so that complainants can minimise the time, effort and expense they personally dedicate to the process. The cost of the independent facilitator will be met by Medicines Australia. Although the independent facilitator is offered to all non-industry complainants, the offer is rarely taken up.
- requiring the Code Committee to consider all complaints received, notwithstanding that a submitted complaint may be incomplete or lacking in requisite detail. This is evident from the attached (actual) example complaint at Annexure B, which is provided to the ACCC on a confidential basis.
- providing complainants with the opportunity to amend or supplement their complaints where the complaint received is ambiguous, incomplete or inaccurate; and
- providing complainants with access to supplementary materials which may assist them to substantiate their complaint, such as a copy of a relevant radio broadcast.

The Code Committee's final determination is made available to both parties and the pharmaceutical company's written submission is made available to the complainant, if an appeal is lodged. The process for lodging an appeal is as follows:

- The appellant is required to notify Medicines Australia in writing that it wishes to appeal the Code Committee's decision. A one line letter will suffice.
- Medicines Australia then provides the complainant with a copy of the pharmaceutical company's response and each party has the opportunity to review all relevant documents.
- From the date of receiving the relevant documents, the appellant has five days to either: (a) make a written submission to the Appeals Committee stating the basis for appeal; or (b) withdraw the appeal.

Medicines Australia is of the view that the Code's complaints process is highly effective, but remains open to specific suggestions as to how this process could be further improved for non-industry complainants.

Medicines Australia notes paragraph 191 of the ACCC's Draft Determination which refers to a particular occasion on which a complainant spent 120 hours to have a complaint heard. Medicines Australia is aware of this particular complaint and can assure the ACCC that it is far from representative. Indeed, Medicines Australia wishes to seek the consent of the complainant to share a de-identified version of the complaint file with the ACCC on a confidential basis. Medicines Australia believes this will demonstrate the exceptional nature of this particular complaint.

2. Publication of reporting tables

Medicines Australia understands the interest that a number of stakeholders have in obtaining copies of the reports published on Medicines Australia's website in Microsoft

Excel format. This interest needs to be balanced with the corresponding concern that the integrity and security of the data within these reports may in some way be compromised if published in this format.

Medicines Australia is considering options for how to progress this issue, while also ensuring the security and integrity of the data. Medicines Australia will come back to the ACCC within the time period set by the Commissioner at the pre-decision conference and report on this issue.

3. Representation on the Code Review Panel

Medicines Australia will include both a consumer representative and a healthcare professional representative on the Code Review Panel from the next review of the Code.

Medicines Australia will invite the Consumers' Health Forum and the Australian Medical Association to nominate a representative of their organisations to participate on the Code Review Panel.

Implementing this request will not require an amendment to Edition 17 of the Code as the Code does not specify who should be included on the Code Review Panel.

Yours sincerely



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Code of Conduct Complaint Submission Form for Non Industry Complainants

To lodge a complaint in relation to a prescription medicine please complete this proforma and send it to the Secretary of the Code of Conduct Committee at Medicines Australia

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| Fax: 02 6282 6299 |
| Email: secretarycodecommittee@medicinesaustralia.com.au |
| Mail: Level 1, 16 Napier Close Deakin ACT 2600 |

| | |
|--|--|
| Name of advertiser/sponsor responsible for providing information | |
| Brand name of medicine | |
| Approved name of medicine (if known) | |
| <p><i>For advertisement:</i></p> <p>Where advertisement appeared (name of journal, magazine, newspaper, television, radio, outdoor display etc)</p> <p>Please provide a good quality copy of print material</p> <p>Date published or observed</p> <p>If a television or radio advertisement please identify the channel of station and an approximate time of broadcast eg Channel A on Sunday evening 13 July 2006</p> <p>If an outdoor display please identify the city and location eg Sydney on bus stop display in Penrith</p> | |
| <p><i>For other promotional/educational material:</i></p> <p>Please provide a good quality copy of print material</p> <p>Date published or received</p> | |
| <p><i>For promotional activity eg representative behaviour:</i></p> <p>Please provide relevant information on activity, date and place observed</p> | |

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|---|--|
| <p>Please state what your complaint is, including, where possible, the section of the Medicines Australia Code of Conduct breached.</p> <p>A copy of the Code can be found on the Medicines Australia website at www.medicinesaustralia.com.au or by calling the office on 02 6122 8500</p> <p>If you require any assistance with this section please contact the Secretary of the Code of Conduct Committee at Medicines Australia on 02 6122 8500 or via email at secretarycodecommittee@medicinesaustralia.com.au</p> | |
| <p>Please provide details of any communication you have had with the advertiser or sponsor company</p> | |
| <p>Are you aware of any legal action in relation to this material? If so please give details.</p> | |

Complainant Details

| | |
|------------|--|
| Name: | |
| Address | |
| Telephone: | |
| Fax: | |
| Email: | |
| Date: | |

If you do not wish your name and contact details to be given to the other party/sponsor company please tick the box

Declaration

I, _____ (name) declare that I have no conflict of interest with the sponsor company through pecuniary interests, membership of an Advisory Board for a competitor company or other unresolved disputes.

Signed: