Blanch, Belinda

From: Elissa Campbell
Sent: Wednesday, 30 July 2014 10:32 PM
To: Adjudication
Subject: ACCC - Medicines Australia Limited - Revocation and Substitution - A91436 - A91440 - interested party consultation

Categories: Submission

Dear ACCC

I was one of over 450 people who signed a petition to the ACCC on the authorisation of edition 17 of Medicines Australia Code of Conduct supporting comprehensive disclosure of payments to health professionals by the pharmaceutical industry, similar to the U.S. Physicians Payment Sunshine Act.

As a result, you limited the authorisation of edition 17 of Medicines Australia Code to 2 years rather than the 5 years sought in order to encourage Medicines Australia to improve transparency around payments to individual health care professionals.

Edition 18 of Medicines Australia Code has now been submitted for authorisation. It "encourages" healthcare professionals to consent to disclosure. However, it also allows them to opt-out of disclosure while retaining the financial and related benefits of their interaction with member companies. This will not allow consumers and others to make informed decisions taking into account healthcare providers' involvement with companies. As Senator Richard Di Natale noted, "The voluntary nature of disclosure makes the Code next to meaningless. It's like making a breathalyser voluntary for drink drivers".

Medicines Australia Code is weak because other therapeutic goods industry associations have not adopted transparency provisions in their own self-regulatory Codes and many have also opted out of ACCC Code authorisation (and thus being subjected to ACCC persuasive powers). In addition, there are increasing numbers of non-members of therapeutic goods industry associations (for example, the Indian generic company Ranbaxy Australia) who are not bound by any self-regulatory Code. Furthermore, Australian health professional organisations have also failed to address &/or incorporate transparency provisions in their own Code. It's therefore not surprising that many members of Medicines Australia were worried that attempting to force full disclosure would put them at a competitive disadvantage with other therapeutic goods companies, especially generic companies.

Medicines Australia argue that disclosing transfers of value from those health professionals who consent (and lumping together the total value of benefits received and the numbers of those who do not) is an incremental improvement (and public benefit) on the previous Code and thus their latest Code should be authorised.

The alternative view is that it would be to the public detriment to authorise a Code that fails to deliver on the key principles agreed to by Medicines Australia Transparency Working Group, including the key outcome raised by many interested parties in deliberations about edition 17 of the Code: transparency on individual payments made to healthcare professionals (consistent with developments in the U.S.).

Accordingly, I agree with the view that the ACCC should not provide a fig-leaf of respectability to edition 18 of Medicines Australia Code by authorising the flawed outcome achieved. Rather they should defer authorisation and refer this mess back to where the responsibility lies: the Regulatory Policy & Governance Division of the Australian Department of Health, the Therapeutic Goods Administration (TGA) and the

government, all of whom have failed to address the limitations of self-regulation. What is needed is Australian legislation that makes transparency (and other ethical considerations) a condition of market authorisation by the TGA.

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