RACGP

RACGP Submission to Australian Competition and Consumer Commission (ACCC)

Medicines Australia application for reauthorisation of Code of Conduct Edition 18 – A91436-A91440

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The Royal Australian College of General Practitioners

RACGP details

Name of Organisation	The Royal Australian College of General Practitioners (RACGP)
Postal Address	100 Wellington Parade East Melbourne, Victoria 3002
Legal Status	Not for profit
ABN	34 000 223 807
Key Contact Person and Contact Details	Mr Stephan Groombridge Program Manager, Quality Care 03 8699 0544 stephan.groombridge@racgp.org.au

The RACGP

The RACGP is Australia's largest professional membership body for general practitioners (GPs). With over 26,000 members across Australia, the RACGP works to support the profession through defining the standards for quality care, developing guidelines and resources, delivering education and training and advocating on behalf of general practices and general practitioners to promote the importance of a safe, quality and holistic approach to patient care.

This submission has been prepared by the RACGP with significant input from Dr Justin Coleman, RACGP representative on the Medicines Australia Transparency Working Group.

RACGP response

The RACGP welcomes the ACCC's recognition that Medicines Australia's submitted version of the Code of Conduct 18th edition contained an 'opt-out' clause for doctors which would have rendered it, in our view, no closer to achieving transparency than the 17th edition of the Code.

The RACGP still has some concerns that, even with the ACCC's proposed amendments, the process of increasing transparency is progressing slowly. If disallowing the 'opt-out' clause remains the only substantive amendment to the 18th edition version, the capture of information around transfers of value from pharmaceutical companies to doctors will be limited to doctors who are actively paid as consultants or speakers. This is an excellent place to start, although is minimal compared to the information captured by the US Sunshine Act.

For reasons outlined in the RACGP previous submission, the remaining other 'loopholes' in the 18th edition effectively rule out the capture of any information regarding attendance at pharmaceutical events unless they involve payment of airfares, accommodation or speakers' fees.

In respect to the attendance of doctors in the audience of pharmaceutical events (as opposed to being paid to travel to and speak at them), the RACGP notes that the 18th edition specifically reduces transparency compared to the 17th edition. This is because the 18th edition removes the requirement for companies to report on aggregate costs of running an educational event.

Section 41.3.1 of the 18th edition (summarised in Item 34 of the ACCC draft decision) gives the impression that 'registration fees' for doctors in the audience might be captured and reportable at an individual level – which would then arguably balance out the loss of transparency at an aggregate level. However, we are contend that this is unlikely to be the case because there is no reason a pharmaceutical company would name a fee and then pay for it, thereby triggering a reporting requirement. Once the 18th edition exempts venue hire, AV equipment, food and beverages, and any other hospitality costs, there is nothing left to record as a 'cost' or 'fee' for a member of the audience. And, obviously, where a doctor is asked to pay their own fee, transparency issues would be irrelevant.

However, the RACGP recognises that, assuming the opt-out clause is negated, the 18th edition will be designed to improve transparency around 'Key Opinion Leaders' and any doctor who is flown to, and paid to speak at, pharmaceutical educational events. Currently there is no reliable method for doctors in the audience being able to discover if the speaker they are listening to has a potential conflict of interest in regards to the medication being discussed.

We consider this transparency for speakers, industry consultants and thought leaders, who are often quoted as experts in the media, a crucial step forward, and of significant potential benefit to doctors, their patients and the general public. Capturing these high-value payments at an individual level for the first time will be the main benefit of the new code, and we commend Medicines Australia for taking this step.

Our recommendations

1. **Negating the opt-out clause.**

The RACGP strongly supports item 318 in the ACCC draft determination, negating the 'opt-out' clause by amending the wording of ***41.2.3 Requirements for Making and Reporting Transfers of Value to Healthcare Professionals.***

We draw attention to the particular phrase 'compelled to boycott', used twice in the Medicines Australia original submission and again in MA's response to further submissions, when justifying the opt-out clause. We feel this is an unreasonably strong description of the situation which already commonly arises –a doctor simply declines to accept an invitation to a pharmaceutical sponsored educational event.

Indeed, in the survey of 400 doctors which Medicines Australia submitted to the ACCC (noted in item 138 and in footnote 59), some 30% of doctors already decline such invitations. Yet no one would reasonably describe this situation as pharmaceutical companies being 'compelled to boycott' 30% of the medical profession. The companies may continue to send invitations and the doctors will continue to make individual decisions about attending.

In any case, as noted above, the 18th edition will not require audience members to agree to transparency, because they are not usually flown to the venue, nor paid cash to attend, and everything else is exempted. It is only the paid speaker who may be affected.

2. **Centralising the reporting website**

The RACGP supports item 178, where the ACCC "*strongly encourages Medicines Australia to dedicate appropriate resources to developing a centralised database and implement it as soon as possible.*"

We accept that there may be some delay in organising this centralised database, and meanwhile it is important that this process does not delay the commencement of individual companies' collating and publishing their own data.

We reiterate the concerns expressed by the ACCC at item 177, that the benefits of transparency are significantly diminished if the 'average person' cannot reasonably easily find the information they are looking for.

3. **Avoiding unnecessary delay**

The timeline proposed by the 18th edition is that the first transparency reports will appear in a little under two years' time – in August 2016. This is a generous timeline, and should be long enough to develop a centralised database and for doctors who currently accept consultancy fees to plan for the change. However, even if no central website exists by then, this should not delay publication on individual company websites. Calls for this timeline to be extended further are unwarranted.

4. **Reporting of hospitality costs**

In item 161, the ACCC notes, '*meals and beverages could be of significant value to healthcare professionals and could thus result in a potential conflict of interest.*' We agree.

In our previous submissions, the RACGP proposed various levels of reporting hospitality, and outlined the reasons why exempting it altogether was not in the interests of transparency. We pointed out that the 18th edition rejected every option proposed by the Medicines Australia Transparency Working Group around this issue.

We recognise that there is now probably more chance of merely adjusting the current 18th edition proposals around hospitality, rather than trying to revisit the considerably more stringent range of options posed by the Transparency Working Group.

Our preferred option would be to see the first bullet point under section 323 of the ACCC report progressed - adding any hospitality above a threshold amount to the transfers of value reported under the new individual reporting regime. If this is considered impractical, at the very least the second bullet point should apply – the current system of aggregated reporting should continue, to avoid the situation where the 18th edition actually reduces transparency compared to the 17th.

5. Keeping more than two years of data accessible

In the 18th edition, item 41.3.4 states that transparency data can be removed after 2 years (the ACCC draft decision discusses this in item 173).

We consider that this could serve to decrease transparency, particularly in the period before a central database is made available, because someone searching for information will already have difficulty going through every company website to find it. Once the information is removed from the website, there will be no practical means of anyone finding it.

We consider five years of data a reasonable duration for retention of information.

The reason given by Medicines Australia (ACCC item 173) to delete information is *'so as not to require member companies to facilitate ongoing access to multiple years' worth of data.'*

However, all the hard work has already been completed by the time the data is put up on the website, and even any further work (alterations or disputes etc.) will have long been settled over the first two years. It is a simple matter to then keep the spreadsheet accessible on an archived page or similar, at virtually no financial cost.

We can see no advantage to the public in deleting the transparency information after a two-year window. This may also reduce the information available to doctors making prescribing decisions.

If, for example, an expert is quoted in the medical media as strongly supporting increased use of a medication, it may be of considerable benefit for the medical reader to discover if that expert was paid three years ago by the company that produces the medication. And the corollary: it may also be reassuring to confirm that there has been no potential conflict of interest over the previous five years. This information can improve the judgement of the prescriber as to what weight to put on the evidence provided by the expert opinion.