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Dr Richard Chadwick

General Manager, Adjudication

Australian Competition and Consumer Commission

23 Marcus Clarke St

Canberra ACT 2601

Via email: adjudication@accc.gov.au

Dear Dr Chadwick,

Medicines Australia Limited application for revocation of authorisations A91316- A91320 and substitution of new authorisations A91436-A91440

Pfizer Australia (Pfizer) welcomes the opportunity to provide a submission in relation to the proposed conditions of authorisation of the 18th Edition of the Medicines Australia Code of Conduct (the Code). Pfizer is in complete agreement with Medicines Australia's position on the proposed conditions.

Attachment A: Reporting of all relevant transfers of value

Pfizer supports this amendment

Attachment B: Reporting in a common accessible format

Pfizer does not support the amendment requiring that the reporting *must be in Excel format and in strict accordance with the template provided in the Code of Conduct Guidelines* for following reasons:

- Excel format is not appropriate for reports containing the personal information of healthcare professionals as it does not provide the required level of security. A consolidated report cannot reliably be developed at this time due to a number of factors including the lack of a unique identifier that can be utilised. Publishing in Excel format would enable others to create a consolidated report that could contain inaccuracies.

- Companies should be able to select the most appropriate format for reporting provided that the format supports the publication of the required template and allows consumers to easily access and search the report. The format may change over the next five years according to technological developments and the proprietary software utilised by the member company.
- Medicines Australia members are required to comply with the Code which clearly outlines the minimal data that must be reported. The Guidelines provide companies with assistance on how to interpret and comply with the Code. Companies would be compliant with the Code if they included additional information in a report that goes beyond the requirements in the Code and the template in the Guidelines. Additional information may be added to provide clearer context. In such cases the company would not be reporting *in strict accordance with the template*.
- Pfizer agrees with the Australian Society of Anaesthetists that *from a practical perspective some minor amendments may be necessary over the life of the Code given that the Code imposes new and untested requirements*. The inclusion of the template in the Guidelines allows for amendments to be made to improve the reporting template, whilst the Code will ensure that all of the required transfers of value data are reported.

Attachment C: Centralised database

Pfizer supports the development of a centralised database. In addition to the benefits this will provide to consumers wanting to access the transparency information, it will further establish reasonable expectation with stakeholders.

Paragraph C, when read assuming that *prior to implementing a Central Reporting System* means from the first reporting period, would require companies to provide reports to Medicines Australia within two months of the reporting period. This is not consistent with the four month period allowed for in the 18th Edition. A four month period is required to consolidate and validate the information prior to publication and needs to be maintained. Additionally, in the initial phase of reporting, the reports will be published on the company's website with Medicines Australia providing links to all reports on its website. Again, to ensure a single source of truth and to allow companies to fulfil their obligations under the Privacy Legislation, the initial reports need to be published on company sites in the initial phase.

Attachment D: Public disclosure of reports and retention of records for three years.

Pfizer supports this amendment.

Attachment E: Amendment of conditions

Pfizer supports a mechanism by which minor amendments to the Code may be made without the requirement of re-authorisation. Guidance on what changes would fall within the scope of non-material amendments would be greatly appreciated.

Matters in respect of which no condition is to be imposed: Food and beverage reporting

Pfizer appreciates the careful consideration by the ACCC of the submissions Medicines Australia, Pfizer, other member companies and stakeholders have made in respect to the reporting of hospitality.

ACCC's concern that reportable expenditures could be falsely categorised as food and beverages and therefore not reported is unfounded. Any such action would:

- be in breach of the Code;
- likely be in breach of the US Foreign Corrupt Practices Act. Pfizer has strict internal governance over payments to healthcare professionals in Australia to ensure compliance with the Code, regulation and legislation including the Foreign Corrupt Practices Act. Many Medicines Australia member companies are required to comply with the US Foreign Corrupt Practices Act and/or the UK Bribery Act;
- Be entirely inconsistent with the accountancy standards required for Corporations.

Under the reasonable expectation model, healthcare professionals will be fully aware of the types of transfer of value that require reporting. Setting aside the fact that corporate accounting standards within Australia are inconsistent with false categorisation of payments, it would not be possible for a company to hide the falsification from the healthcare professional. For example, if accommodation costs were accounted for as food and beverage costs, the healthcare professional would note the absence of reporting and be able to take appropriate action (eg make a complaint to the Code, the company, the government or their professional body).

Below is an extract from the proposed conditions of authorisation-

The ACCC has continued to consider this issue following the draft determination and accepts that:

- *food and beverage costs are secondary to the larger and more direct transfers of value;*
- *the individual transparency model is designed to focus on these more direct transfers of value;*
- *the \$120 cap on meals introduced in edition 18 will go some way in ensuring that expenditure on food and beverages is not inappropriate; and*
- *the administrative burden of reporting food and beverage expenditure, in addition to the new individual transparency regime, would be significant.*

The ACCC is therefore not proposing to impose a condition in the final determination requiring ongoing food and beverage reporting.

Given the reasoning above, it would be inconsistent for a significant administrative burden to be placed upon the industry to enable the provision of *expenditure trends for food and beverage during the period of this authorisation.*

Due to the complexities of expenditure data, divining what is responsible for a trend would be extremely difficult. Given the regulations and legislation governing the industry and the fact that

transfers of value will be transparent, any trend noted would undoubtedly be due to changes in the operational environment and not due to expenditure *not being categorised correctly*.

Thank you for your kind consideration of this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Gallagher', with a stylized, looped flourish at the end.

David Gallagher