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AMA submission – TGA proposals to strengthen the Therapeutic Goods Advertising Code and introduce new framework for Schedule 3 medicines advertising

The AMA supports the proposed changes to the Therapeutic Goods Advertising Code but cannot support a default position which provides for all S3 medicines to be advertised unless considered unsuitable.

Detailed comments are provided below.

Proposed changes to the Therapeutic Goods Advertising Code

The AMA supports the TGA's proposals for updating and strengthening the Code's standards, guidelines and sanctions.

The proposed and described 'Core objectives' which would form the basis of the new Code are consistent with the AMA's position on health-related advertising.

The AMA also considers that updating definitions of prohibited and restricted representations and introducing new restricted representations is timely, particularly in the light of new diagnostic techniques such as direct-to-consumer genetic testing.

The AMA recommends however that there is a review of advertising compliance two years after implementation to assess whether the new Code works effectively.

Framework for the advertising of S3 medicines

The AMA has already argued in previous submissions that it considers there is little benefit in relaxing the regulation of S3 medicines advertising. Direct to consumer advertising of medicines may increase use, but not necessarily effective or rational use in line with quality use of medicines principles. While advertising may potentially increase awareness of certain health conditions and medicines, its primary purpose is to increase demand and sales for the advertiser's product.

The AMA has also previously stated that it cannot offer its support to changes to the S3 advertising framework without being convinced that there will be appropriate, robust and enforceable controls on how it happens. The proposals in the consultation paper are fine as far as they go, but not sufficient for the AMA to make an informed judgement.

The consultation paper notes that other stakeholders have also stated that their support is dependent on the specific requirements placed on S3 medicines advertising.

How will advertising be controlled to prevent advertising designed to persuade rather than inform consumers? How will content be managed to ensure that information is balanced and objective to support patients to make an informed choice?

The consultation paper indicates the TGA is planning to move to a default position where all S3 medicines may be advertised, unless considered unsuitable. It appears that the TGA is already committed to moving down this path without sufficiently detailed consideration or public articulation of how S3 medicine advertising would be restricted, controlled and monitored.

The only 'stricter' controls offered in the paper are two mandatory statements reflecting pharmacist oversight, with the promise of 'more specific requirements around statements [being] consulted upon at the time of public consultation on the draft advertising code'. This does not provide sufficient assurance to the AMA.

The TGA should not commit itself to adopting a position of advertising all S3 medicines as the default without detailed proposals being developed and examined. The timing of this process should not be determined by some arbitrary deadline for completing new legislation and/or an updated Code. The AMA notes that in the consultation paper 'next steps' section, the TGA expects the new Code to be in force before, or at the same time as, other proposed changes to the advertising framework come into effect.

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