Spotlight on Complementary Medicines
MMDR Reforms

Michael Shum
Director, Complementary Medicines Reforms
Complementary and OTC Medicines Branch,
Medicines Regulation Division, TGA
Review of Medicines and Medical Devices Regulation (MMDR)

- **July 2015**: the Expert Panel released their recommendations arising from the review
  - 19 recommendations to improve the regulation of complementary medicines

- **September 2016**: Government response released
  - accepted the majority of the review’s recommendations in full or in-principle
  - identified the need for consultation with stakeholders in progressing the reforms
## 5 streams of work

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Stream 1: Enhancing the listing framework

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<th>Recommendation</th>
<th>Government Response</th>
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<td>Recommendation 34: Capacity to refuse to list</td>
<td>Supports the intent of the recommendation</td>
</tr>
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<td>Recommendation 37: Online searchable catalogue of permissible ingredients</td>
<td>Accepts the recommendation</td>
</tr>
<tr>
<td>Recommendation 38: Establishing a list of permitted indications</td>
<td>Accepts the recommendation</td>
</tr>
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Recommendation 38: Permitted indications

Recommendation 38
The Panel recommends that the TGA establishes the list of permitted indications, from which sponsors must exclusively draw, for listed medicinal products in the ARTG.

Government response
The Commonwealth accepts Recommendation 38, noting that implementation of the list of Permitted Indications will require legislative change and will be subject to consultation with consumers, sponsors and health professionals.
What does *Permitted Indications* mean for sponsors?

- Sponsors listing a medicine on the ARTG will only be able to use indications from a permitted indications list.
- The “free text” field will no longer be available.
- TGA will also have the ability to create a non-permitted indications list e.g. smoking cessation.
- 3 year transition period proposed.
Permitted indications on product labels

Indications will not have to be ‘word for word’ on the label or advertising material:
the intent and meaning of the indication must not change
this will give flexibility to sponsors and contain the size of the list

For example:
ARTG indication: ‘Maintain/support bowel regularity’
Label indication - same meaning: ‘X helps maintain regular bowel movements’
Label indication - different meaning: ‘X relieves constipation’
Development of the permitted indications list

• A draft list of permitted indications has been published on the TGA website

• Stakeholders have the opportunity to review, comment and propose new indications

• Supporting materials have been published to help stakeholders understand how regulatory requirements for listed medicines will change

• The list is open for comments and suggestions until 31 October 2017

• New indications proposed after this time will incur a fee
Criteria for permitted indications

• Must only refer to:
  – health enhancement
  – health maintenance
  – prevention or alleviation of dietary deficiency; and/or
  – a health benefit for a non-serious forms of a disease, ailment, defect or injury

• Permitted indications can only refer to conditions that are:
  – self-diagnosable
  – self-manageable

• A delay in medical treatment would not be detrimental to the consumer
<table>
<thead>
<tr>
<th>Low Level Indications</th>
<th>What this means</th>
<th>Examples</th>
</tr>
</thead>
</table>
| Health enhancement                        | Beneficial effects of substances on the physiological and/or psychological state of the body;  
  • above and beyond normal growth,  
    development and functions of the body                                                                                                           | Helps improve immune system  
  May increase energy / reduce fatigue  
  Helps stimulate digestive function                                                                                                           |
| Health maintenance                        | Normal physiological effects of substances in; growth, development and normal functions of the body                                                                                                       | Helps maintain healthy hair, skin and nails  
  Assists with normal liver function  
  Helps support healthy connective tissue / joints                                                                                             |
| Prevention or alleviation of a dietary deficiency | Prevention of mild dietary deficiency  
  (not prevention of diseases resulting from severe deficiency)                                                                                            | When taken regularly, may prevent vitamin D/ calcium deficiency  
  Helps reduce the risk of iodine deficiency  
  Helps prevent dietary vitamin B12 deficiency                                                                                                  |
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<th>Low Level Indications</th>
<th>What this means</th>
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</table>
| A non-serious disease, ailment, defect or injury (other than prevention or alleviation) | Those low risk conditions that are non-serious and self manageable.  
May be related to:  
• reduction in risk/frequency/duration  
• relief  
• management or improvement in quality of life  
…without resolution of the underlying non-serious disease, ailment, defect, condition or injury. | May relieve symptoms of mild osteoarthritis  
Helps reduce the severity of common cold symptoms  
For the management mild dermatitis symptoms  
May relieve post-menopausal/PMS symptoms  
Helps reduce the frequency of common cold sore outbreaks |
Implementation: Proposed approach

• Sponsors will be required to certify that indications for their medicine are from the permitted indications list and they hold supporting evidence.

• Consistent with current Evidence Guidelines, qualifying terms can be used by sponsors to align indications with the evidence they hold.

• Indications will have a consistent structure and terminology to describe therapeutic uses appropriate for listed medicines.

• Sponsors will select ‘core permitted indications’ (action and target only) with optional qualifiers.
Selecting permitted indications when listing a medicine

1. Select tradition of use (Optional)
   - Indications that do not specify a tradition of use are by default scientific

2. Select core permitted indication (Mandatory)
   - At least one core indication is selected in ELF using drop down lists or key word search
   - Tradition of use: N/A
   - Core permitted indication: Relieves muscle aches and pains

3. Select specifying qualifiers (Optional)
   - Sponsors can choose to apply one or more pre-approved qualifiers to each core permitted indication by selecting from a drop down list
   - Specifying qualifiers:
     - Healthy target population: ‘in healthy individuals’
     - Effectiveness: ‘Temporarily’
     - Time of use: ‘after exercise’

Final permitted indication on product label
- E.g. Temporarily relieve muscle aches and pains after exercise in healthy individuals
Transition arrangements

• From 1 January 2018, all new listed medicines must select permitted indications (*free text will be turned-off*)

• Sponsors of existing listed medicines will be required to transition their existing indications to ‘permitted indications’ by 31 December 2020:
  ▪ AUST L numbers will not change
  ▪ Fee waiver/reduction if indications changed by 31 June 2019

• Listed medicines that do not transition to permitted indications will be cancelled from the ARTG from 1 January 2021
Stream 2: Improving transparency for consumers

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Government Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recommendation 43</strong>: Requirement to publish efficacy evidence</td>
<td>Supports the intent of the recommendation</td>
</tr>
<tr>
<td><strong>Recommendation 44</strong>: Publication of disclaimers on promotional material where product has not had efficacy assessed</td>
<td>Supports the intent of the recommendation and will conduct further consultation on ways to better educate consumers however the Government will not require sponsors to place a disclaimer on product labels</td>
</tr>
<tr>
<td><strong>Recommendation 45</strong>: Publication of a ‘claimer’ where product has had efficacy assessed by TGA</td>
<td>Accept in principle</td>
</tr>
<tr>
<td><strong>Recommendation 46</strong>: Adopt or develop evidence monographs</td>
<td>Accepts the recommendation</td>
</tr>
</tbody>
</table>
Recommendation 45: Claimers for assessment of efficacy

Recommendation 45
Where a medicinal product is listed in the ARTG following an assessment by the TGA of an application under Option Two (refer to Recommendation 39), the sponsor is able to indicate on all promotional materials and on the product label, that the efficacy of the product has been independently assessed for the approved indications.

Government response
Accepts-in-principle Recommendation 45, noting that the design and use of the promotional statements will require careful consideration by the TGA and further consultation with stakeholders.
Label ‘claimer’: Key features

- A claimer **can be used** by medicines that have had TGA pre-market assessment:
  - medicines assessed via the assessed listed medicines pathway (refer to Recommendation 39)
  - Registered complementary medicines

- A claimer **cannot be used** by medicines that have **not had a pre-market assessment**:
  - Listed medicines, including those that have been subject to a post market compliance review
  - “Grandfathered” medicines
Label ‘claimer’: Key features

• Must be supported by the appropriate **scientific evidence** for all indications made for the medicine

• Must not imply superiority of the product over other medicines that have been pre-market assessed (e.g. prescription medicines)

• Must not be more prominent or detract from the label information mandatorily required by the current Labelling Order
Claimer: Next steps

• Consumer testing
  – visual claimers
  – wording options
    ▪ *E.g. ‘Efficacy assessed by the TGA’*

• Targeted consultation

• Education campaign
Stream 3: Increased flexibility for sponsors and improving the evidence base

<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Recommendations 35/36</strong>: Continue to evaluate ingredients on safety, evidence and quality with two new methods for assessment of ingredients</td>
<td>Accepts both recommendations</td>
</tr>
<tr>
<td><strong>Recommendation 39</strong>: Three pathways for inclusion of Listed medicines on the ARTG</td>
<td>Accepts the recommendation</td>
</tr>
<tr>
<td><strong>Recommendation 40</strong>: Develop two new pathways for Registered complementary medicines</td>
<td>Accepts the recommendation</td>
</tr>
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</table>
Recommendation 39: Three assessment pathways for complementary medicines

Recommendation 39

The Panel recommends 3 options by which sponsors may seek ARTG entry for complementary medicines:

- **Option 1**: Listing in the ARTG following self-declaration by the sponsor regarding safety, quality and efficacy (current Listing pathway)

- **Option 2**: Listing in the ARTG following self-assessment of the safety and quality but a TGA assessment for efficacy (New pathway)

- **Option 3**: Registration in the ARTG following full TGA assessment of safety, quality and efficacy (current Registered pathway)
Recommendation 39: Three assessment pathways for complementary medicines

Government response
The Commonwealth accepts the recommendation, noting that legislative amendments are required to implement Option Two.

Implementing this recommendation would increase transparency for consumers, provide additional flexibility for sponsors and support innovation.
Assessed listed medicines pathway: Key features

• A new assessment pathway sitting between the existing listed medicine (low risk) and registered medicine (high risk) pathways

• Maintains low risk status based on their ingredients, the way they are presented and the potential harm associated with their use

• Can use ‘intermediate claims’ which are not included on the permitted indications list:
  - Low level indication: ‘May help relieve muscle aches and pains’
  - Intermediate level indication: ‘May help relieve arthritis’
Assessed listed medicines pathway: Key features

• **Still required to comply** with GMP requirements

• Claims must be supported by appropriate **scientific evidence**

• TGA evaluates the evidence for efficacy **before** it is listed

• Option to include a **claimer** on all promotional material stating it has been independently assessed
## Proposed approach: Assessment pathways

<table>
<thead>
<tr>
<th>Listed Medicines</th>
<th>New Pathway</th>
<th>Registered Medicines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted ingredients</td>
<td>Permitted ingredients</td>
<td>Not limited to selecting from permitted ingredients list</td>
</tr>
<tr>
<td>Good Manufacturing Practice</td>
<td>Good Manufacturing Practice</td>
<td>Good Manufacturing Practice</td>
</tr>
<tr>
<td>Low level permitted indications only</td>
<td>At least one ‘intermediate indication’</td>
<td>May have higher level indications</td>
</tr>
<tr>
<td>No pre-market assessment</td>
<td>Pre-market assessment of evidence for efficacy</td>
<td>Full pre-market assessment</td>
</tr>
<tr>
<td></td>
<td>Ability to claim that efficacy has been assessed</td>
<td></td>
</tr>
</tbody>
</table>
## Proposed approach: Indications

<table>
<thead>
<tr>
<th>Listed medicines</th>
<th>New pathway</th>
<th>Registered medicines</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low level indications</strong>&lt;br&gt;May refer to:</td>
<td><strong>Intermediate level indications</strong>&lt;br&gt;May refer to:</td>
<td><strong>High level indications:</strong>&lt;br&gt;May refer to the:</td>
</tr>
</tbody>
</table>
| • health enhancement  
• health maintenance  
• prevention/alleviation of dietary deficiency  
• a health benefit for a non-serious disease or condition *(symptomatic relief)* | • a health benefit for a **serious** disease *(i.e. restricted representations)*  
• prevention, alleviation or management of a **non-serious** disease or condition *(of a higher risk to consumers than low level indications)* | • prevention  
• Alleviation,  
• cure or  
• management  

Of a **serious** form of a disease, ailment, defect or injury *(restricted reps)* |

*E.g: maintain/support healthy bones*  
*E.g: prevention of osteoporosis*  

**Must not refer to a prohibited representation**
Establishing efficacy

• Sponsors will be required to meet minimum evidence requirements

• Existing approaches to establish efficacy for listed and registered complementary medicines will be retained

• For the new pathway:
  – There will be flexibility in how the evidence requirements can be met (*de novo* vs. well established ingredients)
  – Sponsor will **self-assess** the **safety and quality**
    
    *(permitted ingredients, compliance with quality standards and GMP)*
Next steps

• TGA will conduct a **pilot** of the new pathway prior to implementation in **2019**
  – Expressions of interest via the TGA website **late 2017**

• Minimum data requirements for product efficacy will be developed standardise pre-market assessments

• Further consultation to develop evidence guidelines
Stream 4: Increased flexibility and predictability for industry

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<th>Government Response</th>
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</thead>
<tbody>
<tr>
<td><strong>Recommendation 41:</strong> Develop legislative timeframes for pre-market assessments</td>
<td>Accepts the recommendation</td>
</tr>
<tr>
<td><strong>Recommendation 42:</strong> Management of variations</td>
<td>Accepts the recommendation</td>
</tr>
<tr>
<td><strong>Recommendation 47:</strong> Expand review and appeal rights</td>
<td>Supports the intent of the recommendation</td>
</tr>
<tr>
<td><strong>Recommendation 50:</strong> Incentives for innovation of complementary medicines</td>
<td>Accepts in principle</td>
</tr>
</tbody>
</table>
Recommendation 50: Incentives for innovation

Recommendation 50
The Panel recommends that the Australian Government gives consideration to improving the competitiveness of the Australian complementary medicines industry by providing incentives for innovation.

Government response
The Commonwealth accepts-in-principle Recommendation 50, noting the cross government responsibility for innovation policy.
Incentives for new ingredients: Key features

• The current process for new ingredient applications does not protect the resources invested by applicants.

• Proposal to allow for a 2 year market exclusivity period for new complementary medicine ingredients approved for use in listed medicines.

• Implementation will:
  – Encourage research into emerging areas of complementary medicines.
  – Provide incentive for industry to innovate and bring new products to market.
Stream 5: Enhanced post-market monitoring and compliance actions

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<tr>
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<tbody>
<tr>
<td><strong>Recommendation 49</strong>: Enhanced post market monitoring scheme</td>
<td>Accepts the recommendation, noting that the intent of some elements of the recommendation can be achieved within existing mechanisms</td>
</tr>
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</table>
Recommendation 49: Enhanced post-market compliance

Recommendation 49
The Panel recommends a more comprehensive post-market monitoring scheme for listed medicinal products, including complementary medicinal products. Such a scheme should include:

• an increase in the number of products subject to random/targeted reviews
• integration of available datasets, including eHealth and hospital records, to provide a more streamlined and cost effective approach to post-market monitoring
• provision for electronic reporting of adverse events
• enhanced collaboration with overseas regulators to share information relating to safety or efficacy of comparable products.
Recommendation 49: Enhanced post-market compliance

Government response
The Commonwealth accepts Recommendation 49, as the development of a more comprehensive post-market monitoring scheme will enhance consumer protection and complement existing post-market monitoring processes. The Commonwealth notes that the intent of some elements of the recommendation can be achieved within existing mechanisms.
Enhanced post-market compliance: Key features

How are we going to do this?

• Greater targeting of sponsors with a significant history of non-compliance

• Enforcing sanctions and penalties for repeat non-compliance

• Improved guidance for sponsors about their regulatory obligations

• Provide more information on the TGA website to encourage higher levels of compliance
Phased implementation 2017 - 2019

In 2017

- Online searchable catalogue of permitted ingredients
- Review and appeal rights for ingredient assessment

By 2018

- Permitted Indications
- New assessment pathways for registered complementary medicines and new ingredients
- Risk-based approach to medicine variations

By 2019

- The New Pathway
- Label claimer
MMDR consultations

• **Targeted stakeholder** consultations commenced October 2016.

• **Public consultations** throughout 2017.

• The proposed reforms arising from **recommendations 38, 39, 45 and 50** are addressed in our **first public consultation paper**.

• Outcomes from this consultation are on the TGA website.
MMDR consultation – Business process improvements

Second public consultation due for release September 2017

- Broadening the range of sources of evidence for new ingredient assessment (Recommendation 35)
- Use of evaluation reports from comparable overseas regulators (Recommendations 36 & 40)
- Introduction of legislated timeframes for ingredient assessment (Recommendation 41)
- Enhancing post-market compliance (Recommendation 49)

See the MMDR public consultation forecast on the TGA website for further information
Next steps

• Legislative amendments to the *Therapeutic Goods Act 1989* and the *Therapeutic Goods Regulations 1990*

• Further consultation

• Transitional arrangements

• Sponsor education

• Updated guidelines
Questions?
Find out more:


✉️ Complementary.Medicine.Reforms@health.gov.au