

Advertising Consultation
Regulatory Practice, Education and Compliance Branch
Therapeutic Goods Administration
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October 4, 2017

Consultation: Therapeutic Goods Advertising Code Proposed improvements including proposed framework for Schedule 3 medicine advertising.

NewsMediaWorks (NMW) welcomes the opportunity to make a further submission to the Therapeutic Goods Administration's *Consultation on the Regulatory Framework for Advertising Therapeutic Goods*.

Background

NewsMediaWorks advocates across a spectrum of commercial and editorial areas on behalf of the news publishing industry.

Promotion of the compelling value of our audiences in print and digital, and the protection of press freedom, are priority activities.

NMW provides advice to its publisher members and their constituent publications on legal and other issues affecting advertising.

We believe that with all advertisements, the more pertinent information included in the advertisement the more likely it is that readers' expectations will be met, and the less likely it is that the advertisement will be subject to complaint.

Further, NMW cooperates with governments and authorities at Federal, State and Local levels, and is recognised by the Australian Competition and Consumer Commission (ACCC) as the representative industry association for newspaper and magazine publishers on all advertising and related matters. The ACCC has referred to us as "a model of industry co-operation".

NewsMediaWorks is a full member of the Therapeutic Goods Advertising Code Council and was a member of the Joint Advertising Council (JAC) formed with representatives of stakeholders in Australia and New Zealand.

Key recommendations

- *Strengthening the entry process of new products on the ARTG;*
- *Assessing the appropriateness of promotional claims for current listings on the ARTG;*

- *Greater consistency across regulation of advertising of different types of therapeutic goods;*
- *The complaints handling framework must be robust, timely and transparent;*
- *Penalties and sanctions reflect the seriousness of the breach and provides an effective deterrent; and*
- *Compliance with the TGAC must rest with the advertiser.*

NewsMediaWorks response to the Consultation Paper

4. Proposed Code changes

4.1. Changes to support effective sanctions and enforcement of advertising requirements

Do stakeholders support minimising subjectivity in the interpretation of provisions in the new Code?

As stated in the consultation paper, with enhanced enforcement measures it would only be appropriate that the Advertising Code have clear, comprehensive and precise provisions to assist advertisers and regulatory decision makers.

Using plain English will avoid vagueness and ambiguity and will encourage certainty.

Removal or at the very least minimisation of subjectivity in interpreting the Code can only enhance compliance.

NewsMediaWorks agrees that 'that changes be made to the Code include removing, or minimising subjectivity in the interpretation and implementation of the specific advertising provisions set out in the Code.'

4.2. Core objectives for the new Code

Do you agree with guidelines to the new Code being developed?

Many breaches are inadvertent, whilst there exists a small group of advertisers whose agenda is to push the envelope.

Having supporting Guidelines to the Code provisions will make interpretation of the Code easier for both marketers and advertisers.

Guidelines...

- ensure the Code's objectives and purpose are understood;
- ensure the framework and language is clear to all stakeholders;
- assist in deciding whether a claim is appropriate;
- add clarification and consistency;
- expand on provisions that need to be further addressed than in the Code; and
- clearly written definitions help explain technical and legal terms.

NewsMediaWorks agrees that Guidelines for the new Code be developed.

4.4. Consultation comments

Are stakeholders supportive of including the recommendations in section 4.3 proposed by the Council for incorporation in a new Code?

NewsMediaWorks believes these recommendations be revisited in given that they were made some time ago.

Do stakeholders support the Code changes proposed in section 4.4 (1 to 3) in the 2016 advertising consultation comments?

NewsMediaWorks supports the Code changes as proposed in the above section.

In Summary

Given the Government's decision, the removal of pre-approvals for advertisements must not be undertaken until such time that an effective complaints system has been established and proven.

The new regulatory framework requires the buy in of all stakeholders and the abolishment of the TGACC could lead disenfranchisement of the current stakeholders whose support will be vital in ensuring the new system is well supported.

A high level of participation of stakeholders will encourage a high level of code ownership and coverage. The greater the involvement of industry stakeholders with the industry code, the better the probability of it achieving its objectives.

NewsMediaWorks supports the objective that the advertising of therapeutic goods is conducted in a manner that protects the interests of the community, meets government expectations, and assists sponsors to meet their obligations. Further, that the advertising of all therapeutic goods in all media should be covered by effective and a single principles-based code.

Yours sincerely,



Lianne Richards
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