

**Pharmaceutical Industry Action Agenda (PIAA) Conference**  
**2<sup>nd</sup> November 2005, Canberra**  
***'Pharmaceuticals: The Consumer Perspective'***  
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**The Australian Consumers' Association**

The Australian Consumers' Association (ACA) is a non-profit, non-party-political organisation. The ACA is completely independent. It is not a Government department or agency and it receives no ongoing funding from any Government. Neither does it receive subsidies from industry, manufacturers, unions or any other groups, nor does it take advertisements in any of its printed magazines or on its website. The ACA gets its income from the sale of *Choice* magazine, *Choice Online* and other publications and products. It currently has over 145,000 subscribers to its products.

The ACA represents and acts in consumers' interests. It lobbies and campaigns on behalf of consumers to promote their rights, to influence Government policy, and to ensure consumer issues have a high profile in the public arena.

The ACA is committed to providing information on a whole range of consumer issues including health, financial services, information technology and communications, travel, food and nutrition, computer technology and consumer policy.

**Introduction**

The pharmaceutical industry has provided valuable medicines to the world which have contributed to increasing life expectancy and improved health outcomes for people. The industry is extremely profitable both globally and indeed in Australia where it is the third largest exporter of manufactured goods after the automobile and wine industry.<sup>1</sup> The ACA is concerned however that some companies are employing sophisticated but harmful marketing strategies to increase sales. These marketing practices lead to 'leakage' and inflated prices which increase the cost of the Pharmaceutical Benefits Scheme (PBS). This affects consumers as witnessed recently in the PBS safety net increase. ACA would like to see a new independent body regulate the pharmaceutical industry and for the Medicines Australia Code of Conduct to be more stringently enforced by this new regulator.

**Sales and Marketing**

The pharmaceutical industry, in common with other knowledge-intensive industries, has a cost structure with very high fixed costs (particularly research and development), but comparatively low variable costs (manufacturing and distribution). This means unit contribution per prescription (i.e. the contribution towards fixed costs and profits) is high. This high contribution, combined with the requirement of covering fixed costs during the period of patent protection, provides very strong incentives for pharmaceutical firms to promote their products.<sup>2</sup>

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<sup>1</sup> Australian Pharmaceuticals Industry (API) Factsheet 2005

<sup>2</sup> Ian McAuley, personal correspondence via email

According to the Pharmaceuticals Industry Action Agenda (PIAA) 2001 discussion paper produced for the Commonwealth Government, sales and marketing account for 35% of the price of a drug.<sup>3</sup> This is the largest expense in a pharmaceutical company's budget and targets both doctors and consumers. The ACA is opposed to forms of pharmaceutical advertising which seek to influence doctor or consumer behaviour in non rational ways such as those outlined below.

### *1. Targeting General Practitioners.*

Companies target GPs in two main ways that have strong impacts through doctor's prescribing software and through inducements to doctors, particularly those associated with visits by drug representatives. Doctors are key targets because as noted in the PIAA paper, "they are the decision makers because of their power to prescribe".<sup>4</sup>

(i) Marketing of pharmaceuticals in Australia is around \$1 billion and much of this activity is directed at doctors. A study carried out by Harvey and others analyzing pharmaceutical advertisements in the most commonly used prescribing software, Medical Director, found that "the advertising viewer displayed 79 different advertisements for 41 prescription pharmaceutical products marketed by 17 companies, including one generic manufacturer".<sup>5</sup> Furthermore, it was reported that 95% of advertisements appeared noncompliant with one or more of the provisions of the Medicines Australia Code of Conduct.<sup>6</sup> The ACA agrees with Harvey's view that pharmaceutical promotion in prescribing software should be banned. Regulating the industry by eliminating advertisements in the software is unlikely to increase the cost of the software in a competitive market.<sup>7</sup>

(ii) There are a growing number of sales representatives visiting GPs in their office, promoting drugs and offering gifts, trips to conferences and 'educational seminars'.<sup>8</sup> This practice is becoming increasingly common. In 2003 it was estimated there were around 88,000 sales representatives visiting GPs in the US, while there are roughly 3000 such reps in Australia.<sup>9</sup> Taking into consideration the difference in population size, the US has roughly twice as many sales representatives. The 2001 PIAA discussion paper states that this is an effective form of advertising.

Marketing of this sort does not provide doctors with information designed to assist them to improve their advice to patients but attempts to influence them in non-rational ways. The strategy obviously influences the prescribing patterns of doctors in inappropriate ways and for this reason should be banned.

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<sup>3</sup> Pharmaceutical Industry Action Agenda (PIAA) Discussion Paper 2001. Also see Australian Pharmaceutical factsheet 2005.

<sup>4</sup> PIAA 2001

<sup>5</sup> Harvey et al 2005

<sup>6</sup> Harvey et al 2005

<sup>7</sup> Refer to: [www.bpssoftware.com.au](http://www.bpssoftware.com.au), [www.global-health.com/Locum/aboutlocum\\_bene.html](http://www.global-health.com/Locum/aboutlocum_bene.html), [www.geniesolutions.com.au/](http://www.geniesolutions.com.au/)

<sup>8</sup> For recent examples see Moynihan et al 2005 and Angell 2005

<sup>9</sup> Ballenden et al 2003

## *2. Direct to Consumer Advertising (DTCA)*

While this is prohibited in Australia, companies get around this in a number of ways. For example, by masquerading advertising as education campaigns such as the Xenical (for weight loss) advertisements which advised consumers to ‘ask their doctors’.<sup>10</sup> Secondly, through stories in the media which are presented as ‘medical breakthroughs’ such as Concerta for ADHD or Travatan for glaucoma.<sup>11</sup> Thirdly, by sponsoring high profile support groups such as the Healthy Weight Task Force which was sponsored by Roche.<sup>12</sup> Finally by subsidising academics to provide their ‘expert’ opinions about particular drugs or by sponsoring prizes for journalist awards.<sup>13</sup>

The most recent novel marketing strategy employed by a pharmaceutical company (Bayer for the erectile dysfunction drug Levitra) as cited in ‘Australian Doctor’, effectively matched individuals with doctors. Patients identified doctors they wanted to see on the website, Bayer then sent the GP an information pack with the patient’s name and contact details and the company then sent the patient an sms to remind them of their appointment with the GP. This is direct to consumer advertising in all but name.<sup>14</sup>

Pharmaceutical companies’ advertising has become more sophisticated and some strategies are potentially dangerous, for example where companies market fear to increase demand for a product. According to the marketing strategies of many of these companies, things that were once accepted as character traits or part of the general ups and downs of life are now increasingly medicalised. For example, one can no longer be introverted, it must be manifested in social anxiety disorder for which a drug is of course available. According to the same companies, adults now suffer from attention deficit disorder and ‘a bad day’ is diagnosed as depression.<sup>15</sup>

The more aggressive marketing strategies, described above can lead to leakage and inflated prices. ‘Leakage’ occurs where established drugs are used for indications for which the original sponsor had not sought marketing approval.<sup>16</sup> These contribute to the increase in the cost of the PBS. Marketing strategies have also resulted in “42% of consumers paying unnecessary brand premiums and shows the power of brand promotion to doctors”.<sup>17</sup>

## **Influence**

The pharmaceutical industry has significant political influence. For example, while the industry initially accepted the Government proposal that new generic medicines entering the PBS after 1<sup>st</sup> August would list at 12.5% below the current benchmark price, four

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<sup>10</sup> Moynihan et al 2005

<sup>11</sup> Ballenden 2004

<sup>12</sup> Ballenden 2004

<sup>13</sup> Ballenden 2004

<sup>14</sup> Lymphrecht 2005

<sup>15</sup> Moynihan et al 2005

<sup>16</sup> Sansom 2004

<sup>17</sup> Harvey 2005 citing PBPA

companies refused to accept the lower price and the Government was forced to pay the Special Patient Contribution (SPC) on behalf of the patient where there was no alternative.<sup>18</sup> The Government then decided that the cholesterol lowering drug, Lipitor would also be exempted from the cut. The policy was introduced to gain the Government big savings but did not eventuate in this case because of opposition from several firms within the pharmaceutical industry.<sup>19</sup> The Treasurer, Peter Costello stated that generic drugs should be promoted and “that the PBS is not run for the benefit of pharmaceutical companies. It is run for the benefit of patients”,<sup>20</sup> a sentiment with which the ACA strongly agrees.

For the industry to operate in the interests of patients rather than pharmaceutical companies, marketing should be regulated to ensure that it operates to provide information and product awareness but is not used to influence in non rational ways. The first step is to establish an effective regulator of the industry. The second step is to outlaw advertising in prescribing software and forms of influence based on rep visits, overseas conferences and other financial benefits to doctors.

Medicines Australia, the peak industry lobby group is ineffective in this role; the body cannot police its own industry because an inherent conflict exists. While the number of complaints to the body has increased from 36 in 2003/04 to 51 in 2004/05, the 51 complaints resulted in 20 fines totaling \$471,500, which is an insignificant amount for an industry this size and does not match the damage which could possibly result from a breach of the code.<sup>21</sup> Fines do not appear to deter repeat breaches. Bayer was sanctioned by Medicines Australia last year over its erectile dysfunction website because it was promoting specific prescription medication.<sup>22</sup> Bayer and GlaxoSmithKline were fined \$100,000 this year for promoting the anti-impotence drug Levitra.<sup>23</sup> This demonstrates that the nominal amount is insufficient and that the code largely relies on individual complaints, which is an inadequate mechanism. Self regulation of pharmaceuticals does not work and a new independent regulator must be established. The process must be transparent, the findings public and fines should be in proportion to the damage suffered by any individual or group, not the nominal amount which is currently charged.

### **Increasing cost of PBS**

The cost of the PBS in 2002-03 was about \$5.6 billion.<sup>24</sup> The PBS covers approximately 2500 types of prescription medicines<sup>25</sup> and is similar in design to pharmaceutical subsidy schemes in France, Spain, Sweden and New Zealand.<sup>26</sup> Australia’s spending on health is in line with most other OECD countries at 9.7% of GDP<sup>27</sup>.

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<sup>18</sup> Press Release from Tony Abbott’s homepage

<sup>19</sup> Taylor 2005

<sup>20</sup> Stafford et al 2005

<sup>21</sup> Cresswell 2005

<sup>22</sup> Allen 2005

<sup>23</sup> Cresswell 2005

<sup>24</sup> Government Treasury, <http://www.budget.gov.au/2002-03/>. This is the cost to the Government.

<sup>25</sup> Health Insurance Commission (HIC) pamphlet 2003

<sup>26</sup> Sansom 2004

<sup>27</sup> Australian Institute of Health and Welfare 2005

The PBS ensures universal access to affordable drugs but it is at threat as a result of increasing costs which are due to several factors. Firstly, the introduction of valuable but inexpensive new drugs such as the Oral Contraceptive Pill (OCP) and antibiotics have improved quality of life as have national campaigns to treat illnesses such as asthma and depression.<sup>28</sup> People are now consuming drugs which were not available fifty years ago thus increasing the cost of the PBS.

Secondly, an aging population with an increased life expectancy and higher usage of drugs than the rest of the population has resulted in increased demand for drugs<sup>29</sup>. People are taking drugs for longer periods because life expectancy has increased dramatically since the post war years.

Thirdly, inappropriate advertising often leads to inappropriate prescribing by increasing demand for a drug which might not be necessary. This can result in 'leakage', as outlined above.

Fourthly, pharmacists often inflate the price of some medicines on the PBS by adding various fees which are then passed on to the consumer. Pharmacists can charge a safety net recording fee which can increase the cost of a drug by up to \$0.95 as well as a 'further additional patient charge' of up to \$3.36, which they are required to inform the consumer about, but often do not.<sup>30</sup> Until recently, the pricing component of a software used widely by pharmacists (WiniFRED) was set to a default mark up of 75%. This was changed to 0% and the dispensing fee to 0% after the ACA brought this default to the attention of the ACCC.<sup>31</sup>

Finally, companies seeking wider indication for their drugs, often act to slow the introduction of generics onto the market. This results in consumers having to buy the brand name which increases the cost of the PBS.

## **Response**

The development of new drugs such as antibiotics, have done much to improve the quality of life of people who have access to these drugs. There has been a similar effect for Australia's aging population, which consumes more drugs to improve their health outcomes in the later stages of their life. These are two causes of the increase to the PBS for which not much can be done.

However, inappropriate advertising as described in this paper should be stopped. The ACA would like to see Government introduce a new independent body to regulate the pharmaceutical industry and for the Code of Conduct to be more stringently enforced by this new regulator. The current status quo is obviously ineffective.

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<sup>28</sup> Harvey PowerPoint presentation 2005

<sup>29</sup> For further reading refer to: Productivity Commission Research report on Aging

<sup>30</sup> Ballenden 2005

<sup>31</sup> Ballenden 2005

The pharmacy industry has enjoyed a great level of protection. The Pharmacy Guild is a strong lobby group and naturally acts in the interests of its members and not consumers. The newly negotiated Pharmacy Agreement has forced chemists to cut their margins and saved Canberra \$500 million in savings<sup>32</sup> but the Government needs to play a tougher role in the industry, as the Pharmacy Guild is unlikely to act against the interests of its members. The ACA would like to see the end of anti-competitive protectionist policies in the pharmacy sector.

Finally, the Government through the Therapeutic Goods Administration (TGA) needs to ensure that pharmaceutical companies are not seeking wider indication for their drugs simply to delay generics from entering the market. The ACA would like a stronger and more transparent TGA. Generic brands need to be promoted to doctors and consumers should be armed with the information that they have the option of asking for a generic drug.<sup>33</sup> This could be done by requiring prescribing software to default to the generic brand.

### **The future**

Prices of drugs in the US are a staggering 80% to 160% higher than in Australia.<sup>34</sup> Australia currently has the world's lowest cost scheme and the ACA wants to ensure it remains that way. While Australia's Medicare system is not perfect, it is universal in scope and does aim to protect the most vulnerable by ensuring that all citizens have access to affordable drugs. The virtue of the PBS is that it offers potential to use the power of the Government to countervail the power of the drug companies. Australia often mirrors policies in the US, it would be catastrophic if Australia adopted America's health policies. A strong independent regulator and Government need to enforce the few measures and changes outlined in this paper to ensure the continuation of a universal system for all Australians.

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<sup>32</sup> Lewis, 2005

<sup>33</sup> Harvey PowerPoint presentation 2005

<sup>34</sup> PIAA 2001

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