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Senate Community Affairs Legislation Committee
Additional Committee Support
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Parliament House
Canberra ACT 2600
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11 December 2017

Re: Therapeutic Goods Amendment (2017 Measures No.1) Bill 2017 and related bill.

Dear Secretary

I am concerned about the TGA taking over the advertising complaint system from July 1, 2018 because they have an unenviable reputation of not providing an outcome on hundreds of complaints sent to them.

I was involved in a critique of the NINE ACA 'ADHD Breakthrough' program which appeared on ABC Media Watch:

<http://www.abc.net.au/mediawatch/transcripts/s4627196.htm>.

I asked Adjunct Prof John Skerritt, Deputy Secretary for Health Products Regulation, Department of Health whether this program was a bone fide news report or an advertisement for a therapeutic good and, if the latter, was it in breach of the Therapeutic Goods Act 1989 and Therapeutic Goods Advertising Code 2015? I noted an 'Advertisement in relation to therapeutic goods, as defined in the Therapeutic Goods Act 1989, includes any statement, pictorial representation or design, however made, that is intended, whether directly or indirectly, to promote the use or supply of the goods'.

Six months later, the TGA responded, 'As this complaint was not subject to a determination by the Complaints Resolution Panel (CRP) the TGA does not have any legal mechanism to release information related to the outcomes of our investigations. I do note that this segment has been removed from the ACA website and other streaming services'.

I do not understand why the TGA could not at least provide an opinion on the above matter – was it an advertisement or not? This would be of great assistance to me and other complainants, the media and advertisers of therapeutic goods. It appears I was meant to be satisfied by the quiet disappearance of the segment from the website.

Also, I noted in my correspondence that the TGA is to take over the advertising complaint system from July 1, 2018, and asked for an assurance that the Therapeutic Goods Amendment (2017 Measures No. 1) Bill 2017 (and associated regulations) will remove the current legislative impediment referred to above and allow full disclosure of past and future TGA determinations.

The TGA responded by referring you to Division 6, section 42DV of the Bill. This states (1), (2), 'the Secretary may, in writing, direct...'.

I submit that 'may' should be changed to 'must', otherwise complainants will continue to be frustrated by lack of transparency from the TGA.

Yours sincerely



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