

Dear Senator

**Re: Tabled delegated legislation permits false and dangerous claims on complementary medicines**

I am writing in regards to the tabled delegated legislation; [Therapeutic Goods \(Permissible Indications\) Determination No.1 2018](#) (the Determination).

As Australia's largest consumer organisation, we seek to protect consumers by promoting fair, safe and just markets. We are deeply concerned that the Determination will allow misleading and dangerous claims in relation to complementary medicines.

The Determination sets out a list of over 1,000 claims that will as a result of the Determination be legally permitted. The types of claims that will be given the weight of law include statements with no scientific basis such as:

- 'regulate chong channels'
- 'disinhibit channels'
- 'moistens dryness in the triple burner'
- 'open body orifices' and
- 'subdue yang'.

Spurious claims like this should not be incorporated into law, which is why we are seeking support for **disallowance of the Determination**.

Disallowing this legislation will force the Therapeutic Goods Administration to rework the Determination. In our view, this should provide consumers with clearer information about complementary medicines, including a prominent disclaimer for claims that are based solely on traditional use, with no scientific evidence to support the claim.

The Determination arose from the Sansom Review, a 2015 review into medicines and medical devices. The Review recommended that when making product claims, therapeutic goods companies must choose from a list of pre-approved claims. It also recommended that there needed to be a disclaimer alongside claims to communicate to consumers that the efficacy of the product had not been independently assessed and/or is based on traditional use.

CHOICE supports a list of pre-approved claims in principle. It is a vast improvement on the previous rules where companies had a free-text field to write their own product claims. A concise list of pre-approved claims that are independently evaluated and backed by scientific evidence would help consumers find products that meet their needs. However, 86% of the claims listed in the Determination are not backed by scientific evidence.

If the Determination proceeds, these claims will have effectively been endorsed by Parliament, and consequently given a greater legitimacy in the eyes of consumers despite the lack of scientific evidence behind them.

Australia is a multicultural country and it is appropriate that we respect and allow access to alternative medical traditions. However, it is also important that Australians are protected from misleading claims. Consumers need labels that allow them to distinguish between products that will help them and products that have no scientific backing. The Determination will not let a consumer standing in front of shelves of products make an informed choice.

CHOICE is urging Senators to ensure that therapeutic companies cannot make claims that aren't backed by scientific evidence unless this is accompanied by a clear disclaimer.

To avoid ineffective and potentially dangerous complementary medicines appearing in chemists and supermarkets alongside over-the-counter medicines, it is essential that this Determination is amended. The Determination will expire from the Senate Disallowable Instruments List on 25 June 2018.

**We ask you to indicate whether you would support a motion disallowing the Determination.**

We would be happy to discuss this further with you or your office. Our Campaigns and Policy Team Lead, Katinka Day can be contacted on 02 9577 3307 or at [kday@choice.com.au](mailto:kday@choice.com.au).

Yours sincerely,

Alan Kirkland  
CEO