Contested Policy: An Analysis of Advertising Complaint Systems – Old and New

Mal Vickers
School of Public Health

APHC 2018 Cairns, 26 Sept 2018, 3:00 PM - 4:30 PM

Therapeutic Goods Advertising: Complaints

COMPLAINTS RESOLUTION PANEL
Integrity in Healthcare Advertising
(1999 - 30 June 2018)

(1 July 2018 -)
Complaint Resolution Panel (CRP): Process

Members
- ASMI
- CHC
- MTA
- ATMS
- Choice
- CHF
- Guild
- PSA
- RACGP

Regulations/Codes
- Therapeutic Goods Advertising Code 2015
- Therapeutic Goods Act 1989
- Therapeutic Goods Regulations 1990

Outputs
- Publish: Determinations
- Publish: Notifications of Withdrawn Complaints
- Publish: Annual Complaints Summary
- Refer: Complaints to the TGA
- Refer: Complaints to other bodies

No Powers of Enforcement
- Publish outcome
- Request ad withdrawal / retraction

Complaint Resolution Panel: Analysis

Source documents

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<tr>
<td>Notification of</td>
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<tr>
<td>withdrawn complaints</td>
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<tr>
<td>2015-2018 Indexed</td>
<td></td>
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<tr>
<td>n=345</td>
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<td>Notification of</td>
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<td>withdrawn complaints</td>
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<tr>
<td>1999-2014 Non-Indexed</td>
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<tr>
<td>n=537</td>
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n=3185
Complaint Resolution Panel: Analysis

Limitations of the data

- Missing data
- Changed regulations
- Company names changed, take-overs
- Naming inconsistency
- Complaint handling processes changed over time
- Errors

Company History – Justified Complaints

Company History - Total Complaints Per Therapeutic Goods Company ≥7
Pharmacare Laboratories took over Cat Media Pty Ltd in 2006.
Justified complaints by company n=2078

Most complained about product types

- “Foot Detox Patches”, 87 justified complaints, 38 treated as withdrawn, 35 TGA notified
- Word frequency analysis of product names associated with justified complaints
  - “Detox” n=60, “Foot” n=78, “Patches” n=61, “Feet” n=11
  - “Natural” n=42
  - “Ear” n=34, “Candles” n=35
  - “FatBlaster” n=27, “Fat” n=20, “Slimming” n=16, “Weight” n=10

1999 – June 2018: How many complaints have been referred to the TGA?

- CRP documented complaints referred to the TGA n=755
- TGA published outcomes 11%, n=80
TGA New Complaint System: Analysis

From 1 July 2018

- Therapeutic goods advertising complaints are lodged with the TGA
- Electronic lodgement. Complaints are triaged as:
  - Low
  - Medium
  - High
  - Critical
- TGA undertaking to process advertising complaints within specified time periods. Maximum close time; 90 days

TGA New Complaint System - Analysis

Transparency

Analysis of Complaint Outcomes:
Previous CRP system vs. new TGA system

<table>
<thead>
<tr>
<th>Complaint Detail</th>
<th>CRP</th>
<th>TGA</th>
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<tbody>
<tr>
<td>Product Name</td>
<td>Yes</td>
<td>No*</td>
</tr>
<tr>
<td>Company</td>
<td>Yes</td>
<td>No*</td>
</tr>
<tr>
<td>Codes Breached</td>
<td>Yes</td>
<td>No*</td>
</tr>
<tr>
<td>Image of Advertisement</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>Reasoning</td>
<td>Yes</td>
<td>No</td>
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<table>
<thead>
<tr>
<th>Time to Finalisation</th>
<th>CRP</th>
<th>TGA</th>
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<tr>
<td>Days</td>
<td>191</td>
<td>90</td>
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</table>

*For complaints assessed as low priority
TGA New Complaint System: Analysis

Summary

• Pharmacare Laboratories Pty Ltd is the worst performing company for complaints; accumulating 104 justified complaints
• “Foot Detox Pads” are the most complained about product
• High level of advertising breaches for weight loss products
• Breaching of advertising codes and regulations occurs unevenly across the marketplace. Alarmingly high totals
• Widespread breaching has occurred over many years
• The new TGA complaints system lacks transparency. This has implications for consumers, industry compliance and future analysis