

16 Nov - 22 Nov 2020

## News

### Angry CHOICE rep quits TGA 17.11.20

Posted 17 November 2020

**A representative of Australia's leading consumer group has quit his role on the TGA's advertising complaints committee in protest, accusing the organisation of allowing "shonky" operators to continue to trade without fear of penalty.**

Associate professor Ken Harvey has resigned as the CHOICE representative on the Therapeutic Goods Advertising Consultative Committee (TGACC) claiming the scheme established to control misleading and deceptive therapeutic goods is in "tatters."

"Until they come down like a tonne of bricks on crazy complementary medicine products making outrageous claims, the system is not going to change and consumers are going to be disadvantaged," Harvey said.

"The complete system has failed. It's ineffectual. It's not dealing with the high number of complaints. It's not dealing with the high number of post-marketing violations which shows there is a serious problem. At best they will make a token attempt on the odd product."

The TGA has been bombarded with more than 3000 complaints in the last year, which Harvey said had produced a large and growing backlog with so-called hangover cures and miracle weight loss products featuring highly on the complaints list.

"Having failed to halt a wave of wrongful conduct and in the face of growing numbers of complaints, the TGA has given up on systematic enforcement," he said.

"Instead of investigating and where necessary prosecuting unlawful conduct, the regulator is now closing files."

Harvey said the TGA is using complaints as an "intelligence gathering exercise" telling complainants their case had been closed but the information provided would be used to determine where best to focus compliance monitoring and enforcement efforts. He said misleading and deceptive advertising of complementary medicines was being allowed to continue without penalty.

"It is a \$4 billion export-orientated industry and that's good but if it's producing a lot of those sales through shonky products and crazy claims why not do something about it?" Harvey asked.

He said one area the TGA had performed "commendably" was in relation to the 529 complaints relating to dodgy COVID-19 products.

"It's interesting as to why they've done that. I suspect it's because COVID-19 is new, it's people like Pete Evans with crazy machines, it's people doing stupid things and it's been pretty easy to jump up and down and be tough on them," Harvey said.

"I'm not saying they shouldn't - I think they've done a good job on COVID-19 but the question is: why haven't they done the same thing on a lot of complaints about complementary medicines?"

"They have done nothing about hangover products despite public concerns that they encourage excessive drinking, they don't work, they are breaching the code. They not only haven't dealt with complaints but they've allowed new products to be listed," he said.

"The TGA would make the point that these are low-risk products. But low risk is not no risk.

"If you're getting 3000 complaints a year, there's a problem there guys. The way to deal with it is not to stop handling complaints - it's to put on more resources and deal with them effectively."

But the TGA hit back insisting it is committed to protecting consumers through the regulation of advertising for health products, pointing to "a large amount of information to demonstrate" it is achieving its objective.

"The TGA has used the enhanced sanctions and penalties for advertising offences, legislated in March 2018, to their full effect," a TGA spokesperson said. "Examples of where we have pursued court action to protect consumers from unlawful advertising and/or unlawful goods are published in the compliance and enforcement hub."

**Christine Spiteri**



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