



## Member Alert

### Outcomes of the Independent Advertising Review

Dear Members,

The independent review of the advertising framework, led by Ms Rosemary Sinclair AM, has now concluded, with 22 recommendations which have all been accepted by Government.

The recommendations and outcomes are of relevance to the advertising framework, which will have effects upon all who engage with therapeutic goods advertising, including advertisers (sponsors, retailers, and other advertisers) and consumers.

Key outcomes of this review include that the TGA will remain as the single complaints-handling body, who will introduce an updated complaints model and performance measures. New compliance and education priorities, along with more targeted external stakeholder engagement and increased internal information-sharing systems are intended to better integrate and target compliance systems.

The TGA have provided approximate dates to consult on and roll out the details of the updated measures over the next 6 months. Please note that there are not any legislative changes are not entailed through this review specifically, unless there are to be minor clarifications or amendments to the Code identified through the usual processes and through improved stakeholder engagement. The outcomes primarily relate to how the TGA manage the advertising system under the existing framework.

#### Background

In February 2018, the Hon Greg Hunt MP, Minister for Health, committed to a review of the impact of new advertising measures within two years from their commencement. The new advertising measures were incorporated into the *Therapeutic Goods Act 1989* from the *Therapeutic Goods Amendment (2017 Measures No.1) Act 2018*, as a result of the Review of Medicines and Medical Devices Regulation.

The independent review of the advertising reforms (the Review) [commenced](#) in February 2020, and consulted with industry groups, consumer and medical groups.

Complementary Medicines Australia represented the complementary medicines industry in the Review through meetings and written correspondence, which was developed in coordination with member feedback and committee consultation. CMA's submission (provided to the independent review, not the TGA) is available for member-only viewing [here](#).

Ms Sinclair's report which is available [online here](#) and in [PDF](#).

The Australian Government has accepted all 22 recommendations, the response is available [online here](#).

## KEY TAKEAWAYS - RESULTS OF THE REVIEW

The key takeaway points are summarised for members below. Many of these recommendations relate to the [Therapeutic Goods Advertising Consultative Committee](#) ('the TGACC'), which CMA is a representative on. Please communicate ongoing advertising issues, etc, to CMA as your TGACC representative.

The numbers below correspond to the recommendations and Government response.

1. **More case examples will be published.** This is intended to help advertisers understand the TGA's interpretation.
2. **Issues with the Advertising Code and legislation will be logged and shared** with those on the TGACC, with further policy clarification or changes to the Code continued as needed.
3. **TGA is to remain the complaint-handling body.** (No external advertising body or process is being introduced).
4. **A new or "reset" model of complaints-handling will be introduced in September 2020,** to improve targeting of compliance through intelligence. Resolving complaints that entail significant harm to consumers will remain a priority.
5. **'Compliance Priorities' will be set annually** for advertising, which will help inform TGA activities and KPIs (key performance indicators).
6. **A new integrated software system will be used for information-sharing across TGA,** to better identify compliance trends, and ensure advertising compliance is more integrated with the relevant regulatory areas of the TGA.
7. **TGA will continue information-sharing activities with other regulatory bodies** such as the ACCC and FSANZ.
8. **TGA will provide stronger messaging to deter non-compliance** under the new complaints model (Rec 4), in response to the Review's eighth recommendation to develop a 'clearer regulatory position' including 'a balance of focus between educative and punitive responses'.
9. **Investigator skills development** - TGA has provided that its complaint investigators hold formal qualifications in investigations, and that further training opportunities will continue being explored.
10. The TGA have provided that, **'Learnings from the nimble response in relation to compliance, enforcement and educational activities during the COVID-19 pandemic will inform improvements'**, to ensure responses to non-compliant advertising are conducted in a timely manner.
11. **An advertising education strategy will be developed,** grounded in compliance priorities (Rec 5), education priorities (Rec 12) and consumer outcomes.
12. **Education priorities will be continue to be consulted through TGACC,** to effectively communicate educative information for advertisers.

13. **The TGA “will utilise the mass media to a greater extent to communicate compliance priorities and achievements”.** This is in response to the Review’s recommendation to “use the COVID-19 experience, particularly in priority-setting and developing activities and mobilising the media in support of agreed priorities, as part of developing a more strategic approach to its education program.”
14. **New TGA advertising KPIs will be published in September 2020,** in response to the Review recommendation to have Government key performance measures that “focus on priorities and outcomes rather than processes and deadlines.”
15. **Performance will continue to be published in the half-yearly and annual performance reports,** which will reflect the newly published KPIs (Rec 14) and complaints-handling model (Rec 4).
16. **A TGA Stakeholder Engagement Plan is being developed,** looking at adopting new methods for addressing barriers to stakeholder engagement on regulatory and advertising matters.
17. **TGA will engage more proactively with media,** and external promotion of advertising compliance priorities and outcomes.
18. **The TGACC member roles and responsibilities will be clarified** to produce better outcomes for consumers.
19. **A list of key tasks and associated timeframes will be developed** for the TGACC to finalise. This includes annual compliance and education priorities, and identifying significant case studies for use in the education program or media.
20. **Sub-group meetings of the TGACC will be formed to address specific focus issues,** and report back to the TGACC.
21. **Outcomes of the Consumer Health Regulators Group will be reported to the TGACC.** This group is a meeting of Government regulators including the TGA.
22. **Annual TGA stakeholder surveys may be updated to include questions about satisfaction with advertising compliance.**

As you will note from the above, much of the effect of these measures will become clearer, once the details are consulted on and released, and the updated measures begin to be implemented, including compliance priorities, education priorities, the updated complaints handling model, and the stakeholder engagement plan.

Contact us here at CMA if you have any questions or concerns, or suggestions on specific aspects that we may represent on your behalf through the TGACC.