POSITION STATEMENT

The Royal New Zealand College of General Practitioners
Te Whare Tohu Rata o Aotearoa

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Prohibition of direct-to-consumer advertising of prescription medications

Position statement

Direct-to-consumer advertising (DTCA) of prescription medications causes considerable public harm through misinformation and the stimulation of demand for unsuitable or unnecessary, costly treatment, leading to inappropriate prescribing. The College advocates that legislation should be amended to prioritise the protection of public health over the interests of private industry: DTCA of prescription medications should be prohibited.

Introduction

The Therapeutic Products Bill, of which a draft is expected in 2017, will repeal and replace the Medicines Act 1981 and its regulations. The College advocates that the redesign of this legislation presents an excellent opportunity to introduce the prohibition of direct-to-consumer advertising (DTCA) of prescription medications.

Prescription medications (and indeed many non-prescription substances) can cause considerable harm if used inappropriately – this is why the barrier of a prescription exists in the first place. Prescription medications are not normal commodities, and this is already recognised through the stringent regulation of how they are accessed and who can prescribe them.[1]

Many prescription medications are also different to normal commodities in that they are partially funded by the government agency PHARMAC (Pharmaceutical Management Agency) and thus they are subsidised by the public purse. Prescription medications should only be provided on an as-needed basis rather than on an as-desired basis. For these reasons, the distribution of biased information on prescription medications is inappropriate.

DTCA of prescription medications is an issue in which the interests of the public should be prioritised ahead of the financial interests and 'freedom of speech' of industry. Sufficient public harm and a relative inability to avoid its negative influence justify government intervention under the stewardship framework for policy making and under John Mill's principle on liberty.[2] That is, "The only purpose for which power can be rightfully exercised over any member of a civilised society, against his will, is to prevent harm to others".[3]

Many of the arguments and principles outlined above could also apply to any product claiming therapeutic benefit; however, this statement will focus on prescription medications.

Notably, many prominent health organisations in New Zealand advocate the prohibition of DTCA of prescription medications, including the New Zealand Medical Association,[4] the New Zealand Nurses Organisation,[5] the Public Health Association of New Zealand[6] and the Council of Medical Colleges of New Zealand.[7] The collective agreement by leaders of the health sector is a clear indicator that a legislation change is in the best interests of public wellbeing.

Under current legislation, pharmaceutical companies are able to advertise their prescription-only medications directly to consumers through television, print (magazines, newspapers), radio, the internet and other mass media. These advertisements use common marketing tactics and generally come in three main forms:[8]

- **Product claim advertisements**, which name the medication, indicate what it is for and make claims regarding its safety and efficacy
- **Reminder advertisements**, where the product is named and described, but no information about its uses is provided
- **Help-seeking advertisements**, where the medical condition (but not the treatment) is described, and viewers are encouraged to visit their doctor.

DTCA of prescription medications occurs through the mass media and so reaches everyone but especially those in frequent contact with media. Research commissioned by New Zealand On Air found that television reaches 83 percent of New Zealanders daily and is still the most received form of media.[9] Those aged 65+ (as well as empty nesters, retirees, and two-person homes) were found to have higher daily reach than average.

Understanding this daily reach is important, as older persons are also more likely to be experiencing a decline in health status and are therefore more vulnerable to help-seeking advertisements. Importantly, those who see or hear DTCA do not simply ignore and forget it. A 2002 study in the United States of America (USA) found that 81 percent of consumer respondents reported seeing or hearing an advertisement for a prescription.[10] DTCA is widespread and reaches the public effectively.

Preventing misinformation

Product and health information provided in DTCA is not of sufficient quality to be considered educational. Direct-to-consumer advertisements are often vague, misleading, unbalanced, use emotional appeals and can be misinterpreted as a public health message.[11–14] A well-known New Zealand example of this is the *Family Health Diaries*,* an integrated media platform, in which the advertisements' spokespeople are perceived to be independent, trusted sources of information.[15] The end result in many instances is that healthy consumers have their normal human experiences medicalised – that is, defined as illnesses and disorders – and are led to believe they require treatment.[16,17] This contributes to the social psyche that there is a 'pill for every ill'.

DTCA undermines the value of scientific evidence through its misuse and alters the public's perceptions of the safety of prescription medications.[18] Those in support of the DTCA of prescription medications – primarily the pharmaceutical industry – claim that they are a source of information for consumers about conditions and new medications. However, the information provided is often misleading and of variable quality, with many advertisements citing inappropriate publications to support their promotional claims.[11–14,18] The misuse of scientific evidence erodes trust in true, evidence-based advice and contributes to public confusion.

The limited information about a condition and/or medication that is conveyed in an advertisement is not an appropriate substitute for the complex process of medical diagnosis and consideration of pharmaceutical intervention (eg dosage, contraindications).

Preventing inappropriate prescribing

DTCA increases the likelihood of the consumer requesting the advertised product and/or believing they have a condition, resulting in increased prescribing. This can cause harm to the patient, damage the doctor–patient relationship and create unnecessary costs to the patient and health system (especially if the advertised product is funded by PHARMAC).

There is strong evidence to show that DTCA is effective in influencing public behaviour, with the strongest evidence arguably being that pharmaceutical companies (and other industries) are increasingly using it as a tool to increase revenue.[19–21]

One cross-sectional study among primary care physicians compared prescribing patterns in Sacramento (USA), where DTCA of prescription medications is legal, with prescribing patterns in Vancouver (Canada), where it is not. They found that "more advertising leads to more requests for advertised medicines, and more prescriptions. If DTCA opens a conversation between patients and physicians, that conversation is highly likely to end with a prescription, often despite physician ambivalence about treatment choice."[22]

Patient demand for a product has been shown to influence prescriber behaviour.[23] Those in support of DTCA argue that doctors' professional judgment should not be influenced by patient demand. However, this is counter to the notion of patient empowerment and shared decision making promoted by the New Zealand Health Strategy 2016, current medical teaching and international concepts of health promotion.[24–26] That is, doctors are increasingly being taught to adjust care plans based on the holistic needs of the patient and their perceptions of what constitutes wellbeing.

Unfounded patient demand for a product or diagnosis, caused by DTCA, mars this otherwise beneficial model of health care and creates conflict in the doctor–patient relationship. Doctors want to please their patients, and unwarranted demand creates discomfort and pressure. Meanwhile, patients may become angry or dissatisfied if they do not receive the medication they have asked for. Preventing inappropriate triggers for patient demand through the prohibition of DTCA is an effective and equitable solution that prioritises public good over private profit.

Inappropriate prescribing, triggered by DTCA, can cause harm to consumers' health. As noted earlier, prescription medications are only available by prescription because they have a physiological effect on the body that can be dangerous or even lethal. As well as the potential for direct adverse effects of inappropriate medication, unnecessary prescribing can contribute to polypharmacy – where many drugs are taken by a patient – particularly in older people who are more likely to be on long-term medications. Polypharmacy is associated with a higher risk of adverse drug reactions and interactions.[27,28]

In addition to the health harms, there are considerable financial costs to the patient and health system because of inappropriate prescribing. This starts with the direct costs of an appointment with a general practitioner (or other prescriber), followed by the cost of the prescription and finally the cost of the product to the consumer. On top of these individual costs are any subsidies provided by government, which come from an already strained health budget, and PHARMAC (for the product). Unnecessary use of health resources from inappropriate prescribing means that other health services/products are forgone without just cause and to the detriment of the public's health. This financial wastage is paralleled by the waste of environmental resources used in creating and delivering the unnecessary product.

Aligning with best practice

New Zealand and the USA are the only industrialised countries that permit DTCA of prescription medications and this is an outdated rather than innovative stance.

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* *Family Health Diary* comprises extended-length television advertisements – usually 90 seconds and featuring two or three different stories – together with a bi-monthly, 48-page magazine with a circulation of 300,000, as well as a website.

Considering the USA has by far the highest health care and pharmaceutical spending per capita, yet a comparatively low life expectancy at birth among OECD countries, this is not a good indicator.[29] A common and appropriate comparison is Australia, with which New Zealand shares a close political, cultural and economic relationship – so much so that previously there have been (unsuccessful) attempts to align our therapeutics legislation and regulation under an Australian New Zealand Therapeutic Products Agency (ANZTPA).[30] Under its Therapeutic Goods Act 1989, Australia has explicitly banned DTCA, while New Zealand has retained it. Canada, another common comparison for New Zealand, held a parliamentary enquiry which resulted in DTCA prohibition as "Drug advertisements could endanger rather than empower consumers by minimizing risk information and exaggerating benefits" and "could contribute to increased or inappropriate drug consumption."[31] New Zealand has lagged behind on the issue of DTCA on the world stage and should reconsider its legislation.

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