New Zealand Nurses Organisation

Submission to the Ministry of Health

on the

Direct-to-Consumer Advertising of Prescription Medicines in New Zealand

12 May 2006

Inquiries to: Angela Wallace
New Zealand Nurses Organisation
PO Box 2128, Wellington
Phone: 04 499 9533
DDI: 04 494 6389
Email: angelaw@nzno.org.nz

1. EXECUTIVE SUMMARY

1.1. The New Zealand Nurses Organisation (NZNO) opposes direct-to-consumer advertising of prescription medicines in New Zealand.

1.2. NZNO considers that the key challenge in evaluating direct-to-consumer advertising (DTCA) is how to achieve maximum benefits for health while minimizing harm. This paper responds to the Ministry of Health's consultation document and outlines why NZNO considers that the potential benefits of DTCA do not justify the harms.

2. RECOMMENDATIONS

2.1. The New Zealand Nurses Organisation recommends that the Ministry of Health:

- **note** that NZNO represents 39,000 nurses, midwives, students, health care workers and other health professionals,
- **note** that NZNO staff, members and professional bodies have been consulted in the preparation of this submission,
- **note** that NZNO is AGAINST direct-to-consumer advertising,
- **agree** to take into account the findings of previous direct-to-consumer reviews, in particular the overwhelming position of the public and health professionals to regulate for prohibition of DTC of prescription-only medicines,
- **agree** to develop legislation in line with the majority of countries of the world to prohibit direct-to-consumer advertising of prescription medicines,
- **agree** to adopt Option 3 – to ban DTCA and harmonize with Australia's policy on DTCA and disease-state advertising, and

- **agree** to implement other policies and mechanisms for disseminating information to raise awareness of symptoms and the need for medical assessment to improve consumer information, choice and participation in their health needs.

3. ABOUT THE NEW ZEALAND NURSES ORGANISATION

3.1. The New Zealand Nurses Organisation (NZNO) is a Te Tiriti o Waitangi based organisation which represents 39,000 health workers. NZNO is the professional body of nurses and the leading nursing union in Aotearoa New Zealand. Our members include nurses, midwives, students, health care workers and other health professionals.

3.2. The NZNO vision is "Freed to care, Proud to nurse". Our members enhance the health and wellbeing of all people of Aotearoa New Zealand through ethically based partnerships. Our members are united in the achievement of their professional and industrial aspirations. NZNO considers that while raising awareness of medical symptoms and the need for medical assessment of conditions which may require interventions is a positive in advertising. In our view, pushing a particular medication is not always in the best interests the patient, health professionals and ultimately the government.

3.3. NZNO has consulted its members in the preparation of this submission in particular NZNO staff (Management, Professional Nursing Advisors, Policy Analysts, and Industrial Advisors) and NZNO members and professional bodies (Primary Health Care Nurses, Board Members and other health care workers).

4. NZNO IS AGAINST DIRECT-TO-CONSUMER ADVERTISING

Q1. Are you concerned about DTCA in New Zealand?
OR
Are you supportive of DTCA in New Zealand?

4.1. The New Zealand Nurses Organisation **does not** support DTCA in New Zealand.

5. PREVIOUS REVIEWS OF DTCA IN NEW ZEALAND

5.1. NZNO strongly recommends that the Ministry of Health take into account the outcome of previous reviews, in particular the fact that the majority of submissions received were opposed to DTCA. NZNO is aware that the Ministry of Health has considered the policy options relating to DTCA in 1998, and in 2000 resulting in a Health Report to the then Minister, dated 16 August 2001 [TT05-18-11-0 refers]. Even though the public were opposed to DTCA, the outcome of previous reviews was to continue to permit DTCA in New Zealand.

6. AUSTRALIA NEW ZEALAND THERAPEUTIC PRODUCTS ADVERTISING CODE

6.1. NZNO is concerned that officials consider it appropriate to develop an advertising code with another country, which allows different DTCA approaches. In her press release on the establishment of the Therapeutic Products Interim Ministerial Council, dated 10 May 2005, the then Minister of Health stated that *"Setting harmonised standards that apply to therapeutic products in both Australia and New Zealand is crucial to the success of the joint agency."* Australian media noted that the treaty between Australia and New Zealand would effectively ban DTCA in New Zealand (News Extra, May 2004). NZNO considers that in setting *harmonised* standards, New Zealand needs to take a stand on DTCA, specifically to ban DTCA of prescription medicines. New Zealand could

then adopt the Australian approach to regulate for prohibition of DTCA, but allowing disease-state advertising and advertising directed to health professionals.

6.2. Should DTCA continue in New Zealand, tighter controls will be required. However, it seems impractical for a New Zealand/Australian Council to focus time, effort, energy and resources on the standards for advertising prescribed medicine DTC, if it only affects one country and where in relation to DTCA penalties and sanctions for breaches only affects one country in the treaty partnership.

7. OVERWHELMING INTERNATIONAL EVIDENCE

7.1. NZNO is concerned that the Ministry of Health has not fully considered international evidence, for and against DTCA. In particular there are key reasons why New Zealand and the United States are the only countries in the world that allow DTCA.

7.2. An Australian review of drug legislation in 2001 concluded prohibiting such advertising produces a net benefit for the community as a whole (Galbally, 2001). A 2004 Canadian parliamentary inquiry recommended against DTCA because "*Drug advertisements could endanger rather than empower consumers by minimizing risk information and exaggerating benefits*" and "*could contribute to increased or inappropriate drug consumption*" (Brown, 2004).

7.3. There is also significant, evidence-based proof that DTCA increases the use of drugs and medical services and the wealth for pharmaceutical, advertising and media companies, increases prescribers' workloads and increases expenditure by patients, taxpayers, insurers and large employers (US-GAO, 2002).

8. THE IMPLICATIONS OF DIRECT-TO-CONSUMER ADVERTISING

Q2. Does your concern about or support for DTCA relate to:
- the quality use of prescription medicines
- the provision of consumer information to maximise public health and safety
- practicable and cost-effective regulation
- appropriate and proper standards for prescription medicine advertising
- other issues? If so, what?

8.1. This section provides real concerns from health professionals – practice nurses, nurses, midwives and NZNO staff. Our concerns are:

- The Ministry's policy objectives are in direct conflict with the profit-driven motives of pharmaceutical companies and in our view, the Ministry of Health needs to take a leadership role and present a clear position on DTCA,
- Pharmaceutical companies place pressure on the government to support DTCA, on the health profession and on consumers. This pressure results in a wave of untenable reactions – the government continues the status quo in relation to DTCA, regardless of the international prohibition of DTCA and the view of the public. Health professionals are pressured to prescribe medicines that they would not otherwise choose, and the consumer consults a health professional convinced that they have a condition that requires a specific medication. These forces are real and present adverse health risks to New Zealanders.
- As the Ministry's consultation document outlines there is evidence that DTCA does not result in quality (meaning effective, efficient, appropriate, outcomes-focused) use of medication, and leads to

medicalisation of the "worried well", for the treatment of non-life threatening conditions.

Ministry of Health Leadership needed – take a stance on DTCA

8.2. DTCA is a practice pharmaceutical companies employ in order to target users or potential users of their products. One of the policy objective's is *"to contribute to the provision of consumer information that is balanced and easily understood by New Zealanders, to maximize public health and safety*". Sales and **profit-driven** motives appear at odds with this policy objective.

8.3. NZNO considers that regardless of the amount of regulation and controls that are put in place, this particular policy objective will not be met through DTCA. No country has been successful at regulating any type of DTCA to ensure the public obtains reliable balanced information on drug benefits and risks (US, GAO, 2002 and Toop *et al*, 2003). In our view, balanced and easily understood consumer information could be met through other policy and operational mechanisms (such as websites, a non-profit driven health information body and via health professionals).

8.4. NZNO also recommends that the Ministry of Health take a broader strategic view of DTCA. The Ministry could consider the risks and benefits of DTCA against the Ministry's and the Minister's Strategic Priorities. In our view this analysis would result in a greater focus on chronic conditions such as regulated DTCA on illnesses relating to asthma, smoking cessation, diabetes, cardiovascular medications would be the key focus.

Pressure from the Pharmaceutical Companies

8.5. NZNO is aware of, and concerned about the drug companies approaching GPs and Practice Nurses directly to advertise their products

and persuade prescribers indirectly. NZNO Practice Nurses consider that this approach is unethical.

Pressure to Prescribe

8.6. NZNO considers that while raising awareness of medical conditions, symptoms and the need for medical assessment, of conditions which may require interventions is a positive in advertising. However pushing a particular medication to treat a condition is not always in the best interests or outcomes of the patient.

8.7. NZNO receives reports from nurses (particularly Practice Nurses) that consumers apply pressure to prescribers to prescribe a certain treatment even though it may not be the best option for that particular person.

8.8. Nurses are concerned that patients come to the clinic with a fixed idea of their illness (self-diagnosed) and what needs to be prescribed. If this is not the case, the appointment time takes longer – to discuss other options and persuade patients of the best treatment for them. This is more difficult if no medication is offered. Where there is conflict between health professional and patient, the patient ends up with less than optimal treatment or feels dissatisfied. The health professional has taken longer than usual to identify the symptoms, undertake the assessment and recommend treatment and also feels dissatisfied.

Quality use of prescription medicines

8.9. NZNO nurses are concerned about the level of information provided via DTCA. As the consultation document outlines trends in advertisements for prescription medicines lack balance between the benefits and risks and provide poor presentation of risk information. Our concern is that public knowledge regarding side effects is limited. For example beta blockers can cause impotence problems in some people. We agree that patients need to know these side effects however consider that they need

to be explained in a controlled (clinical) environment so that questions can be asked and potential side-effects dealt with professionally. In its simplest form, we are aware that pharmaceutical manufacturers are not likely to advertise these types of side effects because people will not buy their products.

8.10. NZNO is also concerned that DTCA leads to the medicalisation of well populations or the "worried well". Advertising companies target the population with non-life threatening conditions, evidenced by the types of direct-to-consumer advertisements, e.g. conditions where patients have a greater interest than doctors such as erectile dysfunction and weight reduction conditions.

9. WEIGHING UP THE PROS AND CONS

Q3. Which of the arguments outlined in Section 5, 'The Cases For and Against DTCA', do you find most persuasive: those for or against DTCA? Why?

Q4. Do you have any further information or arguments that you consider should be added to this review of the evidence that supports or opposes DTCA? If so, please forward this information to the Ministry of Health.

9.1. The following table presents the pros and cons of DTCA from our perspective and suggests that there is a greater case against DTCA.

For DTCA	**Against DTCA**
Provides pharmaceutical information to consumers	Increases overall health costs Medication subsidies, patient visit time, to treat negative side-affects
Increases consumer participation in their health care	Increases inappropriate use of pharmaceuticals
Increases consumer choice	Negative impact on patient-doctor relationship - pressure
US (and NZ) only country that allows DTCA	Requires tight controls and regulation (legislation, including a process for monitoring, identifying breaches of regulation and applying suitable sanctions)
Ministry of Health continual support even though majority of public consultation in 2001 (e.g 77% were opposed to it).	Previous reviews – majority findings and public consultation against DTCA
Early knowledge of and access to treatment of	In Australia DTCA is prohibited – regulation of advertising

consumers	under the Australian New Zealand Therapeutic Products Authority will require different policies, codes, monitoring and regulating regimes for each country because Australia bans DTCA, and New Zealand allows DTCA
Bill of Rights – freedom of expression	Results in confused or misinformed consumers
Lack of NZ based evidential studies	Leads to acceptance of medicines as "life solutions"
Innovation for new medicines	High risk for patients of affects of new medicines
	International "guinea pigs" – via internet especially, NZers are bombarded with US advertising and pop-ups
	Significant international evidential studies

9.2. NZNO is concerned that the conclusion reached in the consultation document fails to weigh up the reasons for and against DTCA and points to the absence of evidence (in relation to health outcomes) as a means for discounting the risk evidence. New Zealand experience with measuring outcomes is relatively new. Lack of evidence on the impacts of DTCA was also raised in previous reviews and yet no evidence gathering mechanism was established. Should DTCA continue, the Ministry must establish an evaluation strategy for monitoring and evaluating the impacts of DTCA on consumers, health professionals, on the relationships between them, on the intended and unintended consequences of DTCA and on the overall health benefits/loses.

9.3. Rather than looking at the absence of evidence, it is recommended that the Ministry consider looking at the international and domestic evidence on the impacts of DTCA that does exist. It would be possible to undertake a meta analysis of the international evidence (the impacts of DTCA), against the Ministry's and the Minister's strategic priorities. Using intervention logic, the Ministry could consider the intended and the unintended consequences of DTCA on all key stakeholders and formulate an actual policy on DTCA in New Zealand.

10. NZNO SUPPORTS OPTION 3 – BAN DTCA AND REGULATE DISEASE-STATE ADVERTISING

Q5. Which of the options outlined in Section 6, 'DTCA Regulatory Options', do you support? Why?

Q6. What further options, if any, relating to the regulation of DTCA in New Zealand do you support? Why?

Q7. Do you have any other views on how to achieve the purported benefits of DTCA (eg, consumer access to pharmaceutical information, enhanced doctor-patient relationship, increased diagnosis of previously untreated conditions), without experiencing the purported costs of DTCA? If so, please forward these views to the Ministry of Health.

10.1. NZNO supports Option 3 because the benefits of options 1 and 2, and the costs of option 3 can be met through other mechanisms (see Strategies section below). In our assessment of international evidence, literature and the Ministry's consultation document, the risks far outweigh the benefits of DTCA to consumers (in terms of unbalanced information, targeting the 'worried well" and placing pressure on GPs), health professionals (in terms of increased consultation times, pressure to prescribe, direct DTCA pressure) and the government (in terms of increased overall health costs).

10.2. Option 3 is the most sensible approach in terms of harmonization with Australia's policy on DTCA and disease-state advertising.

11. STRATEGIES FOR MAXIMISING THE BENEFITS OF CONSUMER ACCESS TO HEALTH INFORMATION

11.1. The benefits identified in options 1 and 2 and the costs of option 3 including that:

- Option one benefit - information would continue to be provided to consumers from a source that some may find useful,

- Option one benefit - the industry would continue to self-fund the regime,
- Option two benefit - reduced negative influence on the doctor-patient relationship,
- Option two benefit - reduced risk of medicalisation of normal bodily processes,
- Option two benefit - reasonable ongoing cooperation within the DTCA industry,
- Option three risk – consumers may make unnecessary doctor visits due to the inadequacy of information supplied to them,
- Option three Disease-state advertisements often fail to raise awareness of potential risks associated with the use of a particular category of medicines,
- Option three costs – reduced access to information and treatment (consumers) reduction in economic and employment activity (industry).

11.2. In our view these benefits and risks can be addressed through other policy options and delivery mechanism. While the New Zealand Nurses Organisation is not in favour of DTCA of prescription only medications, NZNO does support consumer access to the Cochrane Library website for information on health conditions and best practice treatments.

11.3. NZNO also supports the recommendation promoted in the Professor Les Toop et al report "that the Government establish an independent medicine and health information service free of commercial interest" (see *Toop et al* report for details0

12. CONCLUSION

12.1. NZNO is AGAINST direct-to-consumer advertising which targets the "worried well" and encourages "lifestyle" responses non-life threatening However, NZNO does support disease-state advertising as a mechanism for raising awareness and early professional assessment and treatment of chronic conditions. Within this context NZNO considers that while raising awareness of medical conditions, symptoms and the need for medical assessment, of conditions which may require interventions is a positive in advertising. On balance, we believe that pushing a particular medication to treat a non-life threatening condition is not always in the best interests of the patient, health professionals or the government.

12.2. Given this, NZNO supports option 3 in terms of harmonization with Australia's policy on DTCA and disease-state advertising.

Angela Wallace
NZ Nurses Organisation

REFERENCES

Brown B. (2004) *Standing committee on health. Opening the medicine cabinet: first report on health aspects of prescription drugs*. Ottawa, Ontario: House of Commons

Galbally R.(2001) *Review of drugs, poisons and controlled substances legislation (the Galbally review): final report*. Therapeutic Goods Administration, Australia

Lewis, C (2003) *The Impact of Direct-to-Consumer Advertising*, US Food and Drug Administration Consumer Magazine, March-April 2003

Mansfield, P. Mintzes, B. Richards, D., Toop, L. "Direct to consumer advertising", accessed on 5 May 2006 at http://bmj.bmjjournals.com

Ministry of Health (2001) *Direct to consumer advertising of prescription medicines – policy options,* Health Report to the Minister of Health, accessed on 5 May 2006 from www.beehive.govt.nz

Mintzes, B et al (2003), *How does direct-to-consumer advertising (DTCA) affect prescribing? A survey in primary care environments with and without legal DTCA*, in Canadian Medical Association Journal, September 2, 2003, 169 (5)

News Extra. (1 May 2004), *Drug industry to fight New Zealand's move to ban direct to consumer advertising*, written by Bob Burton, Canberra

Toop L, Richards D, Dowell T, Tilyard M, Fraser T, Arroll B (2003). *Direct to consumer advertising of prescription drugs in New Zealand: for health or for profit?* Report to the Minister of Health supporting the case for a ban on direct to consumer advertising. New Zealand departments of general practice. Christchurch, Dunedin, Wellington and Auckland Schools of Medicine

United States General Accounting Office (2002). *FDA oversight of direct-to-consumer advertising has limitations. Report to congressional requesters GAO-03-177*