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10 June 2021

Deputy Secretary Adjunct Professor John Skerritt
Department of Health
Advertising and Compliance Education and Policy Section
GPO Box
Canberra ACT 2601

Via: advertising.consultation@tga.gov.au

**RE: Proposed improvements to the Therapeutic Goods Advertising Code
consultation paper version 1.0, May 2021**

Dear Deputy Secretary,

ACCI writes in relation to proposed amendments to the Therapeutic Goods Advertising Code (No.2) 2018 (**Advertising Code**) as referenced in the latest consultation paper. In relation to section 16 Endorsements and Section 17 Testimonials, ACCI supports *Option 3: Removal of prohibition on testimonials from direct sellers*.

Complementary medicines and cosmetic products are typically sold directly to customers via 'direct selling'. Removal of the prohibition on testimonials from direct sellers will allow this cohort to effectively market their products most of which are female entrepreneurs seeking to earn a supplemental income.

There is evidence of the negative impact on distributors ability to grow their micro-business as a result of the current prohibition on distributors making testimonials. There are also significant challenges from a compliance perspective on training distributors on the linguistic variation between an 'endorsement' and 'testimonial'. By permitting the use of testimonials, compliance can be better directed towards training distributors to use the mandated disclosure language proposed in Option 3 and ensuring they only use the listed claims for the particular product.

Self-regulation under the Direct Selling Australia Code of Practice requires that members adhere to the requirements of therapeutic goods legislation, including the Advertising Code. Clause 5 of the Code of Practice ensures a direct selling member must not use any testimonial or endorsement that is unauthorised, untrue, obsolete or otherwise inapplicable, unrelated to the offer or used in any way likely to mislead the consumer. Given the incentives for loyal customer relationships in this regard, there is little to no incentive for transgressions in this regard as it would be damaging to their business model. Further, Clause 5 of the Code of Practice, allows unsatisfied customers to return/refund their product under member refund policy. The consumer protection ensured by the monitoring and compliance systems direct selling has in

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place ensures that a consumer is given accurate and complete information reasonably required to make an informed choice.

In conclusion, ACCI supports less onerous regulation that provides thousands of direct sellers the opportunity to effectively market and sell their products to their customers.

Yours sincerely,



Ross Lambie
Chief Economist