



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

17 June 2021

Mr Graham Brown  
Advertising and Compliance Education and Policy Section  
Therapeutic Goods Administration  
136 Narrabundah Lane  
Symonston ACT 2609

*via email: [advertising.consultation@tga.gov.au](mailto:advertising.consultation@tga.gov.au)*

Dear Mr Brown

### **Proposed improvements to the Therapeutic Goods Advertising Code**

We welcome the consultation into the proposed improvements to the Therapeutic Goods Advertising Code (the Code), specifically sections 16 and 17 of the code. The revision of the Code in 2018 to prohibit testimonials created a substantial regulatory impost on small business. This had a significant adverse impact on small and micro business direct sellers that often rely on personal experience to engage with their customers. As such, we offer the following comments:

1. We support Option 3, which proposes the removal of the prohibition on testimonials. This will address the regulatory burdens imposed on small businesses whilst also utilising mandatory statements to highlight conflicts of interest in the sale of therapeutic goods.
2. We do not support Option 2 (permitting testimonials from persons involved in the marketing of therapeutic goods but not from persons involved in the sale, supply and production of therapeutic goods) as it does not allow for the reality of business operations. Small businesses often do not have clear distinctions between roles and as such this option would do little to allow small businesses to provide testimonials to their customers.

These regulations affect a wide variety of small and micro businesses from all over Australia. Research from Direct Selling Australia shows that direct sellers are a mostly female cohort involving more than 479,000 Australians and generating over \$1.4 billion of revenue in 2020<sup>1</sup>. We recognise the importance of stringent requirements for how therapeutic goods are marketed and advertised, and we believe this will be achieved by the mandatory statement required in Option 3.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mr Paul Buckingham on 02 6243 7821 or at [Paul.Buckingham@asbfeo.gov.au](mailto:Paul.Buckingham@asbfeo.gov.au).

Yours sincerely

**The Hon. Bruce Billson**  
Australian Small Business and Family Enterprise Ombudsman

<sup>1</sup> Direct Selling Australia, Statistics & Research Online