

Advertising medical services conference

On 14 October 1999 the ACCC and the NSW Health Care Complaints Commission hosted a conference *Advertising medical services — in whose interests?*

Recent changes to various laws have created an environment that allows health and medical practitioners a greater degree of freedom to advertise. However, the transition has created some problems and raised some issues. The conference was designed to address these issues, including:

- ♦ whether there are any special characteristics about advertising in the health sector;
- ♦ whether the changes in law mean 'anything goes' and is it being a 'free for all';
- ♦ what restrictions apply or should apply to the advertising or promotion of health and medical services; and
- ♦ the roles of the Commonwealth Trade Practices Act, the State and Territory Fair Trading Acts, and the New South Wales Health Care Complaints Act in the advertising or promotion of health or medical services.

The conference was aimed at medical and health sector professionals, their advertisers, marketers and legal advisers.

Papers presented will be available on the ACCC's website shortly.

A consultative draft guide to the Trade Practices Act for the promotion of medical and health services was released and is available from the website.

Comments on the draft guide are invited by 17 December 1999, and

should be addressed to:
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Health product claims misleading

A pyramid selling scheme disguised under a health-product promotion highlights the ACCC's increasing work in the health and medical services sector.

In an ACCC Federal Court action the court found that Giraffe World had made misleading representations about how its health product — a negative ion mat — worked and the health benefits it produced, and had also contravened the referral selling and pyramid selling provisions of the Trade Practices Act.

The case is a warning to promoters of health products to be careful when making claims about what health benefits the product will deliver and the method of marketing such products.

The judge, in his summary, said that Giraffe World had:

... sought to portray the case as a battleground between conventional and alternative health care systems, and between the approaches of modern Western science and medicine on one hand and an older Oriental approach to human health and wellbeing on the other.

... GW represented that there was scientific support for the proposition that the Mat, by means of negative ions, produced and would produce benefits for human health. There is not. GW should be restrained from making such representations.

However, Giraffe World did not lead any medical or other expert evidence to support the claims of users that their health had improved.

The court found that Mr Jack Misuma, a director of Giraffe World and other companies which were beneficiaries of large sums of money paid by Giraffe World, and Mr Robin Hahn, president of Giraffe World, had contravened both the referral selling and pyramid selling provisions of the Act, and that it seemed clear that Mr Misuma made a sizeable amount of money from the scheme.

A cross-claim by Giraffe World against the ACCC for defamation was dismissed.

The ACCC is pursuing the matter to obtain compensation/refunds for former clients.