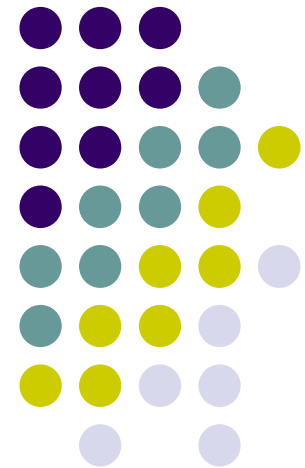


# Pharmafood Breakthrough forum

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Trade Practices considerations  
for producers and marketers of  
Pharmafoods





# Overview of presentation

- Regulation of the food and beverage industry
- Australian Competition and Consumer Commission (ACCC) and *Trade Practices Act 1974* (TPA)
- Key TPA concerns when marketing Pharmafoods
- ACCC action on food and labelling

# Regulation of the food and beverage industry



- Food Standards Australia New Zealand (FSANZ) is primary regulator
  - Australia New Zealand Food Standards Code
  - Proposal P293, Nutrition, Health and Related Claims (3-tier approach)
- ACCC administers the TPA – consumer protection role (not specific to food and beverage industry)
- FSANZ & ACCC co-operate on investigations relating to the food industry (MOU)

# ACCC



- Independent Commonwealth statutory authority formed in 1995 to administer the *Trade Practices Act 1974* (TPA)
- Aim of the TPA is to ‘*enhance the welfare of all Australians through the promotion of competition and fair trading and provision for consumer protection*’ (s2)
- Not the ACCC’s role to regulate on the merits of particular nutritional claims but to enforce the TPA where claims about such merits are misleading or deceptive

# Marketing food and Pharmafood



- University of Wollongong study – 30% of foods ads in the 30 top selling magazines feature a health claim
- Claims generally relate to cardiovascular disease, cancer, weight control and energy
- Parallels to ‘green’ marketing
  - Information asymmetry
  - Potential for vague (eg ‘high in fibre’) or undefined (eg ‘organic’) terms
  - Consumers get information overload

# Marketing food and Pharmafood



- Key TPA provisions - food & Pharmafood marketing
  - s52 – general prohibition on conduct which is misleading and deceptive or likely to mislead or deceive
  - s53(c) – prohibition on representations that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have
  - s55 – makes it an offence to mislead customers about the nature, manufacturing process, characteristics, suitability for purpose or quantity of any goods or services



# ACCC action

- Education
  - Publications
  - Media releases
- Liaison
- Enforcement (undertakings, litigation)
  - Nudie Juices
  - Arnott's biscuits
  - Go Natural



## Further information

- [www.accc.gov.au](http://www.accc.gov.au)
- Infocentre: 1300 302 502
- ACCC publications
  - Food and beverage industry – *Food descriptors guideline to the Trade Practices Act*
  - Food and beverage industry – *Country of origin guidelines to the Trade Practices Act*
  - Available online or through the Infocentre
  - Sarah Proudfoot – ph 03 9290 6965