



# **Complementary Healthcare Council of Australia**

## ***Office of Advertising Compliance***

### **Advertising Review Process Policy**

#### **Consultation Services**

**June, 2014**

#### **Purpose**

The purpose of this Policy is to clarify the position of CHC Advertising Services Managers in relation to providing consultation services, compliance advice or compliance solutions to advertising applicants or potential applicants.

#### **Scope**

This Policy is applicable to all CHC ASM's, all applications for advertising approval submitted to the CHC, and all requests received for the provision of consultation services by the ASMs.

#### **Responsibility**

The ASMs have responsibility for maintaining this Policy, ensuring it is up to date, and that any changes are incorporated and assimilated as soon as possible.

#### **Background**

At a TGA/ASM meeting held on 16 April 2012, the TGA confirmed verbally that it **was not appropriate for ASMs, as delegates, to give advice.**

The potential problems with this practice are:

- General advice given in advance of receiving an application can be interpreted by advertisers to mean that they have gained some form of advanced approval irrespective of context. This can result in that advertiser pursuing a path, and potentially incurring costs, based on advice that may not be relevant to every possible context an advertiser may create.
- There can be distress to advertisers who've taken general advice given as meaning that they have received some form of advanced approval in an environment where an ASM may be required to subsequently take issue with areas in an application that are impacted by the advice given.
- Once an ASM suggests copy amendments to an applicant during the course of an evaluation in order to gain approval, that ASM risks being held responsible should there be a complaint upheld against the advertisement, particularly where an upheld complaint leads to monetary losses for the advertiser. Such practice may leave the CHC exposed to some form of liability.



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- General advice can fetter an ASMs objective decision making powers. When the delegation is exercised, decisions must be based only on the merits of each application and the overall context of each advertisement.



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#### **Policy**

It is not the role of CHC ASMs to provide regulatory advice, advertising advice, solutions to correct advertising breaches, or to rewrite proposed advertising copy so that it meets requirements. The provision of such consultation services are beyond the scope of a CHC ASM.

Should an applicant, potential advertiser, or a CHC member advise a CHC ASM that they require assistance of this type, the ASM may direct that person to a list of available regulatory consultants, where same is readily available, who may be able to offer such services.

#### **Document History**

Version 1: Issued June 2014

#### **Approved By**

Carl Gibson, Chief Executive Officer