Australian Government
Department of Health
Therapeutic Goods Administration

A World Class Regulatory Environment in Australia?

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TGA Health Safety Regulation

This presentation

- Objectives of the regulatory reforms
- Staged implementation ….but companies can align their actions
  - Permitted indications
  - Assessed listed medicines pathway
  - Market exclusivity for new ingredients
  - Use of comparable overseas regulators
- Labelling variations
- GMP inspections approach
- Advertising reforms – the first year
- Compliance in the complementary medicines industry
- 2018 Stakeholder survey
- SME Assist – helping new players
- Don’t shoot Bambi?

*The question mark in my title is because I **don’t believe** that we yet have a “world class regulatory environment”*

Objectives of the regulatory reforms

Industry	Consumers
Simplify the listing system	Improve compliance
Improve flexibility and predictability	Improve the evidence base
Incentivise innovation	Transparency about evidence

Staged implementation

2017

- Online catalogue of **permitted ingredients**
- Review and appeal rights for ingredient applicants

2018

- **Permitted indications** for listed medicines
- **Assessed listed** pre-market evaluation pathway
- 2 year **market exclusivity for new ingredients**
- Legislated **evaluation timeframes**

2019

- **‘TGA assessed’ claim**
- Risk-based approach to **listed medicine variations**

Reforms were staged because

- Large number of targeted and public **consultations needed** - not just with this industry!
- Government's **regulatory and legislative change calendars**
- Staffing capacity at TGA – **no additional industry charges** were levied for the MMDR reforms
- So **resources were limited** and reforms were fitted in with business-as-usual work

Companies can align actions for specific products because there are overlapping transition periods

- **Labelling** – September 2016 – August 2020
- **Permitted indications** – March 2018 - March 2021 – sponsors can choose to do this later
- **Advertising code clarifications** – July 2018 – Late 2019
- **Evidence requirements** have not changed since 2014 – recent edits for clarity only
- **Compliance** –system in place since Act changed in July 2017

Australian Register of Therapeutic Goods (ARTG)

AUST L

Listed medicines

NO premarket evaluation
BUT must have:

- GMP
- Permitted ingredients
- Permitted indications – and hold evidence at the time of listing to support these indications

AUST L(A)

Assessed Listed medicines

Premarket evaluation for efficacy only
(Intermediate level & permitted indications)
BUT must have

- GMP
- Permitted ingredients

AND can have

- TGA assessed claim

AUST R

Registered medicines

Premarket evaluation for:

- GMP
- Quality
- Safety
- Efficacy

AND can have

- TGA assessed claim

Lower risk

Higher risk

What do permitted indications mean for sponsors?

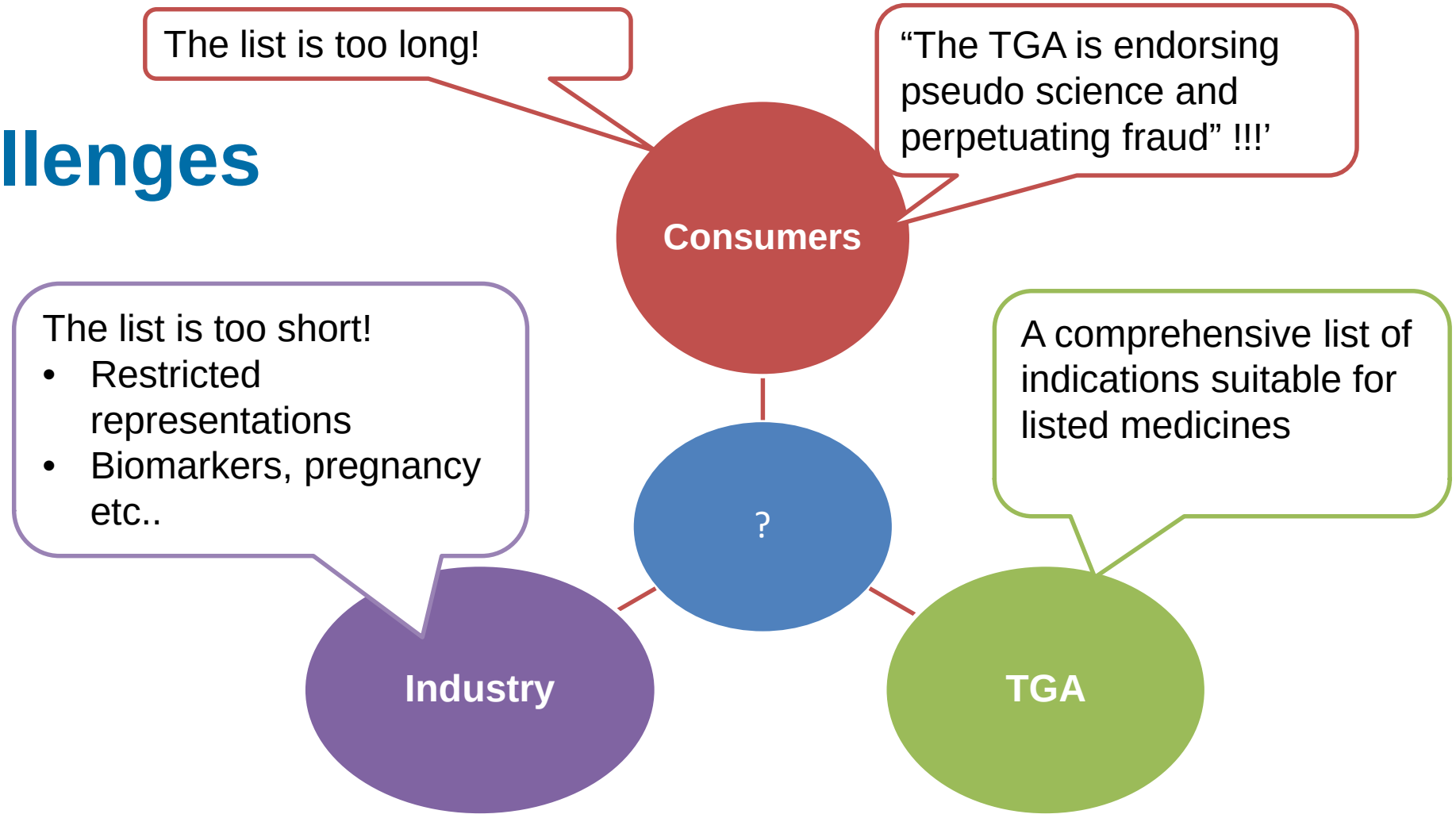
- Sponsors listing a medicine on the ARTG are only able to use indications from a list of **permitted indications**
- "**Free text**" field is no longer available
- **Sponsors must hold supporting evidence** for medicine indications **– this is not optional**
- There **must not be inconsistency** between the indications that are listed in the Register and those on the label
- All new listed medicines must select permitted indications – about 2/3 of comp meds do now!!
- Sponsors of medicines listed in the ARTG before 6 March 2018 **must re-list their medicine using 'permitted indications' by 6 March 2021**

The fee free period to change indications has now been extended until 6 March 2021 – but will mean that TGA has to do over $ 2m in unfunded work!

Permitted indications

- **Greater transparency for sponsors** on what indications are suitable for listed medicines
- **Avoids consumers being misled** by inappropriate indications – but the sponsor must hold evidence
- Should **reduce sponsor non-compliance**
- **List is readily updated** - new indications, clarity and consistency in requirements
- **Clear boundary** between standard listing and the assessed listed and registration pathways

Challenges

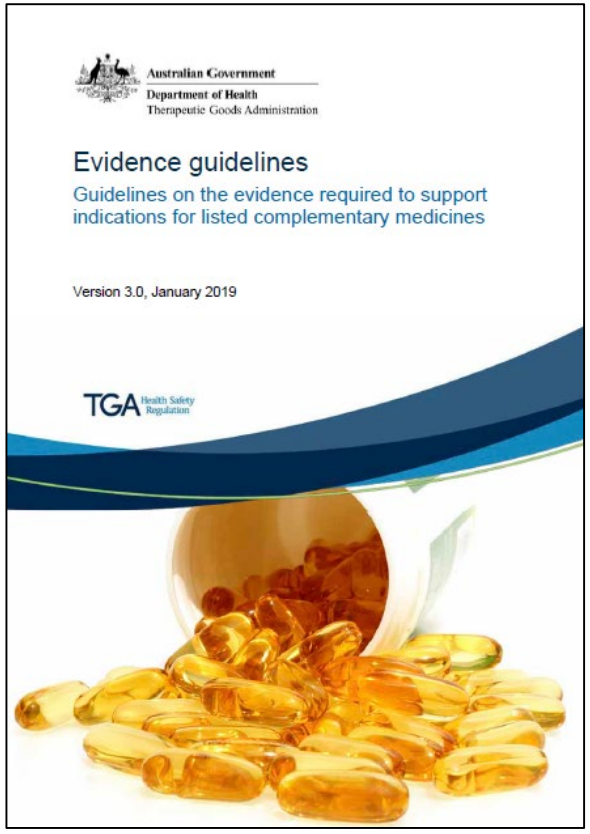

The list is too long!
“The TGA is endorsing pseudo science and perpetuating fraud” !!!’
Consumers
The list is too short!
• Restricted representations
• Biomarkers, pregnancy etc..
A comprehensive list of indications suitable for listed medicines
?
Industry
TGA

Questions from industry

- When do I need to use **evidence qualifiers**?
- What evidence do I need if my indications aren't qualified?
- **How can I combine indications** on my medicine labels?
- **What evidence is required** for applications for new indications?
- How can **pregnancy indications** be used?
- Am I **compliant with the advertising code**?

Our advice …

- You **must hold the evidence** at the time of listing
  - It is a legal requirement
  - Evidence Guidelines have been consistent since March 2014
- Follow the **Permitted indications for listed medicines guidance**
  - Use the indication qualifiers from the drop down lists in ELF
- Start **preparing to transition early -** you may need to make other changes (e.g. update GMP)

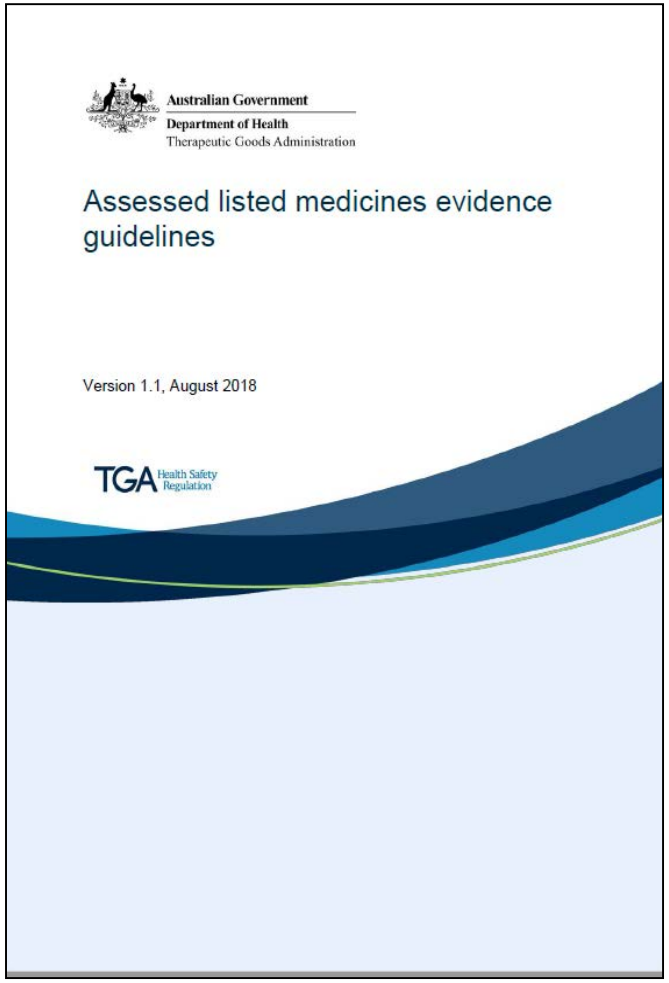


Some common evidence problems

- Clinical trial data is in a **different population** e.g. adults versus children, obese Han Chinese
- **Dose, plant part or extractant used for herbals is quite different** in the clinical trial vs product
- **Different species of the herbal** used in the medicine than in clinical trials
- **Evidence data was general** and did not support specific claims being made about the product
  - e.g. "'improves vision", "reduces risk of chronic eye disease", "protects against catching colds"
- Product did not contain the **minimum content of a particular mineral or vitamin required** to make the specific therapeutic claims relating to supplementation
- **Medicine made restricted representations** referring to the treatment of serious conditions
  - e.g. influenza, osteoporosis, arthritis cure

Assessed listed medicine pathway

- **Sponsors self-assess** safety (permitted ingredients) and quality (pre-approved GMP) of their product
- **TGA pre-market assessment** of *scientific evidence* supporting efficacy for the proposed indications for the finished medicine product
- **Allows higher-level claims** not on the permitted indications list (e.g. restricted representations)
- **Several submissions** under review, more pre-submission meetings and discussions

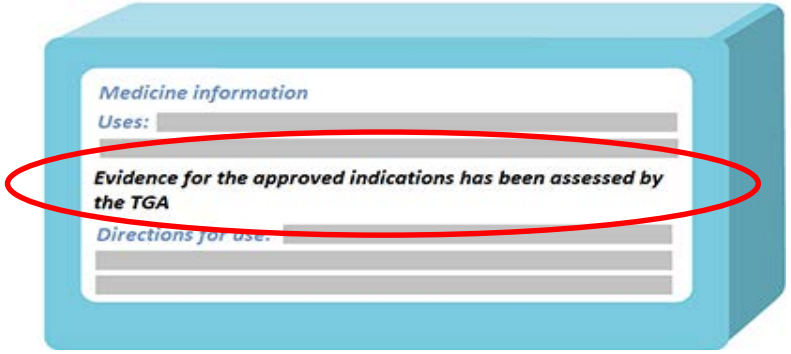


Please request a pre-submission meeting

- To **identify appropriate indications**
  - low vs intermediate vs high level indications
    - can’t make registered/prescription medicine claims
  - check suitability of proposed indication vs clinical trial design and evidence
    - trial data must be on the same dose and formulation as the commercial product
- Take care when putting your dossier together – there are mandatory requirements

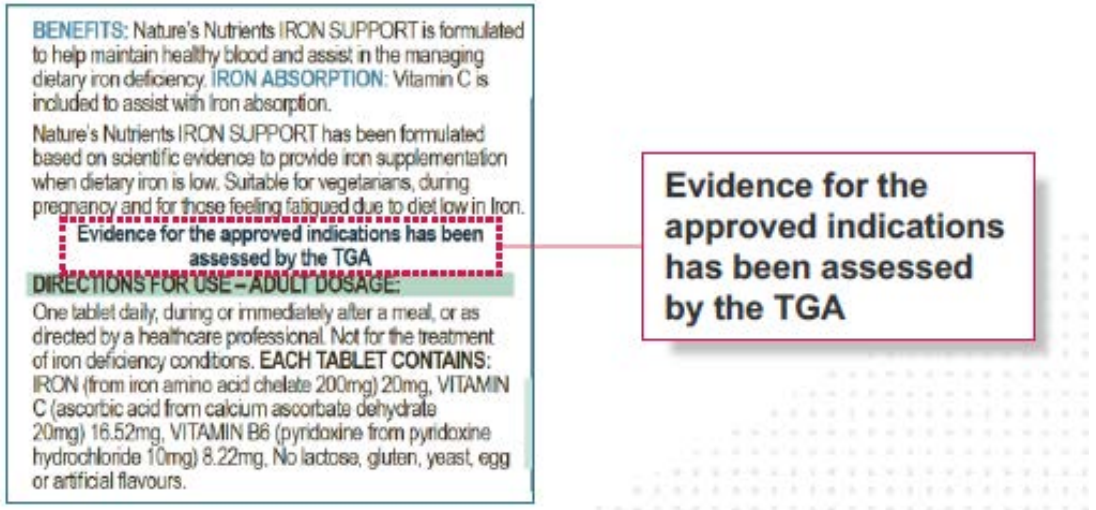
TGA assessed claim

- Assessed listed medicines and registered complementary medicines have **the option** to use ‘TGA assessed’ claim/logo
- Indicates that the **efficacy** of the product has been assessed for the approved indications by the TGA
- The medicine label is required to be approved by the TGA **before** marketing
  - If you opt in, only the approved symbol and label statement can be used
  - Supports consumers to make informed purchasing decisions



TGA assessed claim – consumer insights

- Use simple language (e.g. avoid ‘efficacy’)
- Refer to the Government to build trust
- A symbol is more recognisable than a statement



Market exclusivity for new ingredients

- A successful applicant for a new permitted ingredient may have exclusive use of that ingredient for a **2 year** period
  - Use of a protected ingredient is restricted to the applicant or their nominee
  - At the end of the exclusivity period, any sponsor can include the ingredient in their listed medicine
- Stakeholders did not want to publish information about **ingredients that are already under evaluation**
- **Sponsors will need to monitor** any unauthorised use of ingredients during the exclusivity period
- **Possibility of data protection** under review by Government

Eligibility for ingredient market exclusivity

Eligible

- ✓ New ingredients not currently included in the Permissible Ingredients Determination, provided:
  - not used in, or available for use in registered medicines
- ✓ Active or excipient ingredients

Ineligible

New role or a change to any existing requirements for use e.g.:

- ✘ from excipient to an active ingredient
- ✘ level of use (e.g. from 0.5% to 1%)
- ✘ route of administration (e.g. topical use to oral use)
- ✘ different plant part or preparation

Comparable overseas regulators

- **To avoid duplication and to reduce evaluation timeframes** TGA can uses assessments from other regulators or similar bodies for evaluation of new substances and products
- **We are developing by the end of 2019**:
  - a list of countries and jurisdictions from whom TGA will accept reports
  - criteria and process for using overseas reports
- **TGA is also actively collaborating** with Singapore, Canada and Switzerland on ingredients safety and efficacy

Pathways if a report is available

COR-based process

- Evaluation based solely on the use of COR reports

Combined with

- TGA assessment of Australian aspects, e.g. the product label
- 110 days max

Mixed evaluation

- Evaluation of safety, quality, and/or efficacy based on the use of COR reports

Combined with

- Evaluation of the missing parameters
- 160 -190 days max

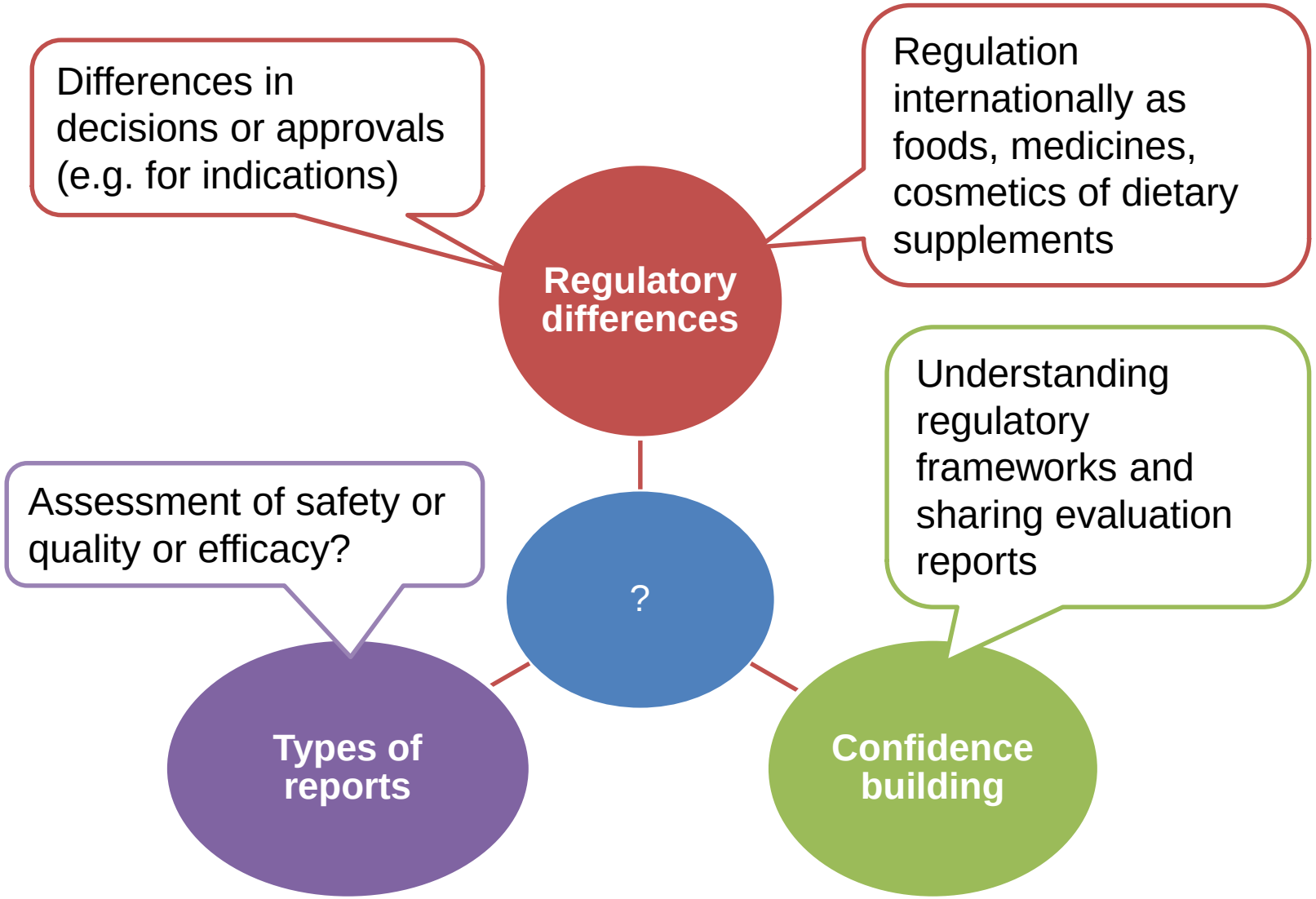
Full evaluation by TGA

- Full independent evaluation of all parameters: quality, safety, and/or efficacy
- 220 days max

Challenges

It is the Sponsor's responsibility to obtain the report

Submission through the COR report-based process is NOT a rubber stamp…

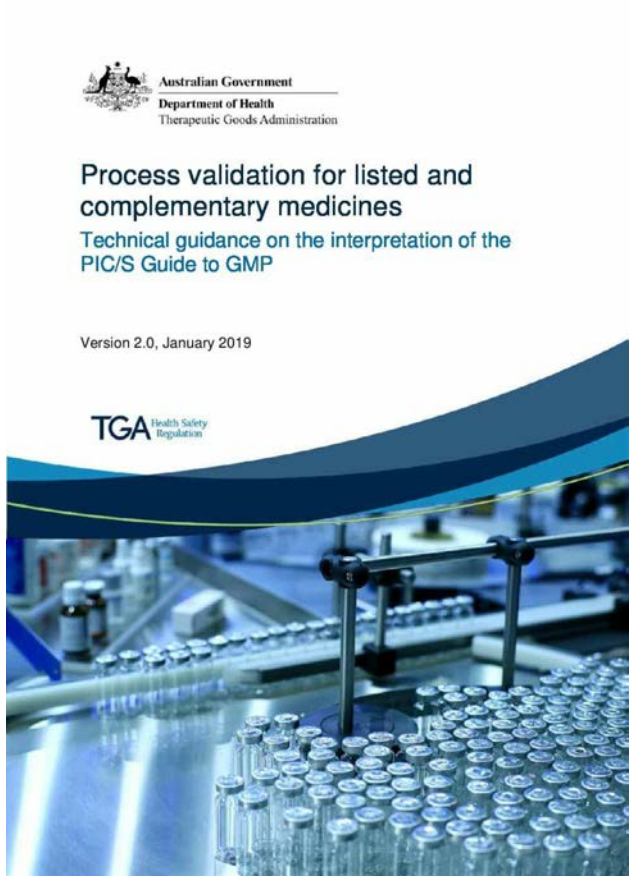


TGO 92 and s14 labelling variations

- Complementary and OTC medicine sponsors can request consent for non-compliance with s 9(2) TGO 92 **relating to the presentation of the name of the medicine** on product labels
- This measure will be in place to assist industry to **transition to TGO 92 requirements** by 31 August 2020
- **We will consult during 2020-2021** on whether to amend requirements relating to the presentation of the name on product labels

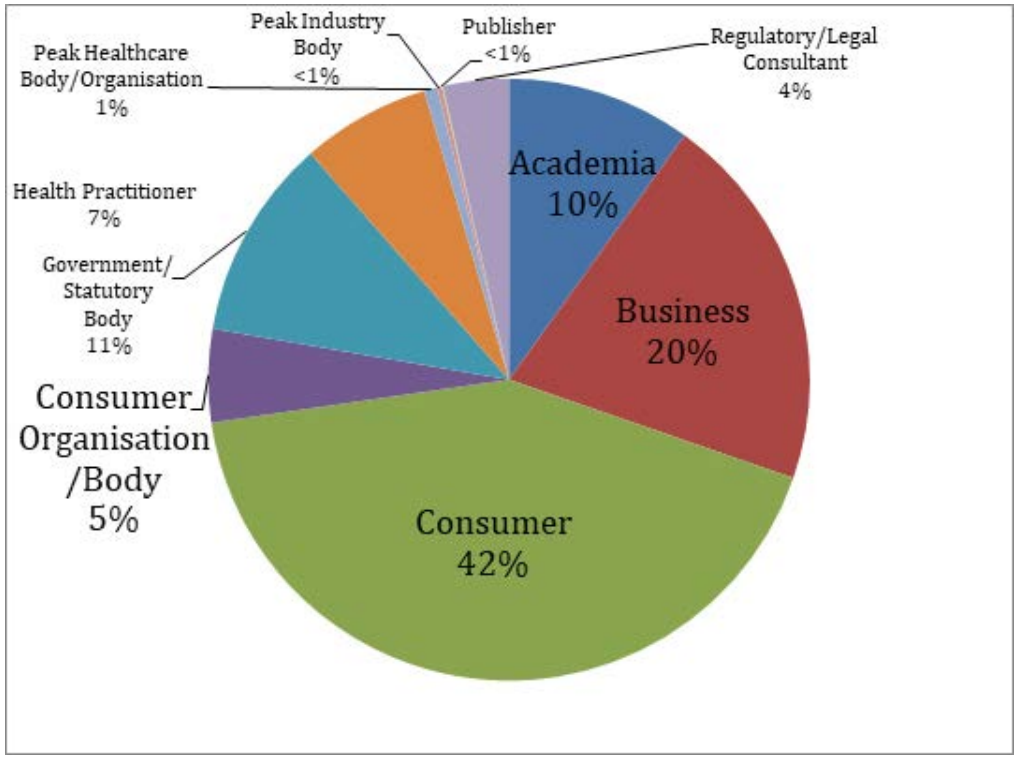
Complementary medicines GMP

- A Joint Working Group (TIWGG) has developed **GMP guidance**
- **Risk based frequency of inspections** based on inherent risks of products and compliance records
- Most Complementary medicine manufacturers are **inspected less frequently**, with shorter inspections, smaller teams and lower costs
- **International inspections** require longer time on site
- **TGA carries out unannounced inspections** based on tip offs and compliance record
- **Consistent inspection results** for different teams and experience
- TGA local inspections means that **local manufacturers usually do not have to pay** for overseas regulatory agencies to inspect here



Advertising Compliance

- **1448 complaints received** in 2018/19
  - generating 2436 cases
  - almost half from consumers or consumer organisations
- Cases **triaged on public health impact**
  - 31 % cases (749) medium priority
  - 0.8 % of cases (19) high or critical priority
- Timeliness KPIs met for high/critical but not medium cases
- Mandatory advertising **pre-approvals** end 30 Jun 2020
- **Guidance and fact sheets** available on
  - Tips for complying with the Code
  - Social media acceptable use
  - Natural claims, Public health campaigns



What were the most common advertising contraventions for medicines?

Therapeutic Goods Act Breaches

- Product not on the ARTG
- Restricted or prohibited representation
- Inappropriate advertising of a product containing a scheduled substance

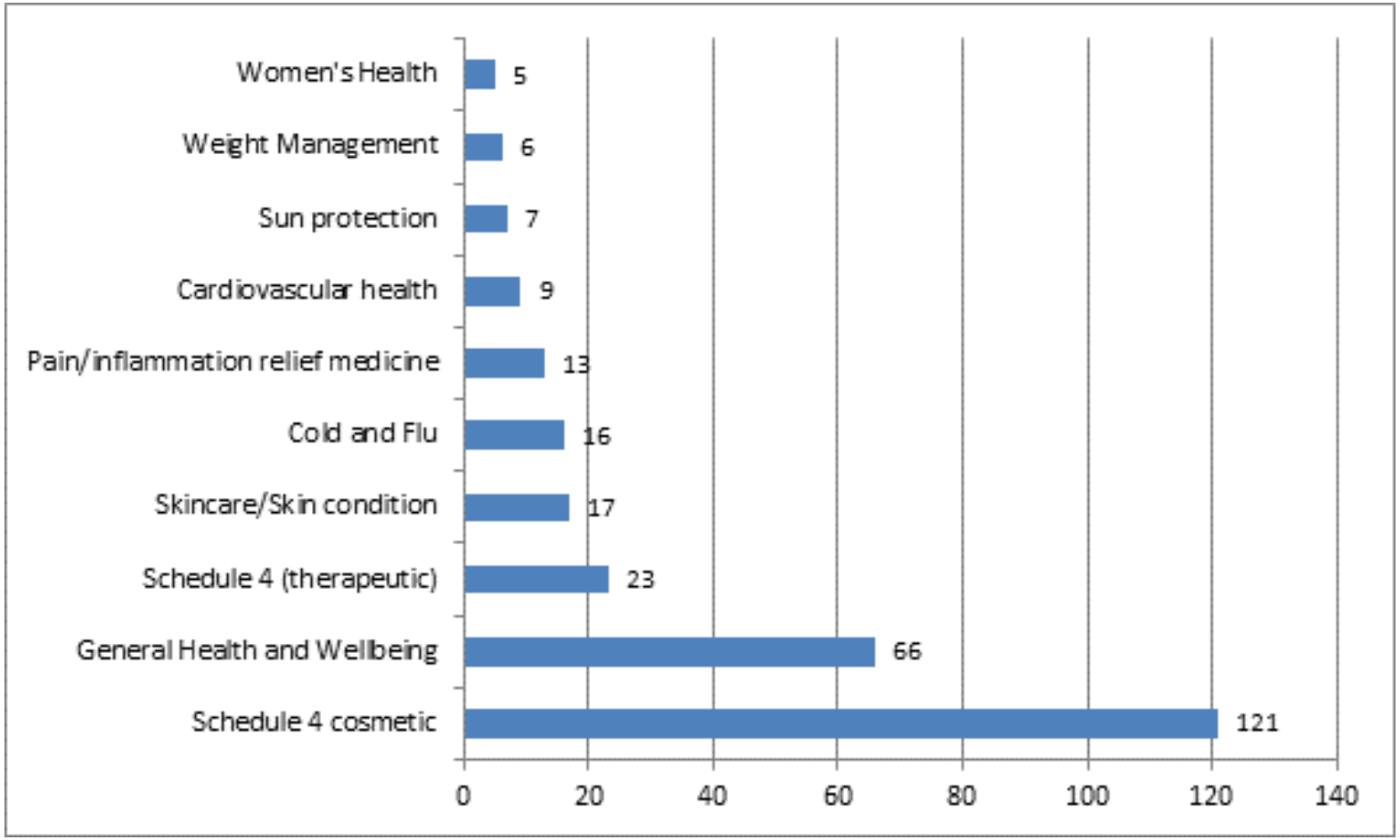
Therapeutic Goods Advertising Code breaches

- Misleading information, statements not correct or balanced
- Testimonials
- Claim goods are safe, imply harm if not used, unrealistic expectations raised
- Encourage inappropriate or excessive use
- Reference to serious conditions
- Advertising directed to minors

Complaint cases – listed and registered medicines

425 “general health and well being” product cases

- 66 complementary medicines
- 63 medical devices
- and the rest not on the ARTG



Listing compliance remains unacceptable

Only 17.5% of products assessed by TGA in 2018/19 could be verified as NOT having breaches

Some are minor but many are significant

This is one of the main reasons why I believe that

We do NOT have a "world class regulatory environment in Australia"

Completed compliance reviews

	2017-18	2018-19
Completed reviews		
Targeted reviews	162	99
Random reviews	81	82
Total	243	181

Compliance outcomes for 18/19 are similar to 17/18

	2017-18	2018-19
Compliance status determined		
Medicines with no compliance breaches	42 (25%)	38 (27%)
Medicines with verified compliance breaches	129 (75%)	102 (73%)
Sub-total	171	140
Compliance status unable to be determined		
Medicines cancelled by sponsors after TGA's request for information	51	30
Medicines not yet manufactured/other	18	11
Total completed reviews	243	181

Types of deficiencies identified

	2017-18	2018-19
Information provided in ARTG entry (ineligible indications or ingredients)	69 (21%)	30 (12%)
Manufacturing, quality and/or formulation	27 (8 %)	15 (6%)
Labelling	58 (17%)	49 (20%)
Advertising	59 (18%)	40 (16%)
Unacceptable presentation (name, label/ packaging, advertising misleading)	63 (19%)	52 (21%)
Evidence does not support claims	50 (15%)	51 (21%)
Safety	0	1
Non-response to a request for information	5	2
Other (including failure to comply with listing conditions)	2	4
Total	333	244

SYDNEY MORNING HERALD

6 September 2019

Independent 2018 consumer survey shows lack of confidence

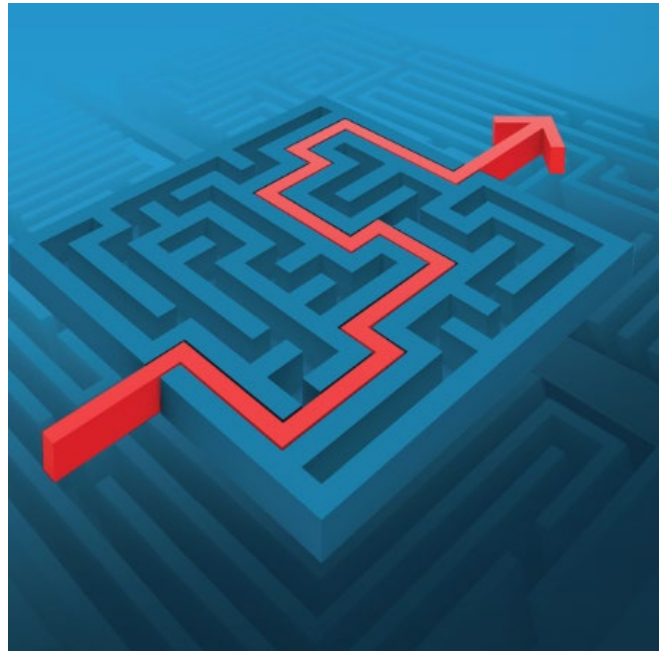
"Australian Complementary medicines are…"

Statement	Overall	Opt-in	Population
Safe	33.9	25.8	38.5
Appropriately regulated	25.9	14.5	32.2
Manufactured - High standard	32.0	20.6	38.4
Trust	32.7	23.9	37.6
Gov monitors safety	33.4	18.2	41.8

Responses from 1045 random consumers representative of the "population"
And 684 "opt-in" consumers

We are here to help new players – SME Assist

- **Targets** needs of those unfamiliar with therapeutic goods regulation
- **Assists** users to understand their regulatory and legislative obligations
- Provides support through email and phone help, interactive decision trees, guidance materials, webinars, workshops, subscription service
- Subscribe to SME Assist (www.tga.gov.au/sme-assist-email-list)



Since launching in June 2017, there have been:

- **116,000** visitors to the SME Assist web page
- **424** subscribers to SME Assist emails
- **32,500** uses of interactive decision tools including “What do I require to have a listed medicine on the ARTG"
- **241** email enquiries answered
- **12** ‘Meeting Your Obligations’ workshops held across Australia
- **700** attendees at workshops (**280** from the Complementary Medicines sector)
- webinars including one on permitted indications for listed medicines

Be careful not to shoot Bambi
(and the Daigou shopper or export markets)

- $5.2 bn annual revenue with $2 bn growth last 5 years
- The Australian industry is based on trust in high product standards of products **regulated as medicines**
  - Quality manufacture and safety ingredients
  - Evidence and not promotional assertions
  - Compliance
- **TGA GMP** is a pre-requisite to “Made in Australia” claim
- **Any decisions to change the current system** are up to Government and may require changes to legislation through the Parliament

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