



Fwd: Query re Advertising and promotion of Covid vaccination by GPs - [REDACTED]
[REDACTED] [SEC=OFFICIAL]

1 message

To: [REDACTED]

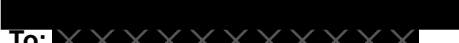


Hi [REDACTED]
[REDACTED]

Cheers
[REDACTED]

Begin forwarded message:

From: Advertising Education <advertising.education@tga.gov.au>



To: [REDACTED]

Co: Advertising Enquiries <Advertising.Enquiries@tga.gov.au>



Reply-To: Advertising Enquiries <Advertising.Enquiries@tga.gov.au>

Dear [REDACTED],

Thank you for your enquiry to the Therapeutic Goods Administration (TGA) dated 24 February 2021 (our reference [REDACTED]). I apologise for the delay in responding.

As I understand your enquiry, you are a GP seeking clarification whether comments you make on your personal social media about the COVID-19 vaccine are subject to regulation by the TGA. The short answer to your enquiry is yes, where those comments 'advertise' a therapeutic good, as defined in the *Therapeutic Goods Act 1989* (Cth) (the Act).

Under the Act, the advertising of prescription medicines (including vaccines) to consumers is prohibited in Australia, except where such advertising has been authorised or approved by the Australian Government or an Australian state or territory government. The TGA regulates therapeutic goods advertising in accordance with the Act, which defines 'advertise' as "...to promote the use or supply of the [therapeutic] goods...". This definition is broad, and encompasses anything that directly or indirectly promotes the use or supply of therapeutic goods. Therefore if material would induce a reasonable consumer to seek out particular therapeutic goods, such as a COVID-19 vaccine, it would fall within this definition.

You may not be aware that the TGA fact sheet which you refer to in your enquiry has recently been updated (<https://www.tga.gov.au/advertising-covid-19-vaccines-australian-public>). It now includes additional information regarding the distinction between factual information and advertising. This further information may be useful to you, including the following:

Presenting factual and balanced information about the COVID-19 vaccines is unlikely to be considered as advertising or promotional, subject to the context in which the information is presented. Some examples of this include:

- a doctor providing their general view in relation to vaccination broadly (provided they do not promote individual vaccines - COVID-19 or otherwise)*
- technical information relating to how the vaccines were developed and manufactured*
- sharing scientific reports from reputable sources (like the World Health Organization) about vaccination*
- re-tweeting or sharing valuable news-worthy information from reputable sources about the COVID-19 vaccines that would not have the effect of promoting the vaccines; or*
- presenting comprehensive information that doesn't emphasise the benefits over, for example, the risks and limitations.*

As a general guideline, if the content persuades consumers, for example through the use of promotional terms or language, to seek out COVID-19 vaccines, then it would be considered advertising.

Distinguishing between factual, balanced and non-promotional information, and the promotion of the use or supply of therapeutic goods (i.e. advertising) can be difficult and needs to be assessed on a case by case basis and in the context in which it is presented. As a regulator, the TGA is not in a position to review material and provide you with specific advice. The TGA can only provide general guidance that you may then choose to apply to specific circumstances. For example, in your enquiry you ask if you can discuss the benefits and risks, and contraindications of COVID-19 vaccination in social media posts. While this is less likely to promote the use of the COVID-19 vaccines than only discussing the benefits, you still need to be satisfied that overarching the consumer take-out message is not going to have a promotional effect. This is the case for all of the specific questions in your enquiry, however, in general terms:

- Can I talk about which vaccines my practice will be getting?

Probably not as in doing so you will likely promote the use or supply of a particular vaccine.

- Can I have a general discussion about the relative merits of different vaccines?

Probably not. Comparing vaccines is very likely to result in the promotion of at least one of the vaccines.

- Can I give my opinion about which vaccines the Australian Government should be purchasing?

This would be difficult to do with also inadvertently promoting a particular vaccine.

- Can I talk about how important it is for certain risk groups or culturally diverse groups to be immunised?

Yes, if in doing so, you are satisfied that you will not also be promoting the use or supply of therapeutic goods, such as the COVID-19 vaccines.

- Can I link to other information sources discussing Covid vaccination?

This will depend entirely on what the other 'information' is. If it is advertising, other than content from the Australian Government or an Australian state or territory government, then no you cannot.

- Can I state "A COVID-19 vaccine is the best way to protect you and your family from falling seriously ill!"

No, as this is a promotional statement.

- Can I state that I am excited that my practice is involved in Covid vaccination, without stating the name of the practice?

Yes, if in doing so, you are satisfied that you will not also be promoting the use or supply of COVID-19 vaccines.

- I am a self-employed contractor at my practice, but does the answer to the questions depend on whether I am a contractor or practice owner/principle?

No

Advertising COVID-19 vaccines lawfully.

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The Australian Government Department of Health has produced authorised materials to advertise the roll-out of COVID-19 vaccines across Australia. These are available at:

- <https://www.health.gov.au/resources/collections/coronavirus-covid-19-vaccine-campaign-resources>, and
- <https://www.health.gov.au/initiatives-and-programs/covid-19-vaccines/information-for-covid-19-vaccination-providers#consent-information> .

Anyone wanting to advertise and promote the COVID-19 vaccine can use these materials. You can use these materials as posters, on websites, as flyers, in newsletters, in emails and on social media, or in any other context. Provided that you follow the requirements set out in the fact sheet, you are advertising the COVID-19 vaccine as authorised by the Australian Government, and are not advertising a prescription medicine in a way that is prohibited by the Act.

In addition, anyone can advertise logistical information to facilitate the public obtaining the vaccine, including:

- the location of the COVID-19 vaccination service,
- times vaccines are administered or opening hours of the service provider, and
- whether there is a need for an appointment to receive the vaccination and how to make one.

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Consultations are exempt from advertising requirements

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Information shared between a health professional, like a doctor, during consultation or treatment is not subject to the advertising rules for therapeutic goods, including the prohibition on advertising prescription medicine.

The information in this email is intended as guidance and is necessarily general in nature. To obtain personalised advice you may wish to seek independent legal advice or the assistance of a regulatory affairs consultant. You can find a list of organisations that may be able to assist you in finding a consultant at <https://www.tga.gov.au/regulatory-affairs-consultants>. These consultants are not endorsed by the TGA.

If you have any questions about this email, please respond by return email to Advertising.Enquiries@tga.gov.au.

Kind regards,

Advertising and Compliance Education and Policy Section

Regulatory Compliance Branch

Email: Advertising.Enquiries@tga.gov.au

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Woden ACT 2606
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