

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2016 - 2017, 1 March 2017

Ref No: SQ17-000150

OUTCOME: 5 - Regulation, Safety and Protection

Topic: Application to Redefine the Definition of Nicotine in Schedule 7 of the Poisons Schedule

Type of Question: Written Question on Notice

Senator: Smith, Dean

Question:

Redaction of submissions to the consultations on the application

Many submitters to the enquiry agreed in writing that their submissions could be published in full. Versions of submissions to the inquiry published online by the TGA were heavily redacted with the identities of the submitters and key elements of their submissions concealed. Redaction went much further than identifying submitters, it also went to the bodies of submissions and evidence cited by submitters.

This made it difficult for third parties to evaluate the quality of the submissions, and the motives and interests of the submitters. The unwarranted redaction raises perceptions of intentional or unintentional bias in favour of their decision. Given these factors:

- 1a) On what grounds did the TGA redact these documents, particularly, in many instances, against the express desires of the authors?
 - b) If the public interest is a reason for the redaction, how was public interest defined for this purpose?
 - c) Is the TGA aware that Australian and international experts who submitted to the Joint Advisory Committee on Chemical and Medicines feel that the redaction was in effect editorial, minimizing their opportunity for public scrutiny of the TGA/ACMS decision process that should be in the public domain, and undermining the integrity of the submissions to which they put their names and reputations?
 - d) Will it make statements of regret or apology to those experts, and any other affected submitting parties, for the unauthorised redactions?
- 2) Will submissions by all parties who indicated their submission be released in full, now be released unredacted?
 - 3) Will a list of submitting parties, who have not objected to their identities or submissions being disclosed, be released?
 - 4) Were there submissions by companies or persons that manufacture, distribute or retail other aids to smoking cessation?
 - 5) Were there submissions made by companies or persons that manufacture, distribute or retail cigarettes and other combustible tobacco products?

Answer:

1) to 3)

In keeping with the requirements of the *Freedom of Information Act 1982*, the *Privacy Act 1988*, the Australian Privacy Principles and the Department of Health Privacy Policy, it is standard practice to de-identify scheduling submissions, i.e. to not publish names or affiliations, and other identifying, personal health or unlawful information, as well as material that may be considered as advertising, marketing or offensive.

In relation to the information published on nicotine, the Therapeutic Goods Administration (TGA) was made aware by some submitters that the redactions were greater than they had expected. The TGA has contacted these submitters and apologised for the unexpected level of redaction, as well as indicating that we will review the level of redaction and amend their submissions accordingly. The submissions will be republished.

4) No.

5) Yes.