Direct-to-consumer advertising debated in the United States and European Union

As Canada assesses the legality of direct-to-consumer drug advertising in the courts (*CMAJ* 2007;176:19-20), the United States Congress is about to consider limits, and activists in the European Union are poised to oppose an anticipated move toward allowing consumer drug advertising.

US Congress to consider limits on DTCA

Americans probably know more about the symptoms and sensations of physical and mental illnesses than any other people on the planet.

Why? Because, for 10 years they've been inundated with commercials for seemingly every known disease and disorder from allergies to erectile dysfunction, infected toenails, insomnia, social anxiety and restless leg syndrome. The relentless pharmaceutical pitches, better known as direct-to-consumer advertising (DTCA) are everywhere: sides of buses, walls of subway stations, on TV, magazines, newspapers, even plastered on restroom walls and printed on the cardboard sleeves of to-go coffee cups. Only the United States and New Zealand currently allow such advertising; NZ has considered a ban and the US will be debating new limits.

The Enhancing Drug and Innovation Act would give the Food and Drug Administration the authority to ban ads for new medications for up to 2 years, mandate government scrutiny of advertising content and require warnings about risks to be included. The Kennedy-Enzi Bill was introduced to Congress in February 2007, and is expected to be debated this spring.

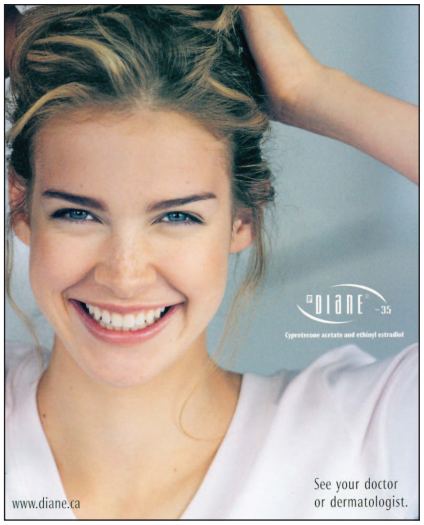
Big bucks are at stake. Pharmaceutical companies spent more than US$4 billion on advertising in the US in 2005, reports the General Accountability Office, an investigative arm of Congress. Seemingly, this investment pays big dividends. Between 1999 and 2000, prescriptions for the 50 most heavily advertised drugs rose 6 times faster than prescriptions for all other drugs (National Institute for Health Care Management Research and Educational Foundation, 2001) .

Every dollar drug companies spend on ads nets more than US$4 in additional sales, reports the Kaiser Family Foundation, a non-profit, private foundation focused on US health care issues. Drug commercials also bring in tremendous revenue for the companies airing or publishing them, particularly financially-strapped newspapers.

The ads are indisputably good business, but are they in the best interest of consumers? Do they help or hinder the doctor–patient relationship? These and other concerns are expected to be debated by Congress soon. The bill, introduced by Sen. Edward Kennedy, a Massachusetts Democrat, and Sen. Michael Enzi, a Republican from Wyoming, gives the US Food and Drug Administration authority to scrutinize ads prior to publication, and forbids the advertising of new prescription drugs for 2 years, a reaction to the voluntary withdrawal of rofecoxib (Vioxx) from world markets in 2005.

The American Medical Association and others say patients are demanding — and getting — prescriptions they may not need because of the persuasive power of the ubiquitous ads. State governments worry the ads are partly to blame for the skyrocketing cost of Medicaid, the government health insurance program for the poor and disabled. In a recent survey (*Consumer Reports,* February 2007), 78% of doctors reported that patients asked them for a specific prescription they'd seen on television, mostly drugs for allergies, insomnia, acid reflux and impotence.

However, pitching expensive medicine in the same vein as cars, computers and cocktails continues to divide doctors. Physicians serving low-income communities see the commercials as vital for patients lacking health insurance and access to medical information. The National Medical Association, which represents 30 000 African-American physicians, say such advertising is good for the doctor–patient relationship because it makes for better-informed patients.



Berlex Canada Inc.

DTCA is prohibited in Canada, but manufacturers can skirt the law by running ads that either name the drug but not its indication, or communicate about the condition but don't name the drug. Advertisements for Diane-35 (cyproterone acetate) are a prime example.

Results of the first study examining the educational content and emotional appeal of prescription ads was recently published (*Annals Family Medicine* 2007;5:2-4). It found 82% of the ads contained factual information while emotional pulls were "almost universal" — in 95% of advertisements. Wrote the study's authors: "Our findings suggest the need to reconsider the distinction between selling soap ... and prescription drugs."

Knowledge equals power continues to be the stance of pharmaceutical companies and some advertising groups.

"The facts are that drugs may come on the market — for high blood pressure, or diabetes, or psychological illnesses — with the potential to help consumers and save their lives," says Dan Jaffe, executive vice president for government relations of the Association of National Advertisers. Jaffe and others contend the proposal to block advertising of new medications for 2 years is a violation of the First Amendment's right to free speech.

Stay tuned. — Patricia Guthrie, Atlanta, Georgia

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