Media Release:
ACCC’S PRESS SPIN IS MISLEADING

Wednesday, 21 July 2004

The ACCC this week showed that it was more interested in generating media coverage than being held to the same requirement not to be “false and misleading” that it uses against other organisations, according to one Sydney based pathology laboratory.

Late last week the ACCC issued a press release “ACCC Settles Proceedings Against Australian Biologics” in which it appeared to claim some type of victory over pathology laboratory, Australian Biologics.

In contrast to the reading of the ACCC’s ‘press spin’, the settlement actually represented a significant win for Australian Biologics with its conduct being effectively exonerated by not being required to make any concession that it breached the Trade Practices Act in the promotion of its Live Blood, Clot Retraction and Thermogram tests. In addition, Australian Biologics did not have to pay any of the ACCC’s costs.

This flies in the face of the ACCC’s media release. The ACCC’s press release infers that Australian Biologics agreed that the tests were not “diagnostic”. The ACCC action was defended by Australian Biologics on the basis that these were never claimed to be diagnostic tests but were, in fact, screening tests.

Australian Biologics proudly stands by its services and is confident of the efficacy of the tests that it offers.

The ACCC action was based on only one complaint from a single medical practitioner, Dr John Dwyer, who never utilised or experienced the tests he complained about. Dwyer is a well-known campaigner against complementary and alternative medicine. Importantly, the action was not based on any consumer complaint. In fact, consumers rallied behind Australian Biologics to establish a fighting fund to assist Australian Biologics defend the tests and itself from the ACCC attack.

“Our settlement with the ACCC contained no admission that we had made misleading or deceptive representations or that Australian Biologics did not have reasonable grounds for making the representations. It is implicit in the settlement that the ACCC accepted that it could not prove that Australian Biologics breached the Trade Practices Act,” said Jennie Burke, Managing Director of Australian Biologic Testing Services Pty Ltd.

“The scientific evidence filed by Australian Biologics in support of its tests was extensive, impressive and compelling. This action would not have settled on the terms that it did if that not been the case.”

“Australian Biologics will continue to provide testing services for the benefit of patients and to assist medical practitioners and holistic practitioners in improving the state of their patients’ health, “said Ms Burke.

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