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October 31, 2005

*Via Overnight Express Mail*

Dockets Management Branch  
(HFA-305)  
Food and Drug Administration  
5630 Fishers Lane  
Room 1061  
Rockville, MD 20852

Re: Docket Number 2005N-0354  
Public Hearing: Consumer-Directed Promotion of Regulated Medical Products

Dear Sir or Madam:

Reference is made to the September 13, 2005, Federal Register notice announcing a Public Hearing on Consumer-Directed Promotion of Regulated Medical Products.

AstraZeneca has reviewed this notice and our written testimony is attached.

Sincerely,

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Vice President, External Scientific Affairs  
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CMB/tms

Attachment

2005N-0354

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**Testimony Submitted by AstraZeneca - November 1, 2005**  
**FDA Public Hearing on Consumer-Directed Promotion of Regulated Medical Products**

AstraZeneca is one of the world's leading pharmaceutical companies engaged in the research and development of new prescription medicines. Through its leadership in the gastrointestinal, cardiovascular, respiratory, oncology and neuroscience areas, AstraZeneca is dedicated to the discovery and delivery of innovative pharmaceuticals that help patients lead longer, healthier, and more productive lives.

As a leading pharmaceutical company, and as a leader in responsible direct-to-consumer (DTC) advertising, we understand that while DTC advertising is protected as free speech under the First Amendment, we have a responsibility to provide patients, consumers, and medical professionals accurate and balanced information. Looking through a lens that puts patient health first, we believe it is also important to help patients have access to our medicines<sup>1</sup> while, at the same time, providing the right information about our medicines. Direct-to-consumer advertising is one of the vehicles we use to deliver information to patients to facilitate their discussions with their physicians and other healthcare professionals.

AstraZeneca believes responsible DTC advertising that discusses treatable diseases and available therapies is integral to raising disease awareness, fostering patient education, and encouraging medication compliance. A continual process of listening to and learning from consumers, caregivers, physicians, healthcare professionals and policymakers, has strengthened AstraZeneca's conviction that accurate, balanced, and timely information about our prescription medicines and the conditions they treat is essential to putting patient health first.

The information conveyed through responsible DTC advertising creates awareness about serious diseases and conditions, and encourages patients to talk with their physician or other healthcare professional about their health. In fact, in FDA's 2002 patient survey, nearly one in five patients reported speaking to a doctor about a condition for the first time because of a DTC ad.<sup>2</sup> More important perhaps, according to a 2003 Harvard/Harris Interactive study, 25 percent of patients who visited their doctor after seeing an ad received a diagnosis of a new condition and 43 percent of these diagnoses were for "high priority" conditions like high cholesterol, hypertension, diabetes, or depression.<sup>3</sup>

Our commitment to responsible DTC advertising is clearly evidenced by our most recent television advertisement for CRESTOR® (rosuvastatin calcium). CRESTOR is a once-daily synthetic lipid-lowering agent, commonly known as a statin. The CRESTOR ad is serious in

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<sup>1</sup> AstraZeneca is dedicated to helping ensure consumers have access to our prescription medications. To this end, we participate in Together Rx Access, our broadcast and print ads include a toll free telephone number for patients without prescription drug coverage to call if they need help paying for their medicines, and we established the AstraZeneca Foundation Patient Assistance Program.

<sup>2</sup> K. Aiken, *Patient and Physician Attitude and Behaviors Associated with DTC Promotion of Prescription Drugs—Summary of FDA Survey Research Results*, (November 19, 2004).

<sup>3</sup> J. Weismann, et al., "Physicians Report on Patient Encounters Involving Direct-to-Consumer Advertising," *Health Affairs Web Exclusive*, 28 April 2004, <http://www.healthaffairs.org> (accessed 23 August 2005).

tone and content, and discusses in a responsible and informative manner the product and the condition it treats.

The advertisement clearly articulates the risks associated with the product and articulates the necessity of patients discussing with their doctor whether CRESTOR is an appropriate prescription medicine for them. For example, the first third of the ad (about 20 seconds or so) is devoted to a discussion of high cholesterol and using diet and exercise as a way to lower cholesterol. The actor looks directly in the camera and says that CRESTOR may not be right for everyone and gives examples of the kinds of patients for whom CRESTOR may not be appropriate. He also encourages viewers to discuss this matter with their doctor. AstraZeneca constantly seeks to employ communication techniques to deliver risk/benefit information as effectively as possible in its advertisements.

The CRESTOR ad is an example of the importance of the company's ongoing efforts to meet the needs of a dynamic healthcare environment and illustrates our commitment to the following principles:

- We provide consumers with accurate and clear information about our medicines and the conditions/diseases those medicines treat in a straightforward and responsible manner;
- We remind patients of the necessity of talking with their doctor because only their doctor knows which treatment is most appropriate for them;
- We provide an appropriate balance between benefit and risk information and clearly communicate such information so that patients can have better informed conversations with their doctors;
- We provide information on how patients without prescription drug coverage and in financial need can contact AstraZeneca to determine if they are eligible to participate in our patient assistance programs.

Recent television advertisements for CRESTOR and NEXIUM® (esomeprazole magnesium) illustrate AstraZeneca's commitment to these principles. Moreover, AstraZeneca was the first pharmaceutical company to include patient assistance information in its branded television product ads.

### **Education and Disease Awareness**

The company recognizes the importance of education and disease awareness in both branded and non-branded television advertisements. In this regard, last month AstraZeneca launched a first-of-its-kind non-branded disease awareness campaign aimed at enhancing awareness of the risk of breast cancer recurrence and how to reduce that risk among survivors. The program consists of a television commercial called "If You Were My Sister", an interactive web site called [www.getbcfacts.com](http://www.getbcfacts.com), and an educational information kit, all featuring real women who are breast cancer survivors. The campaign encourages consumers to learn and share critical information about the risk of breast cancer recurrence and encourages women to talk with their doctor about appropriate treatment options and the importance of compliance.

This disease awareness campaign is directed at a specific health risk for women. According to the American Cancer Society, breast cancer is the second leading cause of cancer death among all women. While it is understandable that survivors want to put cancer behind them, a woman's risk of recurrence is highest in the five years immediately following diagnosis, and no studies have proven that there is a specific time when a breast cancer survivor will be free of the risk of recurrence. Accordingly, it is important to open up the discussion of recurrence and compliance in a supportive manner. The use of DTC advertising accomplishes that goal by reaching a wide array of consumers throughout the U.S.

In addition to company-specific efforts designed to help promote disease awareness and to continually improve DTC advertising, AstraZeneca was a leading participant in working with the Pharmaceutical Research and Manufacturers Association (PhRMA) to strengthen DTC advertising. From their inception, AstraZeneca has adopted PhRMA's Guiding Principles on DTC Advertisements of Prescription Medicines, and we are committed to applying the principles in our advertising.

### **Communication of Risk/Benefit Information**

As noted previously, DTC advertising must continually evolve to meet the needs of a dynamic healthcare marketplace. As a result, AstraZeneca also is actively engaged in helping others understand how to better improve communication with patients and consumers.

For example, the FDA has indicated its interest in ensuring pharmaceutical manufacturers balance benefit and risk information presented in their consumer communications by conducting its own primary research regarding the execution of fair balance and the brief summary in print advertising to help inform potential policy development for print consumer communications. Similarly, AstraZeneca is interested in helping inform the Agency regarding the execution of fair balance in television advertising. As a result, AstraZeneca has committed to fund the first large-scale consumer research study on the use of fair balance in television commercials to be made public.

The AstraZeneca study is comprised of two parts: a qualitative segment and a quantitative assessment of various hypothetical fair balance execution concepts. The study objectives are: 1) to gain an in-depth understanding of the effects of fair balance information included in the ads by measuring risk and benefit information recall and consumer comprehension of risks and benefits; and 2) to inform the development of testable fair balance alternatives in television by identifying aspects of current, standard fair balance execution that could be reinforced or altered to optimize the risk-benefit balance and communication effectiveness. While the qualitative segment of the study is complete, we expect final study results to be available early in 2006.

### **Patient-Friendly Brief Summaries**

As a result of its interest in communicating risk/benefit information, AstraZeneca believes the Agency could help empower and inform consumers by providing further clarity and guidance with regard to the development of patient-friendly brief summaries.

Under the Federal Food, Drug and Cosmetic Act (FDCA), all prescription drug advertisements, including consumer-directed ads, must be accompanied by a “brief summary” of all side effects, contraindications, and effectiveness.<sup>4</sup> FDA regulations further specify that the brief summary must include *each specific* side effect and contraindication from the full prescribing information, as well as the information contained in the Warnings, Precautions and Adverse Reactions sections of that labeling.<sup>5</sup> As a result, the brief summaries that accompany most DTC advertisements are lengthy documents, written in language that is highly technical and designed to inform and educate doctors and other health care professionals. While the FDA has indicated its willingness to be somewhat flexible about this regulatory requirement in an effort to encourage more companies to use an abbreviated, patient-friendly format,<sup>6</sup> companies who do so run the real risk of having their technical non-compliance with the law used against them in a product liability lawsuit as evidence of negligence *per se*. It is no wonder then that the brief summaries that accompany most direct-to-consumer advertising today are “neither brief, nor a summary.”<sup>7</sup>

AstraZeneca supports the FDA’s initiatives to strengthen and enhance how information is presented to consumers in brief summaries. We believe that patients who are well informed about their conditions and medicines are able to partner more effectively with their healthcare providers and make better health care decisions. Specifically, AstraZeneca applauds FDA’s efforts to better understand the underlying consumer needs and perceptions with respect to print advertisements. We believe that FDA’s study on the *Evaluation of Consumer-Friendly Formats for Brief Summary in DTC Print Advertisements* (Brief Summary Study) will begin to provide the data needed to inform responsive and meaningful policy making in the arena of consumer-friendly brief summaries.<sup>8</sup>

AstraZeneca also commends FDA for directly addressing this issue in its 2004 Draft Guidance on brief summaries (Draft Guidance),<sup>9</sup> in which the FDA proposes several different options for communicating risk information to consumers. While AstraZeneca supports FDA’s goal of optimizing how brief summary information is presented in consumer-directed print advertisements, there are substantive issues with the Draft Guidance that remain unresolved.<sup>10</sup> Given the FDA’s desire in this Public Hearing to understand how its current regulations and their

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<sup>4</sup> 21 U.S.C. §352(n)

<sup>5</sup> 21 C.F.R. §202.1(e)(3)(iii)(emphasis supplied)

<sup>6</sup> See FDA’s Draft Guidance, *Brief Summary: Disclosing Risk Information in Consumer-Directed Print Advertisements*, Docket No. 2004D-0042 (Feb. 10, 2004)(FDA “does not intend to object” to use of proposed consumer-friendly formats even though they do not meet the brief summary requirements under current FDA regulations).

<sup>7</sup> Dr. Robert Temple, *FDA Public Meeting on Direct-to-Consumer Promotion*, Sept. 22-23, 2003, Closing Remarks, Transcript p. 226.

<sup>8</sup> See FDA Call for Comments; Agency Information Collection Activities; Proposed Collection; Comment Request; *Evaluation of Consumer-Friendly Formats for Brief Summary in DTC Print Advertisements for Prescription Drugs: Study I*, Docket No. 2005N-0016 (Feb. 8, 2005). See also AstraZeneca’s response to the FDA Call for Comments dated April 11, 2005.

<sup>9</sup> FDA’s Draft Guidance, *Brief Summary: Disclosing Risk Information in Consumer-Directed Print Advertisements*, Docket No. 2004D-0042 (Feb. 10, 2004)

<sup>10</sup> See AstraZeneca Response to FDA Call for Comments dated May 6, 2004; PhRMA Response to FDA Call for Comments dated May 10, 2004.

interpretation should be modified to better address consumer-directed promotion of pharmaceuticals, this may be an opportune time to address some of these issues. Specifically, AstraZeneca would recommend the following:

- FDA, under the authority granted to it under 21 U.S.C. §352(n), should revise its brief summary regulations contained in 21 C.F.R. §202.1 to explicitly allow the “consumer-friendly” options for risk disclosure outlined in the Draft Guidance. Both the regulations and the Draft Guidance should state that these alternative presentations of risk also satisfy the brief summary requirements of the FDCA. By so amending the regulations, manufacturers will no longer be faced with the untenable choice between providing patients and consumers with more accessible information or being sued by plaintiff’s lawyers claiming that a manufacturer has failed to satisfy the requirements of the FDCA.
- FDA should provide specific definitions and guidelines that will help manufacturers classify and describe risk information on a consistent basis. This is particularly critical for drugs that share class labeling. For example, in an effort to optimize consumer comprehension, a list of acceptable “consumerized” medical terms and descriptions would help AstraZeneca and others to translate professional labeling in a uniform and consistent way. Providing an objective set of criteria as to what a “major precaution” constitutes would also be critical.<sup>11</sup>
- FDA should base any new approach to risk disclosure on objective data and research that demonstrates increased value to patients and consumers. Any proposal, whether it includes a recommended risk information window or the incorporation of risk information into the body of the advertisement, should be evaluated through sound research. Again, we expect that the FDA’s Brief Summary Study will yield valuable insights in this regard.

### **Mandatory Prior Use Review of DTC Advertising**

Finally, AstraZeneca believes that all patients and physicians would benefit from a process requiring that DTC advertisements be submitted to the FDA’s Division of Drug Marketing and Communication (DDMAC) prior to their use.

Today there exists a voluntary mechanism whereby companies can ask DDMAC for comments on an advertisement prior to its publication. However, there is no requirement for manufacturers to submit ads for such a review, no specified time period within which DDMAC must provide such comments, and no mechanism that provides the manufacturer – and most importantly, consumers and healthcare providers – with the knowledge that the ad has been reviewed by FDA prior to its use and it complies with the requirements of FDCA. If our collective goal is to ensure that accurate and responsible information is communicated to patients and healthcare providers, then manufacturers, patients, physicians and policy makers ought to welcome such a review process.

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<sup>11</sup> See Draft Guidance, p. 5.

There are a number of challenges to creating such a mandatory prior use review mechanism. For example, the Agency would need appropriate resources to carry out such a mandate, either through additional appropriations from Congress or through a specific manufacturer-supported fee identified through the upcoming PDUFA renewal. Pharmaceutical manufacturers' commercial needs would require consideration, and manufacturers would need to receive comments from the Agency within a reasonable time period specified by statute or regulation. In addition, providing for such an independent, prior-use comment period by the Agency should preclude a subsequent finding by the Agency that a particular advertisement is misleading or inaccurate, since manufacturers would incorporate the Agency's comments in an appropriate manner prior to use. However, the Agency would rightfully reserve the right to halt the use or require modification of an advertisement it previously reviewed if new scientific or medical information came to light.

While such challenges may seem daunting, patients and healthcare providers have a reasonable expectation that both the Agency and pharmaceutical manufacturers should and can work together to make reasonable efforts to prevent misleading and inaccurate information from making its way into the public arena. Accordingly, AstraZeneca believes that a dialogue must continue among industry, policy makers and FDA to enhance the ability of FDA to review DTC ads. AstraZeneca believes FDA should have additional resources to permit appropriate review of DTC advertisements prior to their use. Such a step would be in the best interests of patients and healthcare providers.

The lack of such oversight currently gives rise to well-intentioned, but often unhelpful proposals from a variety of quarters. For example, one of the criticisms of DTC advertising is that consumer-directed ads for newly approved drugs pose potential safety risks. As a result, some policy makers, and others, have proposed an arbitrary one or two year moratorium on DTC ads for newly approved drugs. While safety is a paramount concern to all, it must be clearly understood and relayed to patients that *all* drugs have some risks and all risks cannot be known even after a drug has been widely studied and available for several years or more. Thus, we do not believe an arbitrary moratorium on advertising will improve drug safety in a meaningful manner.

In considering DTC advertising and the attendant utilization and safety issues, it is important to remember the integral role physicians and healthcare professionals play as learned and trusted intermediaries. As such, the FDA and drug manufacturers must ensure, on an on-going basis, that physicians and healthcare professionals are well informed about a drug's risks and benefits, as well as the risks and benefits of various classes of drugs—new and old, advertised and unadvertised. Similarly, it is important to remind patients that only their doctor can determine whether a prescription medication is appropriate to treat their condition and determine what drug, if any, is the appropriate drug for them. DTC advertisements provide patients with valuable information about available treatments and provide the basis for patients to discuss the appropriateness of a particular therapy with their physician. If a meaningful dialogue between physicians and patients is one of the crucial elements of good healthcare, an arbitrary moratorium would prevent patients from being empowered with important information with which to meaningfully participate in such a dialogue.

Conversely, it is the physician (and increasingly managed care organizations via restrictive formularies<sup>12</sup>) who determines *whether* a prescription is needed and *what* prescription is needed.<sup>13</sup> In December 2003 the FTC concluded, “Notably, an important concern regarding DTC ads—that they lead to inappropriate prescribing—fails to find support in the surveys. Of physicians reporting a negative effect from DTC ads, only 5% listed pressure to prescribe as one of the reasons. Overall, over 94% of the physicians stated that the DTC advertised drug they prescribed was at least as effective as alternative drugs.”<sup>14</sup>

Establishing an arbitrary one or two year moratorium on DTC advertising for newly approved drugs would not appreciably decrease utilization—providing cost-savings (countries with no DTC advertising have drug growth and utilization rates consistent with those in the U.S.)—or improve drug safety. However, it would preclude patients and consumers from obtaining *accurate*, timely, and helpful information about treatable diseases and conditions and the therapies used to treat such diseases/conditions. Parenthetically, it is important to note that a moratorium would not prevent patients from getting information—*unregulated* and all too often inaccurate and/or incomplete—from other sources such as the Internet.<sup>15</sup> As Gwyneth Card noted in a 2001 *Harvard Health Policy Review* article, “While many are clamoring for federal intervention with price controls, an equally important mechanism for lowering drug prices and providing patients with the best medical treatment is providing consumers and physicians with more comprehensive and digestible information on the wares of the emerging drug market. If we are going to treat patients as consumers, as many insurance companies and HMOs already do, we must help them to be empowered and informed consumers.”<sup>16</sup>

AstraZeneca appreciates the opportunity to provide this testimony and looks forward to a continuing dialogue with FDA and other interested parties on the issues identified in this testimony and in other areas of mutual interest.

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<sup>12</sup> M. Wosinska, “Just What the Patient Ordered? Direct-to-Consumer Advertising and the Demand for Pharmaceutical Products”, Harvard Business School Working Paper No. 03-058. This paper (dissertation) finds, “. . . advertising affects demand only for drugs that have a preferred status with the patient’s insurer (are listed on the formulary). The high ration of fulfilled drug requests is driven less by patient’s influence than physician’s existing preference for these drugs.”

<sup>13</sup> *Comments of the Staff of the Bureau of Consumer Protection, the Bureau of Economics, and the Office of Policy Planning of the Federal Trade Commission in the Matter of Request for Comments on Consumer-Directed Promotion*, *supra* n.14 at 14. Increasingly Managed Care Organizations, in particular, through the use of formularies, therapeutic substitution policies, and the heavy use of generics, act as the ultimate gatekeeper in deciding what medicines are available to be prescribed, and what medicines are prescribed.

<sup>14</sup> *Id.* at 9-10.

<sup>15</sup> Information about prescription medications is available to consumers not only through DTC ads, but also through a plethora of other sources like the Internet, television news magazines, local news broadcast featuring consumer health segments, periodicals, and other publications.

<sup>16</sup> Gwyneth Card, TV, Drugs, and Healthcare: Evaluating and Combating the Influence of Direct-to-Consumer Advertising on the Prescription Drug Market,” *Harvard Health Policy Review*. Fall 2001; Volume 2, Number 2.