

# Cosmetic surgery inquiry

In April the ACCC made a submission to the NSW Inquiry into Cosmetic Surgery, in response to a request from the Health Care Complaints Commission.

The inquiry was prompted by complaints from consumers and health professionals — through the NSW Health Department, the NSW Medical Board, the Health Care Complaints Commission and professional bodies — regarding the way cosmetic surgery procedures are promoted and the quality and safety of those procedures.

Since the introduction of competition to the professional sector the ACCC regards health and safety issues as a priority area. In relation to consumer protection it is concerned by any conduct, not just advertising, that may breach the prohibitions of the Trade Practices Act.

Its contribution to the inquiry relates to its responsibility for enforcing the Trade Practices Act and ensuring a greater awareness by the community of its rights and obligations under the Act.

For the purpose of the inquiry, cosmetic surgery is defined as a procedure performed to reshape normal structure of the body, or to adorn part of the body, with the aim of improving the consumer's appearance and self esteem.

## Main points of ACCC submission

The conduct of practitioners providing cosmetic surgery services is clearly covered by the consumer protection provisions of the Trade Practices Act and the mirrored provisions in the State and Territory Fair Trading Acts. These provisions include a prohibition on unconscionable conduct, misleading or deceptive conduct, and false or misleading representations.

Increased information about cosmetic surgery needs to be made available to the public so prospective patients can make a more informed choice. Advertising for cosmetic surgery, provided that it is honest and accurate, is one way of providing that information.

Restricting advertising for cosmetic surgery, beyond the prohibitions in the legislation, would raise some concerns. In the past such restrictions have often required the application of subjective criteria, which in practice may be used to inhibit information promotion by health practitioners, and so becoming an anti-competitive tool. Restrictions have often been very prescriptive and costly to enforce, without providing benefits to consumers proportionate to those costs. Finally, restrictions would not address the problem of the quality and safety of practice or treatment.

There are better ways of addressing the problems than by restricting advertising and the ACCC suggests a number of practical options.

In particular, professional associations can play a major role in educating the public about cosmetic surgery and the services provided by their members. Practitioners themselves can contribute to informing the community, for instance via honest and accurate advertising.

Government departments and agencies, such as medical boards, departments of health, the Health Care Complaints Commission and its counterparts in other States, State and Territory fair trading agencies and the ACCC, can provide information on various aspects of health services and/or service providers, as well as guidance on the purchase of medical/health services by the public or the promotion of such services by the providers.

Other possible options include:

- information disclosure;
- cooling-off periods;
- testimonials;
- advertising and consumer guides;
- codes of practice; and
- appropriate, targeted or focused additional regulation, if the above options and current regulations have been tried and failed.

The inquiry is due to report to the NSW Minister for Health by October 1999.

The ACCC's submission is available on its website.