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**Australian
Competition &
Consumer
Commission**

31 January 2008

Ms Kate Gilbert
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Dear Ms Gilbert

Thank you for your letter dated 11 January 2008, regarding representations on the website www.sooilusa.com (**the site**).

Your main concerns relate to the use of the representation 'guarantees normal blood glucose' to describe the outcome of using the Dana Diabecare IISG insulin pump (**DD IISG**).

In particular, you were concerned that the representation could potentially be in breach of the misleading and deceptive provisions of the Australian Trade Practices Act (**TPA**). You also felt that the use of the representation could amount to unconscionable conduct given the target market.

An analysis of the site confirms that representations using the term 'normal' are still current.

However, I do note that in the expanded information on insulin pumps, the anticipated outcomes of the use of insulin pumps do not use the term 'normal' in the same way eg 'With the insulin pump, you can get your insulin levels as close as possible to the way normal pancreas would produce'.
www.sooilusa.com/images/m2_02_img1.gif

This appears to be consistent with the way some insulin pumps are described on other websites promoting similar devices.

To put the matter in context, the object of the TPA is to enhance the welfare of Australians through the promotion of competition and fair trading and provisions for consumer protection (s. 1.2). My analysis of the site does not provide any evidence that the trader is selling directly to consumers, in particular Australian consumers.

I appreciate all the points that you have made and while any final decision as to whether a trader is in breach of the TPA would be a matter for the courts, at this stage I do not intend to take the investigation further.

However, the DD IISG is registered with the FDA in the United States and Sooil appears to have representatives there, therefore I will be flagging the matters you have raised with our US counterparts, the US Federal Trade Commission, for their information.

You also mention in your letter that the website lists Diabetes Australia - NSW (DA-NSW) on its webpage of international contacts. The webpage is entitled Global Sooil.

You express in your letter that you are concerned that DA-NSW, which is a key organisation representing people with diabetes in Australia, should be associated with a website that may be in breach of Australian law.

Analysis of the DA-NSW website shows that it does not appear to promote or sell the DD IISG or any other Sooil product. There do appear to be links to what may have been Diabecare products but the links do not appear to link to either the Sooil website or to any information associated with Sooil products.

I have written to Diabetes Australia - NSW pointing out the representations in question and the reference to their organisation on the site under Global Sooil.

Should you wish to discuss any of the points in this letter or provide further information, please contact me on 02 6243 1069.

Yours sincerely



Therèse Dupé
Assistant Director
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