



May 21, 2007

PhRMA Office of Accountability
950 F Street, NW, Suite 300
Washington, DC 20004

VIA FACSIMILE: (202) 775-0258

Dear Sir or Madam:

We write to express our dismay at the release and marketing of Centocor's movie, *Innerstate*, which features individuals with conditions treated by the company's drug, Remicade. Centocor is a subsidiary of PhRMA member Johnson & Johnson ("J&J"). While Centocor labels *Innerstate* a documentary, Remicade's dominant market position and materials distributed at *Innerstate* screenings suggest that the movie serves as a promotional vehicle for the company's product. In light of this, we believe PhRMA should investigate whether J&J has violated the Guiding Principles on direct-to-consumer ("DTC") marketing to which PhRMA members have agreed, and take appropriate action.

***Innerstate* as DTC advertising**

PhRMA's guidelines on DTC advertising are aimed at television and print advertising. DTC television advertising is defined in the guidelines as "a portion of television air time on broadcast or cable television that is bought by a company for the purpose of presenting information about one or more of the company's medicines." Although *Innerstate* has so far only been shown in movie theaters, we believe the spirit of the guidelines should cover such a project, whose screenings are paid for by Centocor and which will also be released on DVD. Indeed, one reason the PhRMA guidelines do not explicitly cover movies may be that their authors never envisioned the existence of a film like *Innerstate*. According to the New York Times, industry experts "could remember no other documentary conceived of and financed start-to-finish by a drug maker."

Another criterion for DTC advertising is the presentation of medication information. While *Innerstate* does not specifically mention Remicade or Centocor, Centocor distributed a *Viewer's Guide* to the film at its King of Prussia, Pennsylvania, screening on April 28, 2007 that did. The *Viewer's Guide* profiles the three patients featured in the film, and states in each profile that the patient was treated with Remicade. Following the patient profiles is an essay titled "A Message from Centocor" by the company's Vice President of Medical Affairs, which reveals that Centocor makes Remicade, and discusses many of the drug's possible side effects. Centocor also included the entire Medication Guide for Remicade in the booklet.

No other biotech drug was mentioned in the *Viewer's Guide*.

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

MICHAEL P. FISHMAN
President

KEVIN J. DOYLE
Executive Vice President

HÉCTOR J. FIGUEROA
Secretary-Treasurer

KYLE BRAGG
Vice President

LENORE FRIEDLAENDER
Vice President

BRIAN LAMBERT
Vice President

VALARIE LONG
Vice President

Online at
www.seiu32BJ.org

Local 32BJ Headquarters
101 Avenue of the Americas
New York, NY 10013-1991
212.388.3800

Connecticut District
800.228.5253
Hartford 860.560.8674
Stamford 203.602.6615

Westchester District
914.637.7000

Long Island District
516.579.4020

New Jersey District
866.5JANITOR
973.824.3225

Philadelphia District
215.226.3600

District 82
Washington 202.387.3211
Baltimore 410.225.7511
Silver Spring 301.562.9301

At the screening, Centocor also distributed a survey form with an offer for a DVD of *Innerstate*. The fine print gives Centocor and other Johnson & Johnson affiliates the right to send to survey participants information about their products “and the conditions they are approved to treat,” as well as experiences of patients treated by those products. Centocor did not offer to provide information on competing drugs or treatments.

It is important to note that there is no other way to watch the movie at this time than to attend a Centocor-sponsored screening, and the DVD is available only to attendees after talking to a member of the event staff.

In light of the above, SEIU Local 32BJ believes that the Viewer’s Guide and survey form distributed at the *Innerstate* screening constitute DTC print advertisements, and the movie a DTC broadcast advertisement. We do not appear to be alone in this view. The New York Times called the movie “an unusual form of soft-pedal marketing of a blockbuster drug, Remicade.” The Philadelphia Inquirer reported that “even without naming Remicade, Centocor stands to gain from increased disease-awareness because, as the market leader, it tends to capture most new prescriptions.”

Centocor would have us believe that it aims “to elevate the voices, stories and successes of patients, as well as to broaden awareness of immune-related diseases.” But the promotional materials given at the screenings suggest an ulterior motive. Dr. Jerry Avorn, a Harvard Medical school professor and author of *Powerful Medicines*, commented that *Innerstate* “is a whole new dimension in direct-to-consumer advertising. What makes me edgy about it is if it is going to be a commercial, you should know it’s a commercial. I’m very troubled by the blurring of the lines between advertising and patient education.”

PhRMA’s Guidelines as Applied to *Innerstate*

Since *Innerstate* is clearly, in our view, a DTC advertisement, Centocor should follow PhRMA’s Guiding Principles on such advertisements. But Centocor appears to have violated several of the guidelines.

Principles #3 and #4 ask companies to educate consumers about the medicine being advertised, and to indicate if it is a prescription drug. *Innerstate*, by contrast, does not mention the name of the drug, and even the name of the film’s producer, Centocor, is not revealed until the last line of the credits.

PhRMA should also investigate whether Centocor has complied with

- Principle #2 on presenting a “balance of risks and benefits” about the advertised drug;
- Principle #11, that “risks and safety information ... should be presented in clear, understandable language, without distraction from the content”; and
- Principle #15, on providing information “about help for the uninsured and underinsured.”

Centocor's Prior History

Finally, we believe it's worth noting that the recent controversy surrounding *Innerstate* is not the first instance in which Centocor's Remicade-related marketing practices have been questioned. Recently, a Texas jury found that Centocor misrepresented Remicade to doctors and negligently misbranded Remicade by use of misleading labeling or advertising. They found clear and convincing evidence that the fraud led to "lupus-like symptoms" on the plaintiff, who had taken Remicade. The court entered judgment of more than \$4.8 million in damages against Centocor. After the verdict, the Court granted Centocor's motion for a new trial and further proceedings are pending.

In Minnesota, two female former Centocor employees are suing the company for wrongful termination and gender discrimination, claiming they were discharged after they complained about the company's marketing practices. The plaintiffs allege that Centocor marketing materials included a PowerPoint slide detailing Remicade's profit potential and accompanied by an audible "Ka-Ching" sound effect. The plaintiffs further allege that Centocor actively promoted Remicade for uses other than the treatment of inflammatory immune disorders.

Centocor is also alleged to have engaged in deceptive practices in a class action lawsuit brought by, among others, the federal government. The suit alleges that Centocor engaged in marketing practices that led to overpricing and profits for physicians who prescribe J&J products. In response, Centocor's parent, J&J, has admitted that Remicade has been listed, for purposes of reimbursement, at prices 30% higher than the drug's cost to physicians who administer it, but denies that this is a deceptive practice.

We ask that PhRMA thoroughly investigate *Innerstate* and Centocor's marketing of the movie, and pursue all appropriate remedies that address the practices of its member Johnson & Johnson and its subsidiary Centocor.

Very truly yours,

Wayne MacManiman, Jr.
Philadelphia District Chair, SEIU Local 32BJ

/s Leonore Tiefer, Ph.D.
Department of Psychiatry, NYU School of Medicine

/s Barbara Mintzes
Therapeutics Initiative, University of British Columbia

/s Colleen Fuller
Co-founder, PharmaWatch
Member, Steering Committee of Women & Health Protection

/s Dr. Peter Mansfield
Director, Healthy Skepticism, Inc.

/s Dr. Agnes Vitry
Senior Research Fellow, University of South Australia

/s Raman Prasad
scdrecipe.com