

Using “anti-ageing” to market cosmetic surgery: just good business, or another wrinkle on the face of medical practice?

Anne L Ring

Potential consequences of the deregulation of advertising by doctors are examined using the example of practitioners who promote cosmetic procedures by exploiting body image concerns in a society that is both ageing and youth-oriented. (MJA 2002; 176: 597-599)

WITHIN THE PAST FIVE YEARS, medical practitioners have seen major changes to the ways in which they are entitled to promote their services in Australia. The current approach was formalised as a result of the State-by-State deregulation of advertising by doctors through concerted action by the Australian Competition and Consumer Commission (ACCC), which did so in order to enable equal opportunity to all businesses in compliance with the National Competition Policy.^{1,2} Box 1 outlines the current conditions for medical advertising.

In 1998, the then Head of the NSW Health Care Complaints Commission (HCCC) sounded a cautionary note about the risks to the medical profession from a shift to “competitive principles”, and the potential effects of this in compromising the traditional medical ethics that have guided the behaviour of members of the profession “since Hippocrates”.¹

Concerns about implications for the profession have also been expressed by the Australian Medical Association (AMA), with one of the key points in its current position statement on advertising and endorsement being that:

“The promotion of a doctor’s medical services as if the provision of such services were no more than a commercial product or activity is likely to undermine public confidence in the medical profession.”⁴

Evidence that some practitioners of cosmetic surgery were in the vanguard of the profession in promoting their services in this way was presented to the New South Wales Inquiry into Cosmetic Surgery conducted in 1999 by the NSW HCCC. The Committee of that Inquiry concluded that a number of the promotional practices “may be in breach of professional standards and fair trading laws”.⁵

Two years on, the ways in which a subset of plastic and other cosmetic surgeons continue to promote their practice^{2,6} require the medical profession to consider, fair trading laws aside, some important questions about the implications of such commercial strategies for both the cosmetic surgery sector, and for the profession as a whole.

It should be noted that the term “cosmetic surgery”, as used in this article, is in accordance with its definition by the NSW Committee of Inquiry into Cosmetic Surgery. Key points of that definition are listed in Box 2.

1: Advertising: what doctors can and can not — and should and should not — do*

The National Competition Policy requires that “strict controls on advertising” have to be eased “where anticompetitive effects do not have countervailing public benefits”. However, the subsequent changes in the laws do not result in a “free for all where anything goes”. Advertising and other promotional activity must comply with:

- the rules of the Commonwealth *Trade Practices Act 1974*, which prohibits a range of misleading, deceptive and unconscionable conduct, and misrepresentations;
- the relevant State and Territory Fair Trading Acts; and
- “any specific medical and health practitioner regulations that remain”.

Some equivocation applies, however, with regard to the distinction that the Trade Practices Act draws between misleading content and “puffery or self-evident exaggeration”. While there is a reluctance at the legal level to elevate puffery “to the status of potentially misleading conduct”, it is recommended that – in the case of complex areas such as medical and health care – puffery “should be avoided or used with extreme caution”. This echoes a broader caveat laid down for practitioners: that consumers “are best protected when they are fully informed and when medical and health professionals maintain professional and ethical standards”.

* Drawn from a 2000 guide to the *Trade Practices Act 1974* (Cwlth) for health and medical professionals.³

Are ethical standards a casualty in the promotion of cosmetic surgery?

Doctors strive to prolong life, and have earned some of the credit for the fact that we are living in a society that is ageing healthily as our life expectancy continues to grow. It is therefore somewhat anomalous that the public face of cosmetic surgery includes promotions which play on the insecurities associated with the superficial consequences of ageing. Specifically, there is considerable evidence that the highly profitable tactic of targeting the appearance of ageing as an undesirable quality is being exploited by some medical practitioners, using methods similar to the beauty industry’s approach of stigmatising this normal bodily process.

The allegation that doctors have made a substantial contribution to the reconstruction of ageing for profit is, of course, not new.^{7,8} By 1990, in America, Naomi Wolf (in her book *The beauty myth*⁷) had described a key marketing strategy for cosmetic surgery — namely, classifying ageing as ugly, and ugliness as a disease for which cosmetic surgery practitioners had the most effective treatment.⁷ She also questioned whether such exploitation of women’s insecurities about their appearance was “subject to the ethics of the genuine medical profession”.⁷

For editorial comment, see page 569; see also pages 576 and 601.

InterAlia Development and Research Enterprises, Corinda, QLD.
Anne L Ring, PhD, GradDipHlthEd, Director.

Reprints will not be available from the author. Correspondence:
Dr Anne L Ring, InterAlia Development and Research Enterprises,
31 Kathleen Street, Corinda, QLD 4075. idaring@uq.net.au

2: Current parameters of cosmetic surgery

Cosmetic surgery:

- is any cosmetic procedure “performed to reshape normal structures of the body or to adorn parts of the body, with the aim of improving the consumer’s appearance and self-esteem”;
- “is initiated by the consumer, not medical need”; and
- “excludes reconstructive surgery which is ... [generally] performed to improve functions, but may also be done to approximate a normal appearance”.⁵

These are now matters that also need to be examined in the Australian context. This can be done on the basis of examples of anti-ageing strategies drawn from Australian media and attributed to Australian medical practitioners. The following examples fall into two categories: textual references, and the use of enhanced and idealised images that could be construed as misleading. The majority of the examples come from recent issues of *Australian Cosmetic Surgery Magazine*.⁹ This is a quarterly publication distributed through newsagents since 1998 (by which time, it should be noted, advertising by doctors had been deregulated in the three most populous States in response to the requirements of the ACCC¹⁰). Key aspects of this magazine are that:

- Many of the articles are identified as being authored by, or substantively based on interviews with, named medical practitioner contributors.
- Many of the contributors also have an advertisement within the magazine, either on the same page as one of those articles, or in another part of the magazine.
- The contributors are introduced in an illustrated list at the front of the magazine.⁹
- It is relevant to note that, while there are substantial and often publicly aired areas of professional conflict between different categories of surgeons who practise cosmetic surgery,^{5,11} they use similar promotional strategies within the covers of *Australian Cosmetic Surgery Magazine*.⁹

Text messages

Typically, negative comments about the appearance of ageing have focused on aspects of the face and skin (usually, but not always, in reference to women).

Box 3 shows examples of the ways in which some doctors have characterised normal bodily changes as undesirable changes in appearance. In each of the articles from which the quotes were drawn, the doctor offered cosmetic solutions to the targeted features.

Enhanced and idealised images

Since the linking of questionable anti-ageing images and cosmetic surgery was raised in Australia in 1998,¹² quite a lot has happened, and nothing much has changed. Examples of “ideal” and enhanced images used in magazines were presented to the 1999 NSW Inquiry into Cosmetic Surgery.⁵ The key elements of the images that were presented included a number of tactics that are standard practice in the beauty industry. They have, however, been specifically criticised as being neither appropriate nor acceptable promotional strategies for medical practitioners. The NSW

Inquiry, for example, concluded that advertising practices that “may be in breach of professional standards and fair trading laws” included:

- “use of models, implying the model has had the procedure or that the procedure can achieve the results (with or without a disclaimer)”;
- and
- “‘before-and-after’ photographs that have been enhanced, or are different in size, colour or pose, or give a misleading impression of long-term effects of a treatment”.⁵

One of the outcomes of the Inquiry was the recommendation for development of a guide by the ACCC and the HCCC “on the application of fair trading laws to the promotion of health services”.⁵ When the guide was published, both of the above practices were specifically targeted as potentially misleading.³

It is therefore highly significant that, over a year after the publication of the guide, many of the same, or very similar, kinds of photographs were still being used. Examples of such illustrations can be seen in magazine advertisements and in a more neutral and widely accessible form of commercial media, the Yellow Pages telephone directories. Some advertisements for cosmetic surgery, for example, include photographs of youthful and idealised female features, or enhanced “after” pictures. These images provide a graphic demonstration of the gulf between the promotion of cosmetic surgery and the promotion of other areas of medical practice at this time.

Where does cosmetic surgery belong?

“Anti-ageing” is one of the most powerful contemporary marketing devices used by the beauty industry. Essentially, it involves exploiting the insecurities wrought by the appearance of ageing, and is a part of the broader strategy of promoting idealised or enhanced standards of appearance as an incentive for buying cosmetic products and services.⁷ It has a long-established history of targeting women, and, more recently, men, and functions under the socially accepted banner of *caveat emptor*.

The issue here, however, is not whether such tactics are a good or a bad thing or to make any such moral judgements. It is the question of their place within the practice of *medicine*, as conventionally defined; that is, as “the science or practice of the diagnosis and treatment of illness and injury and the preservation of health”.¹³

3: Quotes from cosmetic and plastic surgeons*

- “...lower face and neck ... is the area where the by-product of ageing is most obvious with defects such as ‘turkey neck’, double chin, jowl fat and platysma bands. This area is most susceptible to gravity pull and is usually regarded as the ageing area...”
- “...as a natural part of the ageing process, most people develop deposits of fat underneath the eye and on the eyelid which make them appear older than they are ...” [included for its curious logic].
- “...as we age, the globe of the eye tends to descend and fall backwards due to gravity and subcutaneous fat fades away. This causes the eyelids and folds around the eyes to become crepey [sic] and wrinkled giving an untidy and withered appearance...”

* From publicly available magazines published in 2000 and 2001.

Concerns about the place of cosmetic surgery have, in fact, been raised by some of its practitioners. For example, the NSW Inquiry into Cosmetic Surgery cited the Australian Society of Plastic Surgeons (ASPS) as expressing “concern about the promotion of an attitude that cosmetic surgery is just another beauty product”.⁵ A member of the ASPS placed the blame for this attitude on “women’s magazines, regrettably, and the media generally”.⁵ However, as the examples cited in this article suggest, “the media” may only be part of the problem, and it is noteworthy that, at the same Inquiry, a cosmetic surgeon described his area of practice in the following terms:

“You have to recognise that cosmetic surgery is the nearest thing you’re going to get to retail medicine — or retail surgery. You’re not treating sick people, we’re not treating people who need to have pathology addressed. This is the surgical or medical end of the beauty industry”.¹⁴

Certainly, there is evidence that the ASPS is right in its reported perception of how the media is currently constructing cosmetic surgery. Recent editions of the magazines *Good Medicine* and the *Australian Women’s Weekly* (AWW), for example, both classified anti-ageing features involving cosmetic surgery solutions in the “beauty” and “fashion and beauty” sections of their respective contents pages.^{15,16} Each of the ensuing feature stories expanded on the legitimacy of that location. The introductory text to the *Good Medicine* article, “Lift your spirits”, stated that:

“Sophisticated medical technology is making cosmetic surgery an increasingly popular beauty option for many thousands of Australians who want to give themselves a much-needed boost of confidence.”¹⁷

AWW’s story, “Stop the clock”, presented a range of “cosmetic fixes”, stating in its introduction:

“Even the most effective anti-ageing creams can only do so much — that’s why an increasing number of women are turning to cosmetic surgeons and dermatologists for high-tech treatments.”¹⁸

Statements such as these suggest that “anti-ageing” cosmetic surgery and allied procedures are being socially classified as a beauty want rather than a health need. This classification also applies more broadly to the practice of cosmetic surgery as a whole, and is, in fact, consistent with the definition of cosmetic surgery given earlier in this article as the basis for the NSW Inquiry into Cosmetic Surgery.⁵

At this early phase of deregulated advertising by doctors, the nature of cosmetic surgery, and the perhaps consequent way in which some of its practitioners have adopted commercial strategies from the beauty industry, has clearly opened up some interesting areas of debate for the medical profession as a whole.

Should current promotions of cosmetic surgery be a focus of professional concern?

First of all, there is the issue of cosmetic surgery itself, and the extent to which some ways of promoting this burgeoning area of medical practice meld with accepted visions of what being a doctor is all about. Do such visions include the application of medical technology, techniques and procedures to consumer needs which have been defined as “non-medical”,⁵ and

with what may be seen as some of the sophistry of commercial advertising techniques? More specifically, does the profession see the latter aspects of such applications as simply an extension of core business for doctors, or a worrying expansion into a grey area of mixed allegiances and hazy ethical boundaries that need to be examined?

What are the implications of commercially structured promotional strategies for the tradition of “Trust me, I’m a doctor”?

It could, more broadly, be argued that the way in which cosmetic surgery is being promoted by some practitioners in Australia today makes it an important test case for how the medical profession and the community want to see the future direction of the profession develop. The AMA’s concerns, cited at the beginning of this article, about the potential for such promotional strategies to “undermine public confidence in the medical profession”⁴ need to be taken seriously.

Would the continuing and potentially expanding use of such strategies presage a decline in the role of trust within a doctor–patient/client/consumer relationship? And would any such decline be of concern to the medical profession, or just be seen as a natural and acceptable consequence of a progression towards the more commercialised practice of medicine?

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