cacds
Canadian Association of Chain Drug Stores
Association canadienne des chaînes de pharmacies

March 4, 2008 e: sdupont@pmprb-cepmb.gc.ca

Ms. Sylvie Dupont
Secretary of the Board
Patented Medicines Prices Review Board
Box L40
Standard Life Centre
333 Laurier Avenue West, Suite 1400
Ottawa, ON K1P 1C1

Dear Ms. Dupont:

The Canadian Association of Chain Drug Stores is the national association that represents the chain community pharmacy industry in Canada. The retail members of CACDS are traditional chain and banner drug stores, and grocery chains and mass merchandisers with pharmacies. Together, CACDS members own and/or operate almost 6,000 stores that dispense approximately 80% of the nation's prescriptions each year and provide extensive medication management services to millions of Canadians. Our members employ almost 100,000 Canadians, including 80% of all pharmacists practising in the community. CACDS' associate members number approximately 180 and represent all supply categories and services in the retail pharmacy industry, including pharmaceuticals, health and wellness products, self-care medications, and other consumer products.

CACDS has had an opportunity to review the *Discussion Paper on Options for Possible Changes to the Patented Medicine Regulations, 1994 and the Excessive Price Guidelines*. CACDS also participated in the face-to-face consultations in November 2006. CACDS would like to comment on Section IV of the Discussion Paper, dealing with possible options to address industry concerns in the wake of the March 2007 *Federal Court of Canada (FCC)* decision with respect to the issue of "benefits" in calculating the *Average Price* of patented medicines.

While CACDS retail members are not patentees, there may well be indirect impacts on them to the extent that patentees undertake to adapt to any changes to or application of the *Patented Medicines Regulations, 1994* and the *Excessive Price Guidelines*. That is, patentees' responses and changes to their pricing and other practices based on regulatory changes made by the PMPRB may have an impact on the provision of the range of medication-related programs and services supported by patentees and largely provided at no charge to patients by, among others, community pharmacies.

CACDS understands and shares the concerns of others in the industry arising from the FCC decision that there are potential disincentives to the provision of "benefits" to customers arising from the non-discretionary methodology for calculating the Average Price of a patented medicine. The majority of these benefits ultimately accrue to improvements in patient care. We appreciate that the Board has several options for addressing these concerns through amendment to regulations under the Act and/or through its Guidelines.

45 Sheppard Ave. East, Suite 301
Toronto, ON M2N 5W9
www.cacds.com
t 416-226-9100
f 416-226-9185
e cacds@cacds.com

Whichever options the Board ultimately chooses, CACDS proposes that minimizing or eliminating the potential for disincentives to the provision of “benefits” to customers should be a key goal. To illustrate our concern about the matter, we would like to comment on one of the types of benefits affected by this issue and described under Section IV (A): Option 3.

Option 3 deals with the possible amendment of the Regulations to exclude free goods in “non-saleable” or “sample” package sizes from the calculation of the Average Price. In its analysis of this option, the Board notes that if the Regulations are not amended to exclude samples, the impact of the FCC decision would be that all free goods, regardless of package size, must be included in the calculation of the Average Price, and that patentees might choose to eliminate samples rather than report them as free goods. This would potentially impede access, on a sample/trial basis, to new medications.

Historically, the practice by patentees of patented medicine sampling to physicians has been a common mechanism to provide initial amounts of medications to patients on a trial basis to see if the medication is tolerated before maintenance therapy is decided. Over the past several years, the provision of small, evaluative quantities of medications via a pharmacist, under a voucher or trial prescription-based system, has become an increasingly common practice.

We would like to thank the PMPRB for the opportunity to comment on the Discussion Paper. We believe it is a thoughtful and comprehensive part of the next phase of stakeholder consultations on the PMPRB’s approaches in conducting reviews of the prices of patented medicines, and CACDS understands the complexities confronting the Board in the wake of the FCC decision regarding the calculation of the Average Price filed by patentees. We look forward to the opportunity to provide further commentary as the Board’s stakeholder consultation process moves forward.

Sincerely,

Nadine Saby
President and Chief Executive Officer