

COMPLAINT NUMBER	17/399
COMPLAINANT	T Saunders
ADVERTISER	Good Health
ADVERTISEMENT	Good Health, Television and Digital
DATE OF MEETING	12 December 2017
OUTCOME	Not Upheld

SUMMARY

The television and digital advertisement for Good Health Turmeric dietary supplement said “You’ll be amazed at what Good Health Turmeric can do. As well as supporting tired and stiff joints, it supports gastrointestinal health.”

The Complainant was concerned the advertisement makes misleading therapeutic claims about the health benefits of Turmeric.

The Advertiser confirmed the 30 second advertisement was no longer in the public domain. The Advertiser did not consider the low-level claims made in either advertisements to be therapeutic purpose claims and confirmed the advertisements had been approved by the Therapeutic Advertising Pre-vetting Service.

The Complaints Board said the advertisement made claims about the benefits of Turmeric and did not attempt to make a connection of the benefits to any diagnosed medical conditions. Therefore, the Complaints Board agreed the advertisements made health benefit claims rather than therapeutic claims.

The Complaints Board ruled there had been no therapeutic claims in the advertisements. It said the claims were low level health benefit claims and did not meet the threshold to breach Principle 1 or Principle 2 of the Therapeutic and Health Advertising Code.

The Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Principles 1 and 2 of the Therapeutic and Health Advertising Code. This required the Complaints Board to consider whether the advertisement by implication, omission, ambiguity or exaggerated claim was likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable

reason play on fear. The Complaints Board was also required to consider whether advertisements making therapeutic and health claims observed a high standard of social responsibility to consumers and society as consumers rely on them for their health and wellbeing.

The Complaints Board ruled the complaint was not upheld.

The Complaint

The Complainant was concerned the advertisements made misleading therapeutic claims about the health benefits of Turmeric.

The Advertiser's Response

The Advertiser confirmed the 30 second advertisement was no longer in the public domain. The Advertiser did not consider the low-level claims made in either advertisement to be therapeutic purpose claims and confirmed the advertisements had been approved by the Therapeutic Advertising Pre-vetting Service.

The Complaints Board Discussion

The Complaints Board noted the Secretariat had been notified by the Advertiser that the 30 second TVC had been permanently removed from the public domain.

The Complaints Board noted the Complainant had alleged the advertisements made therapeutic claims. The Complaints Board did not agree with this view and referred to the definition of Therapeutic Purpose in the Therapeutic and Health Advertising Code which states:

“Therapeutic Purpose” – The Medicines Act provides the following definition;

- (a) preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury; or
- (b) influencing, inhibiting, or modifying a physiological process; or
- (c) testing the susceptibility of persons to a disease or ailment; or
- (d) influencing, controlling, or preventing conception; or
- (e) testing for pregnancy; or
- (f) investigating, replacing, or modifying parts of the human anatomy.

“A therapeutic purpose claim in an advertisement will likely refer to a medicine(s) or medical device that has a therapeutic effect on an actual or implied medical condition / disease or physiological process...A therapeutic purpose claim may be accompanied by words such as enhance, improve, prevent, interfere with, terminate, reduce, increase, accelerate, inhibit, boost, treat, relieve and stimulate.”

The Complaints Board said the advertisements made very low-level claims about the benefits of Turmeric and did not attempt to make a connection of the benefits in connection to any diagnosed medical conditions. Therefore, the Complaints Board agreed the advertisements made health benefit claims rather than therapeutic claims.

The Complaints Board noted the relevant claims were:

“As well as supporting tired and stiff joints, it supports gastrointestinal health.”

and “Good Health Turmeric enhances your body’s total well-being.”

The Complaints Board said the Advertiser has provided sufficient substantiation to support the low-level health benefit claims made in the advertisements. The Complaints Board considered the references to "support" and "enhance well-being" in this context did not meet the threshold to be likely to mislead consumers.

The Complaints Board ruled there had been no therapeutic claims in the advertisements and no breach of Principle 1 or Principle 2 of the Therapeutic and Health Advertising Code.

Accordingly, the Complaints Board ruled to not uphold the complaint.

DESCRIPTION OF ADVERTISEMENT

The television and digital advertisement for Good Health Turmeric dietary supplement said "You'll be amazed at what Good Health Turmeric can do. As well as supporting tired and stiff joints, it supports gastrointestinal health...No wonder it's the number one Turmeric supplement in New Zealand. Good Health – powered by nature"

The 30 second version of the advertisement also said "Good Health Turmeric enhances your body's total well-being."

COMPLAINT FROM T SAUNDERS

TV advertisements for 'Good Health Turmeric' make several therapeutic claims about the alleged health benefits of Turmeric. Specifically:

"As well as supporting tired, and stiff joints, it supports gastrointestinal health"

"Good Health Turmeric enhances your body's total wellbeing"

These advertisements have screened regularly for some time. The most recent screening was on Friday 27 October around 6.35pm on TVNZ 1. A copy of the advertisement can be viewed on youtube (<https://www.youtube.com/watch?v=ISEnZC2q-ps>), so the advertisement is both Television and Digital.

The wording used in the advertisement is clearly intended to convey therapeutic claims about turmeric's alleged health benefits, pursuant to the definition of 'Therapeutic purpose' in the code:

"preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury; or influencing, inhibiting, or modifying a physiological process"

The most recent, and the most thorough scientific review of turmeric has concluded that there is no evidence of any specific therapeutic benefits, despite over 120 clinical trials conducted over many years. This review was published in the Journal of Medicinal Chemistry in January this year: <http://dx.doi.org/10.1021/acs.jmedchem.6b00975>

With the above in mind, I believe that the Good Health Turmeric advertisements breach Principle 1 and 2 of the Therapeutic and Health Advertising Code. This is because Good Health is making these claims despite a lack of a reasonable evidence base for the efficacy of turmeric supplements.

By unduly glamorising the alleged health benefits of turmeric, Good Health is selling products which have no scientific foundation, and is misleading consumers in the process. Consumers likely choose to take supplements such as these because they have been led to believe there is a tangible health benefit by Good Health's advertisements - this clearly isn't the case for turmeric products.

THERAPEUTIC AND HEALTH ADVERTISING CODE

Principle 1: Therapeutic and Health advertisements shall observe a high standard of social responsibility particularly as consumers often rely on such products, devices and services for their health and wellbeing.

Principle 2: Advertisements shall be truthful, balanced and not misleading. Advertisements shall not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

RESPONSE FROM ADVERTISER – GOOD HEALTH

We refer to the complaint made to the ASA by T Saunders (Complaint 17/399) regarding claims made in Good Health Turmeric television advertisements (**TVCs**).

Good Health Products Limited (**Good Health**) is the owner of the Good Health Turmeric product range including but not limited to Good Health Turmeric 15800 Complex and Good Health Turmeric Extra Strength.

Good Health has used two TVCs to market the Good Health Turmeric product range – a 15 second TVC and a 30 second TVC. Good Health has also used two separate 30 second radio commercials (**RCs**) to market the Good Health Turmeric product range. Good Health stands by the processes that it has followed in preparing this advertising material, and stands by the content and statements made in the TVCs and the RCs.

Importantly, as at 1 December 2017, the 30 second TVC is no longer available for viewing on television and is no longer digitally accessible on Good Health's website (at www.goodhealth.co.nz) or on YouTube. Similarly, as at 1 December 2017, one of the RCs (**Original RC**) is no longer being broadcast on radio (although the other RC (**Modified RC**) is scheduled to be broadcast on radio again from 6 December 2017 to 23 December 2017).

The Complaint

We understand that the Complaint focuses on two statements contained within the TVCs, as follows:

1. "As well as supporting tired and stiff joints, it supports gastrointestinal health"; and
2. "Good Health Turmeric enhances your body's total well-being".

We note as a preliminary point that only the first statement (and not the second statement) appears in the 15 second TVC and in the Modified RC. Both statements are present in the 30 second TVC and the Original RC. As noted above, the 30 second TVC is no longer available for viewing on television or via digital media and the Original RC is no longer being broadcast on radio, with the result that the second statement noted above is no longer in the public domain.

The Complaint alleges a breach of Principles 1 and 2 of the Therapeutic and Health Advertising Code (**Code**).

Therapeutic Claims

Good Health considers that the statements complained of are low level health benefit claims, rather than therapeutic purpose claims.

The Association of New Zealand Advertisers (**ANZA**) Therapeutic Advertising Pre-Vetting Service (**TAPS**) Guidelines specify that the term 'supports' does not constitute a 'therapeutic purpose claim'. The TVCs and both RCs referred to in this complaint were reviewed and

approved by TAPS prior to the advertisements being broadcast. We **attach** a copy of the relevant TAPS approval certificates.

The use of the term ‘supports’ is an industry standard across dietary supplement suppliers in the market. The following are current examples of the use of this term in the context of Turmeric supplements supplied in the New Zealand market:

Go Healthy Go Turmeric 600mg Meriva® CURCUMIN claims:
‘Supports Joint Health & Cardiovascular Functions’.

Nutra-Life Turmeric Meriva® Curcumin 550 claims:
‘Supports digestion and gastro-intestinal health’

Radiance Meriva 650 claims:
‘Support for Joint Health and Comfort’

Based on what is set out above, Good Health does not see how the first statement referred to above (namely, “as well as supporting tired and stiff joints, it supports gastrointestinal health”) can be held to have breached the Code.

Further, Good Health’s position in relation to the second statement referred to above (namely, “Good Health Turmeric enhances your body’s total well-being”) is that the use of that phrase does not amount to a “Therapeutic Purpose” under the Code, but rather falls under the definition of a “Health Benefit” within the meaning of the Code. The phrase is used as a general statement and does not pertain to any specific part of the body or to any specific health issue. If, however, Good Health’s position on this point is not accepted by the Complaints Board, Good Health again points out that (as a result of the 30 second TVC and the Original RC are no longer being broadcast or digitally available) the second statement is no longer in the public domain.

Principle 1: Social Responsibility

Good Health does not consider that it has breached Principle 1 of the Code.

Consistent with the object of the Code to maintain rigorous standards in therapeutic and health advertising, Good Health follows a robust process when preparing advertisements. In particular, it obtained approval from TAPS for the TVCs and the RCs prior to their being broadcast, and relied on that approval in confirming the advertising schedule for the TVCs and the RCs.

In relation to each of the specific rules under Principle 1:

Rule 1(a) All mandatory information is clearly visible and included in each TVC and is clearly audible in each RC.

Rule 1(b) None of the claims or statements listed under 1(b) are included in either TVC or in either RC.

Rule 1(c) No unrealistic outcome or misrepresentation has been made in either TVC or in either RC.

Rule 1(d) No scientific language is used in either TVC or in either RC. Language which is readily understood by the general public has been used.

Principle 2: Truthful Presentation

Good Health considers that the statements in the TVCs and the RCs are accurate, valid and able to be substantiated. The statements made in the TVCs and the RCs are truthful, and not misleading or likely to mislead.

Good Health confirms that it holds evidence to support the statements made in the TVCs and the RCs. Below we have listed the most recent and conclusive research that supports the statements made by Good Health in the TVCs and the RCs:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3535097/>
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC5036591/>
<https://nutritionj.biomedcentral.com/track/pdf/10.1186/1475-2891-13-11?site=nutritionj.biomedcentral.com>
[http://www.cghjournal.org/article/S1542-3565\(06\)00800-7/pdf](http://www.cghjournal.org/article/S1542-3565(06)00800-7/pdf)
[http://www.cghjournal.org/article/S1542-3565\(06\)00800-7/fulltext](http://www.cghjournal.org/article/S1542-3565(06)00800-7/fulltext)

In summary, the research noted above suggests that Turmeric (also known as Curcumin) shows potential for use against a number of human health conditions including gastro conditions and joint conditions.

The Complaint refers to a review published in the Journal of Medicinal Chemistry <Http://dx.doi.org/10.101021/acs.jmedchem.6b00975>. It is notable that the authors of this publication refer to it as a “miniperspective” and “overview” and that the review discusses the low potential for development of Turmeric as a therapeutic drug. We note that Good Health has not advertised its Turmeric product range as a therapeutic drug, rather as a dietary supplement for supporting health and well-being. Importantly, though, even the authors of that review (relied on by the complainant to support the Complaint) note that: “Of course, we do not rule out the possibility that an extract of crude turmeric might have beneficial effects on human health”.

In relation to the specific rules under Principle 2:

Rule 2(a) Good Health considers all levels of evidence held on file support the use of Turmeric as a dietary supplement. There are over 120 clinical research papers accessible on the internet in support of the use of Turmeric as a dietary supplement.

Rule 2(b) No incentive for multiple purchases is made in either TVC or in either RC.

Rule 2(c) No comparative advertising is made in either TVC or in either RC.

Rule 2(d) No sponsorship is referenced in either TVC or in either RC.

Rule 2 (e) No prohibited endorsement is made in either TVC or in either RC.

Rule 2 (f) No prohibited testimonials are made in either TVC or in either RC.

Current Status of Advertising

We have included in our response a copy of the media schedule for television broadcasts of the TVCs. We confirm that the 30 second TVC is not scheduled to ever be broadcast again and is no longer accessible in digital format as it has been removed from Good Health's website at www.goodhealth.co.nz and from YouTube. Similarly, we confirm that the Original RC is not scheduled to ever be broadcast again. Consequently, the second statement underlying the Complaint (namely that “Good Health Turmeric enhances your body's total well-being”) is no longer in the public domain.

We trust this response is satisfactory to the Complaints Board. Please let us know if you require any further information.

Contact person for advertising complaints	Julia Van de Coolwijk Marketing Manager Good Health Products Limited
Name and contact at creative agency	James Pohill CEO HELLO the conversation company
Name and contact at media agency	Jim McCulloch Director Red Media
A basic, neutral description of the advertisement	TV advertising supporting Good Health Turmeric products for joints, gastro-intestinal health and general total body well-being There are two forms of the advertisement: a 15 second TVC and a 30 second TVC (Note also that two radio advertisements (RCs) have been used to support the use of Good Health Turmeric products for joints, gastro-intestinal health and general total body well-being. The RCs are not the focus of the Complaint, which focuses on the TVCs, however it is worth noting that one of the RCs (Original RC) closely mirrored the script of the 30 second TVC while the other radio advertisement (Modified RC) is differently scripted).
Date advertisement began	25 June 2017 for television and digital publication of the TVCs on www.youtube.com 8 November 2017 (and ending on 30 November 2017) for broadcast of the Original RC January 2017 — October 2017 for the Modified RC, which is also scheduled to be broadcast from 6 December 2017 — 23 December 2017
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	1. TV 2. www.goodhealth.co.nz 3. www.youtube.com 4. Radio (Breeze Network, Coast Network, HitsSportMix, More Network, Newstalk ZB Network, Radio Live Network and Sound Network)
Is the advertisement still accessible – where and until when?	1. The 30 second TVC is no longer scheduled to be broadcast on television and is no longer

	<p>www.youtube.com</p> <p>2. The 15 second TVC is scheduled to be broadcast on television up until 17 December 2017</p> <p>www.youtube.com</p> <p>3. The Original RC is no longer scheduled to be broadcast on radio</p> <p>4. The Modified RC is scheduled to be broadcast on radio from 6 December 2017 until 23 December 2017</p>
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	http://www.goodhealth.co.nz/products/turmeric
Who is the product / brand target audience?	Adults with stiff joints, and those seeking support for gastro-intestinal health and total body well-being
Clear substantiation on claims that are challenged by the complainant.	Attached. Good Health ASA Letter 01Dec17
The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	
For Broadcast advertisements:	
A copy of the script	
A copy of the media schedule and spot list	
CAB key number and rating	Good Health Turmeric commercials (keys TUR 30 0001 & TUR 15 0002) both have GXC classifications. Both TVCs have been TAPS approved (ref PP9720 & PP9958) Both RCs have also been TAPS approved (ref PP1553 and NZME <i>on file</i>)
For Digital advertisements:	
What platform tools have you used to target	

your audience?	
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RESPONSE FROM MEDIA – COMMERCIAL APPROVALS BUREAU

Prior to approving any advertisement that makes a therapeutic claim we require confirmation from the Advertiser that the material has been pre-approved by the Therapeutic Advertising Pre-vetting Service (TAPS). As the Good Health Turmeric commercial has TAPS approval (ref# PP9720 attached) we have no reason to suspect that it is in breach of the ASA's Codes.