

COMPLAINT NUMBER	18/113
COMPLAINANT	J Turner
ADVERTISER	Keith Nelson and Associates Ltd Dental Surgeon
ADVERTISEMENT	Keith Nelson and Associates Ltd Dental Surgeon, Print
DATE OF MEETING	23 April 2018
OUTCOME	Settled in Part – advertisement removed/ No Grounds to Proceed in Part

Advertisement: The advertisement featured in the Ponsonby News for Keith Nelson and Associates Ltd Dental Surgeons promoted a Mothers Day special of 10% off Dysport and filler for April, May and June. The advertisement said the 10% was to be donated to the Breast Cancer Cure charity.

The Chair ruled there were no grounds for the complaint to proceed in part / and was Settled in Part.

Complainant, J Turner, said: Keith Nelson and Associates Ltd Dental Surgeons advertisement on page 65 of the Ponsonby News, April 2018 Edition

The Executive Committee of the New Zealand Society of Cosmetic Medicine believe this advertisement is in breach of the Advertising Standards Authority Therapeutic and Health Advertising Code on the following points:

1. There is no mandatory statement for Dysport.
2. There is no evidence of TAPS approval.
3. We are also of the opinion that advertising the discounting of treatment encourages excessive use.

The relevant provisions were Therapeutic and Health Advertising Code - Principle 1, Principle 2;

The Chair noted the Complainant’s concern the advertisement had no mandatory statement for Dysport or evidence of TAPS approval. The Complainant was also concerned the discounted price would encourage excessive use of the treatment.

Mandatory Information

The Chair noted the advertisement was promoting the medicine Dysport and referred to Principle 1 of the Therapeutic and Health Advertising Code which states:

“Medicines: Mandatory information as required by the most recent edition of the Medicines Act, Medicines Regulations, Medsafe Guideline on Advertising therapeutic products, Medicines NZ Code of Practice.”

The Chair agreed with the Complainant that an advertisement containing a prescription medicine brand name should have included mandatory information. She acknowledged the Advertiser had accepted this point and agreed to remove the advertisement and not run it again in its current form.

Given the Advertiser's co-operative engagement with the process and the self-regulatory action taken in withdrawing the advertisement, the Chair said that it would serve no further purpose to place this issue before the Complaints Board. The Chair ruled that this element of the complaint was settled.

TAPS Approval

The Chair confirmed the Therapeutic Advertising Pre-Vetting Service (TAPS) was a user-pays service available and recommended to all advertisers making therapeutic and health claims. It is a voluntary service and there is a requirement for an advertisement promoting a medicine to have approval from TAPS. The Chair ruled there were no grounds to proceed with this element of the complaint.

Encouraging Excessive Usage

The Chair considered whether the advertisement breached Principle 2 of the Therapeutic and Health Advertising Code by encouraging, or being likely to encourage, inappropriate or excessive purchase or use. The Chair agreed with the Advertiser's response which said the offer had not excessively reduced the cost of the medicine and was for a limited time, so did not encourage excessive use. She said the advertisement did not reach the threshold to breach Principle 2 and ruled there were no ground to proceed with this element of the complaint.

Chair's Ruling: Complaint Settled in Part – advertisement removed / No Grounds to Proceed in Part

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.