

COMPLAINT NUMBER	18/204
COMPLAINANT	A Ledger
ADVERTISER	Procter and Gamble
ADVERTISEMENT	Oral-B, Television
DATE OF MEETING	24 July 2018
OUTCOME	Not Upheld

SUMMARY

The television advertisement for Procter and Gamble's Oral-B Pro Health toothpaste shows a woman holding a whole apple and then with the apple cut in half. She says "My dentist said enamel should be great on the outside and on the inside. Go Pro with Oral-B Pro Health. It's formulated with ActivStrength technology that strengthens enamel on the inside, plus it protects the outside better than Colgate Total. Go Pro with Oral-B Pro Health."

The Complainant's concern was the advertisement made the claim Oral-B toothpaste is superior to Colgate Total toothpaste, without providing supporting evidence.

The Advertiser said that all representations made in the advertisement are accurate, truthful and supported by robust data by way of clinical studies and scientific evidence. It states that references to the Colgate product do not involve a misrepresentation, nor were they disparaging. As a result, there could be no damage to the business or goodwill of Colgate.

The Advertiser said its use of comparative advertising in the advertisement was factual, accurate and relevant and meaningful to the reasonable consumer. The Advertiser provided substantiation in the form of published studies.

The Complaints Board agreed the comparison claim made in the advertisement that Oral-B toothpaste "strengthens enamel on the inside, plus it protects the outside better than Colgate Total" had been substantiated by robust scientific evidence which showed the stabilised stannous fluoride formula gave Oral-B an advantage over Colgate Total Original in protecting the outer enamel of the tooth.

The Complaints Board said the substantiation provided by the Advertiser validated the advertisement's claim, which the Board said was neither misleading nor denigrating and confirmed there was no breach of Basic Principle 4 or Rules 2 and 8 of the Code of Ethics.

The Complaints Board said the comparison made between Oral-B and Colgate Total Original toothpastes in the advertisement and the comparative claim had been supported by documentary evidence. The Complaints Board said there had been no breach of Principle 1 and Guidelines 1(a), 1(d) and 1(e) of the Code for Comparative Advertising.

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 Acting Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rule 2 and Rule 8 of the Code of Ethics

Basic Principle 4 required the Board to consider whether the advertisement had been prepared with a due sense of social responsibility to consumers and society. Rule 2 required the Complaints Board to consider whether the advertisement contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim was misleading or deceptive, was likely to deceive or mislead the consumer, made false and misleading representation, abused the trust of the consumer or exploited his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading). Rule 8 required the Complaints Board to consider whether the advertisement denigrated identifiable products or competitors.

The Acting Chair also directed the Complaints Board to consider the advertisement with reference to Principle 1 and Guidelines 1(a), 1(d) and 1(e) of the Code for Comparative Advertising.

Principle 1 required the Complaints Board to consider whether the comparisons made in the advertisement were likely to mislead or deceive or be likely to mislead or deceive consumers. Guideline 1(a) required the Complaints Board to consider whether comparative elements were accurate and informative and offered a product or service on its positive merits. Guideline 1(d) required the Complaints Board to consider whether the advertisement's comparative advertising claims were supported by documentary evidence which is easily understood by the target audience at which it is directed. Guideline 1(e) required the Complaints Board to ensure that if the advertisement refers to a comparative test, such a test should have been conducted or verified by an independent and objective body, using industry-accepted methodology so there will be no doubt as to the veracity of the test. In all cases the results of the test must be current and supportive of all claims in the advertising that are based on the test. Partial results or insignificant differences should not be used.

The Complaints Board ruled the complaint was Not Upheld.

The Complaint

The Complainant's concern is that the advertisement is making the claim Oral-B toothpaste is superior to Colgate Total toothpaste, without providing supporting evidence. The Complainant said this meant the advertisement was potentially misleading.

The Advertiser's Response

The Advertiser said the advertisement assists in the education of consumers about the importance of the inside and outside of their enamel, by attracting attention through the metaphorical use of the visual representation of a fresh green apple that is shown as a whole fruit and then cut in half

The Advertiser said the advertisement introduces the consumer to the product Oral-B Pro Health Advanced Enamel Strong which addresses both the strengthening of the inside of enamel as well as protection of the outer part of the enamel from acid erosion; and Oral-B Pro Health Advanced Enamel Strong provides superior protection from acid erosion on the outer part of enamel to Colgate Total Original (and references to and depictions of the

Colgate product ensure clear identification of the product with which Oral-B Pro Health Advanced Enamel Strong is compared).

The Advertiser said that all representations made in the advertisement are accurate, truthful and supported by robust data by way of clinical studies and scientific evidence. It states that references to the Colgate product do not involve a misrepresentation, nor were they disparaging. As a result, there could be no damage to the business or goodwill of Colgate.

The Advertiser said its use of comparative advertising in the advertisement was factual, accurate and relevant and meaningful to the reasonable consumer.

The Advertiser's response contained copies of 3 clinical studies used to substantiate the claim made in the advertisement –

- Anticaries Potential of a Stabilized Stannous Fluoride/Sodium Hexametaphosphate Dentifrice
Published in the Compendium of Continuing Education in Dentistry 2005
- The Protective Effects of Toothpaste against Erosion by Orange Juice
Published in the Journal of Dentistry 2007
- A Clinical Study to Measure Anti-Erosion Properties of a Stabilized Stannous Fluoride Dentifrice Relative to a Sodium Fluoride/Triclosan Dentifrice
Published in the International Journal of Dental Hygiene 2015

The Media's Response

The Commercial Approvals Bureau approved this Oral-B commercial on 02/05/18 with a G classification. It stated that when the advertisement was submitted to them, the advertiser provided substantiating documents for the comparative claims made.

The Complaints Board Discussion

The Complaints Board considered the information provided to it from all parties to the complaint.

The Board began by discussing the likely consumer takeout of the advertisement which was that the Oral-B toothpaste does a better job than Colgate Total Original at protecting the outside of a tooth's enamel.

The Complaints Board first considered whether there was anything in the advertisement which could be considered misleading. Referring to the clinical studies provided by the Advertiser, the Board agreed there was robust evidence that Oral-B Pro Health Advanced Enamel Strong toothpaste, contains stannous fluoride which works to remineralise weakened enamel and also protect the outside of the tooth by forming a protective shield to prevent acid erosion caused by everyday foods and liquids.

The Complaints Board then turned to the evidence provided by the Advertiser to substantiate the claim that Oral-B Pro Health Advance Enamel Strong delivered superior efficacy on enamel erosion prevention than that offered by the Colgate Total Original product.

The Complaints Board said the randomised, double blind study published in the *International Journal of Dental Hygiene* had provided evidence to support that stabilised stannous fluoride such as that present in Oral-B Pro Health Advanced Enamel Strong delivers greater protection against acid erosion compared to Colgate Total Original.

The Complaints Board agreed the comparison claim made in the advertisement that Oral-B toothpaste "strengthens enamel on the inside, plus it protects the outside better than Colgate Total" had been substantiated by robust scientific evidence which showed the stabilised stannous fluoride formula gave Oral-B an advantage over Colgate Total Original in protecting the outer enamel of the tooth.

The Complaints Board said the substantiation provided by the Advertiser validated the advertisement's claims, which the Board said were neither misleading nor denigrating and confirmed there was no breach of Basic Principle 4 or Rules 2 and 8 of the Code of Ethics.

The Complaints Board said the comparison made between Oral-B and Colgate Total Original toothpastes in the advertisement and the comparative claim had been supported by documentary evidence. The Complaints Board said there had been no breach of Principle 1 and Guidelines 1(a), 1(d) and 1(e) the Code for Comparative Advertising.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.

DESCRIPTION OF ADVERTISEMENT

The television advertisement for Procter and Gamble's Oral-B Pro Health toothpaste shows a woman holding a whole apple and with the apple cut in half and says "My dentist said enamel should be great on the outside and on the inside."

Go Pro with Oral-B Pro Health. It's formulated with ActivStrength technology that strengthens enamel on the inside, plus it protects the outside better than Colgate Total. Go Pro with Oral-B Pro Health."

COMPLAINT FROM A LEDGER

Oral-B claimed its toothpaste was more superior than Colgate's. There seemed to be little evidence to support this, especially within the little amount of time it gave to the comparison. Such could be considered unfair, false, and misleading.

CODES OF PRACTICE

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 2: Truthful Presentation Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

Rule 8: Denigration Advertisements should not denigrate identifiable products or competitors.

CODE FOR COMPARATIVE ADVERTISING

Principle 1: Comparisons in advertisements should not mislead or deceive or be likely to mislead or deceive consumers. (Obvious hyperbole, identifiable as such, is not considered to be misleading)

Guideline 1(a): Comparative elements should be accurate and informative and should offer a product or service on its positive merits.

Guideline 1(d): 1(d) Where appropriate, comparative advertising claims should be supported by documentary evidence which is easily understood by the target audience at which it is directed.

Guideline 1(e): If the advertisement refers to a comparative test, such a test should have been conducted or verified by an independent and objective body, using industry-accepted methodology so there will be no doubt as to the veracity of the test. In all cases the results of the test must be current and supportive of all claims in the advertising that are based on the test. Partial results or insignificant differences should not be used.

RESPONSE FROM ADVERTISER, PROCTER AND GAMBLE

RE: RESPONSE TO ASA COMPLAINT REFERENCE NUMBER 18/204

We refer to your letter dated 3 July 2018 in relation to a consumer complaint from A Ledger regarding Procter & Gamble's (**P&G**) Oral-B® Pro Health Advanced Enamel Strong advertisement (**Advertisement**), currently airing on both free to air and subscription television channels in New Zealand. P&G is a multinational consumer goods manufacturer and the supplier of Oral-B® branded products in New Zealand, which include a range of toothpastes, whitening strips and powered toothbrushes.

Thank you for the opportunity to respond to the consumer complaint and alleged breaches of the ASA's Advertising Code of Ethics and Code for Comparative Advertising. The Advertising Complaint Response Form, containing the details of the Advertisement, is set out in **Annexure A**. Please be aware that our response to the complaint is not made on behalf of any other party.

A. EXECUTIVE SUMMARY

- 1) In their complaint, the consumer alleges that P&G's Advertisement is "unfair, false and misleading" by making a superiority claim against Colgate's Total Original toothpaste "with little evidence". The ASA have framed the complaint to be a breach of Basic Principle 4, Rule 4 or Rule 8 of the ASA Code of Ethics, or Principle 1, Guideline 1(a), 1(d) or 1(e) of the Code of Comparative Advertising.
- 2) P&G do not accept the allegations and assert the following:
 - a) The Advertisement does not breach the Code of Ethics or the Code of Comparative Advertising;
 - b) The Advertisement conveys the following to a reasonable consumer:
 - i) it assists in the education of consumers about the importance of the inside and outside of their enamel, by attracting attention through the metaphorical use of the visual representation of a fresh green apple that is shown as a whole fruit and then cut in half – i.e. the apple is not shown in any state of decay;
 - ii) it offers Oral-B Pro Health Advanced Enamel Strong which is a product that addresses both the strengthening of the inside of enamel as well as protection of the outer part of the enamel from acid erosion; and
 - iii) Oral-B Pro Health Advanced Enamel Strong provides superior protection from acid erosion on the outer part of enamel to Colgate Total Original (and references

to and depictions of the Colgate product ensure clear identification of the product with which Oral-B Pro Health Advanced Enamel Strong is compared).

- c) All representations made in the Advertisement are accurate, truthful and supported by robust data by way of clinical studies and scientific evidence. References to the Colgate product do not involve a misrepresentation, nor are they disparaging. As a result, there could be no damage to the business or goodwill of Colgate.
 - d) P&G's use of comparative advertising in the Advertisement is factual, accurate and relevant and meaningful to the reasonable consumer. The advertisement in fact results in more informed consumers who may choose the less well-known Oral-B Pro Health Advanced Enamel Strong for its benefits including its superiority over Colgate Total Original, a market leading Colgate product, in protection against acid erosion on the outside.
- 3) For the reasons set out below, we respectfully submit that the complaint has no basis in fact or in law and should be dismissed.

B. COMPLAINTS

- 4) The consumer's complaint does not go into any detail regarding why the Advertisement breaches the ASA's Codes of practice. For the avoidance of doubt we have set out below P&G's understanding of the consumer's complaint based on the ASA's correspondence of 3 July 2018:
 - a) Alleged breach of the Code of Ethics:
 - i) Principle 4 for lacking due sense of social responsibility to consumers and to society by making a claim in advertising that Oral-B Pro Health Advanced Enamel Strong provides better protection for tooth enamel than Colgate Total Original, which is misleading;
 - ii) Rule 2 for making a product superiority claim which is (or is likely to be) misleading or deceptive, abuses the trust of the consumer or exploits his/her lack of experience or knowledge; and
 - iii) Rule 8 for causing damage to the business and goodwill of Colgate by containing misrepresentations that unjustly denigrate Colgate Total Original toothpaste.
 - b) Alleged breach of Code of Comparative Advertising:
 - i) Principle 1 for misleading and deceiving consumers that Oral-B Pro Health Advanced Enamel Strong provides better protection for tooth enamel than Colgate Total Original;
 - ii) Guideline 1(a) for making a comparative statement in advertising which is not accurate and informative; ie that P&G do not have the scientific evidence to substantiate the superiority claim on enamel protection;
 - iii) Guideline 1(d) for making a comparative advertising claim which is not supported by documentary evidence that is easily understood by the target audience at which it is directed; and
 - iv) Guideline 1(e) for referencing a comparative test which isn't conducted or verified by an independent and objective body, using an industry-accepted methodology.
- 5) P&G will address these various alleged breaches of the Codes in two categories; namely:
 - a) an allegation of misleading and deceptive advertising; and
 - b) an allegation of denigration of a competitor product,

both of which assume that P&G has no data consistent with the general body of evidence to substantiate it's claims.

- 6) If the ASA has a different understanding of the consumer's complaints, please advise us so P&G can address any outstanding matters.

C. BACKGROUND

Overview of the toothpaste category in New Zealand

- 7) Colgate has had the dominant share of the market for toothpaste in New Zealand for many years. Data from Aztec on toothpastes as of May 2018 in the Grocery channel shows that Colgate has an overwhelming market share of 61.1% based on the Moving Average Total (MAT) of retail scan data in New Zealand grocery scan sales. Sensodyne is a far second at 20.1% share, while P&G's Oral-B brand, a relatively new entrant in the toothpaste segment, comes in at a far distant fourth with 1.8% share.

Oral-B toothpastes and Pro Health Advanced Enamel Strong

- 8) Oral-B toothpastes were first launched in New Zealand in 2017. P&G have invested extensive research and development into our toothpastes to provide consumers with superior products that will meet consumers' various needs, tastes and price points. The latest addition to the Oral-B toothpaste lineup is Oral-B Pro Health Advanced Enamel Strong toothpaste, which was launched in New Zealand in March 2017. The product contains stannous fluoride which works to remineralise weakened enamel and also protect the outside of the tooth by forming a protective shield to prevent acid erosion caused by everyday foods and liquids.

The Advertisement

- 9) When the Advertisement is viewed as a short narrative whole, as a reasonable consumer would, the allegations are without merit.
- 10) The first part¹ of the Advertisement intends to:

- a) provoke consumers into rethinking the way they look at their teeth enamel – i.e. as two parts (inside and outside); and
- b) underscores the importance of using a toothpaste that helps with both.

- 11) Simply put, one must consider not only the part of the tooth enamel that is readily seen, but also the part that is not seen. To provide consumers with an easy and relatable way to illustrate the concept of "inside and outside", the visual representation of the apple was used in a metaphorical fashion as a communication tool to draw attention to **both** the inside and the outer parts of teeth enamel.

- 12) The next part² of the Advertisement conveys to consumers that Oral-B Pro Health Advanced Enamel Strong is a toothpaste that takes care of both the inside and outside of the enamel. The Advertisement answers the question of how it does so:

- a) by strengthening teeth enamel on the inside; and
- b) by protecting the outside of the enamel from acid erosion.

- 13) On the second benefit **alone**, the Advertisement communicates to consumers that Oral-B Pro Health Advanced Enamel Strong provides superior protection from acid erosion compared to Colgate Total Original.

D. RESPONSE TO COMPLAINT

¹ See time stamps: for 30s: 0:00-0:12, for 15s: 0:00-0:02.

² See time stamps: for 30s: 0:13-0:30, for 15s: 0:03-0:15.

The Advertisement is not misleading or deceptive and it fully complies with Principle 4 and Rule 2 of the Code of Ethics, and Principle 1 and Guideline 1(a) of the Code of Comparative Advertising

- 14) Put simply, the Advertisement is not misleading or deceptive because the message conveyed is supported by scientific evidence.
- 15) It is apparent from watching the Advertisement, as a reasonable consumer would, that it conveys **only** the following messages (all of which are truthful, accurate, and backed by robust data, as will be discussed in more detail below):
 - a) The Advertisement educates consumers about the importance of being aware of both the inside and outside of their teeth enamel;
 - b) The Advertisement offers consumers a product that benefits both parts of the enamel by strengthening the inside of enamel as well as protecting the outer part of the enamel from acid erosion;
 - c) Oral-B Pro Health Advanced Enamel Strong provides superior protection on the outer part of tooth enamel from acid erosion compared to Colgate Total Original.

Importance of taking care of both the inside and outside of the tooth enamel

- 16) Dental enamel is the hardest substance in the human body. All the same, tooth enamel is not impervious, which is why it is important to educate consumers and raise their awareness of the potential damage caused by “acid attacks” impacting the inside and outside of the tooth enamel.
- 17) Damage to the inside of enamel is caused by demineralization. Demineralization occurs when bacteria produces acids during the metabolism of carbohydrates such as sugars. The local acidity increases resulting from bacteria feeding on carbohydrates and enamel minerals are lost, leading to a weakening of the inside of the enamel (specifically below the surface).
- 18) Demineralization is countered by remineralization and both processes occur in cycles. Remineralization restores the lost minerals calcium and phosphorus to the enamel chiefly through saliva, which carries minerals to the teeth to strengthen spots in the enamel which have been weakened. It is well-established that fluoride positively impacts remineralization by accelerating the remineralization process and in turn, forming an integral part of the renewing weakened enamel. This is one of the major mechanisms of action of fluoride in the inhibition and even reversal of the caries process.³ Therefore, toothpastes with fluoride help to strengthen the inside of tooth enamel by depositing minerals into the enamel helping prevent further degradation during the demineralization part of the cycle.
- 19) On the other hand, enamel erosion occurs as a result of the direct action of acids from the diet on the outer surface of the enamel. While enamel erosion as a concept is generally less well-known, this does not mean it is any less important. Dental erosion is a problem with global implications.⁴
- 20) Erosive acids attack tooth mineral by softening the surface enamel, and this softening makes the enamel more susceptible than sound enamel to the external challenges resulting in surface loss.^{5,6} Erosion occurs due to excess exposure to acidic food and drinks, such as citrus fruits, processed food (especially those containing citric acid and

³ Featherstone JBD, Dental caries: a dynamic process. *Australian Dental Journal* 2008; 53: 286-291.

⁴ Ganns C, Lussi A. Current erosion indice – flawed or valid? *Clin Oral Invest* 2008 12 (Suppl. 1): 1-3.

⁵ Ganns C, Schlechtriemen M, Klimek J. Dental erosions in subjects living on a raw food diet. *Caries Res* 1999 33: 74-80.

⁶ Vieira A, Overweg E, Ruben JL, et al. Toothbrush abrasion, simulated tongue friction and attrition of eroded bovine enamel *in vitro*. *J Dent* 2006 34: 336-342.

sodium citrate), carbonated drinks, fruit juices, and wine. Individuals who regularly consume these are therefore at risk of enamel erosion. Dental erosion is preventable with proper diet, oral hygiene, and regular dental care.⁷ However, once it has set in and is left untreated, dental erosion can lead to progressive loss of the surface of the tooth.⁸ Therefore consumers need to care for both the outside and the inside of their tooth enamel by using products that contain fluoride to protect against these conditions.

- 21) Colgate themselves are well-aware of these two aspects of enamel protection. To illustrate, its Colgate Sensitive Enamel Protection toothpaste claims that the formulation "helps protect against acid erosion and remineralizes the enamel."⁹

Oral-B Pro Health Advanced Enamel Strong strengthens the inside of enamel and protects the outer part of enamel from acid erosion

Strengthens the inside of the tooth enamel

- 22) Oral-B Pro Health Advanced Enamel Strong strengthens teeth enamel on the inside through stabilized stannous fluoride in the formula, which helps combat the effects of demineralization and promote the remineralization process. This was confirmed in a series of research undertaken on toothpaste formulas using stabilized stannous fluoride such as that found in Oral-B Pro Health Advanced Enamel Strong. Results of the research were published in September 2005 in the Compendium of Continuing Education in Dentistry, a copy of which is attached as **Annexure B**.

- 23) Two industry-recognized methods were used: (1) a single-treatment, in-vitro fluoride uptake study; and (2) a multiple-treatment, pH-cycling study which simulates the dynamic conditions of remineralization and demineralization that occurs in the mouth. Results of the fluoride uptake study confirm that toothpastes containing stabilized stannous fluoride do help the remineralizing process by accumulate fluoride in demineralized areas, and in the process strengthening enamel. In a similar manner, results of the cycling study confirm that toothpastes containing stabilized stannous fluoride/SMP are at least as good as both the stannous fluoride and the sodium fluoride-containing toothpastes on a combination of remineralization and demineralization prevention.

Protects the outer part of tooth enamel from acid erosion

- 24) Oral-B Pro Health Advanced Enamel Strong was designed to protect the outside, i.e., the enamel surface of teeth, against food acids. Stabilized stannous fluoride such as that contained in Oral-B Pro Health Advanced Enamel Strong has proven effective in preventing acid erosion and helps increase enamel resistance to acid attack. It also deposits a protective barrier layer on the surface of the enamel that remains on the surface for hours, blocking acids from penetrating the surface and providing extended protection against acid attacks that can lead to erosion.

- 25) This was proven through an in-situ clinical study, the results of which were published in 2007 in the *Journal of Dentistry*. A copy of the publication is attached as **Annexure C**.

- 26) The clinical study was a randomized, single blind, three way crossover design. Products tested were a toothpaste containing stannous fluoride comparable to Oral-B Pro Health Advanced Enamel Strong, a toothpaste containing sodium fluoride as the benchmark toothpaste, and water as a negative control. Volunteers wore an intra-oral appliance with specimens of enamel embedded in their mouths. Each volunteer rinsed for 1 minute with a slurry of either toothpaste (3g toothpaste:10ml water) or water (10ml) followed by

⁷ See link <https://www.betterhealth.vic.gov.au/health/conditionsandtreatments/dental-erosion>.

⁸ See link <https://www.betterhealth.vic.gov.au/health/conditionsandtreatments/dental-erosion..>

⁹ See link <http://www.colgate.com.au/en/au/oc/products/toothpaste/colgate-sensitive-enamel-protection>.

consumption of 250ml of orange juice 1 and 3 hours later. This regimen was performed twice per day. The loss of enamel was measured by profilometry.¹⁰

- 27) The results of the study showed that Oral-B Pro-Health Advanced Enamel Strong showed significantly less enamel loss than both the benchmark sodium fluoride toothpaste and the negative control (water) ($p<0.0001$).

Oral-B Pro Health Advanced Enamel Strong provides superior protection from acid erosion on the outside of tooth enamel compared to Colgate Total Original

- 28) Fluoride in general has proved to be an effective ingredient to help prevent cavities. However, despite the prevalence of fluoride toothpastes in the market, tooth erosion has become a growing concern. This suggests that ordinary fluoride toothpastes are insufficient in helping protect against enamel loss from acid erosion.

- 29) Research suggests that stabilized stannous fluoride such as that present in Oral-B Pro Health Advanced Enamel Strong delivers greater protection against acid erosion compared to other fluoride toothpastes. Not only can Oral-B Pro Health Advanced Enamel Strong help to address demineralization and acid erosion, it is also proven through a clinical study to provide superior protection from acid erosion compared to Colgate Total Original. Results of the study were published in 2015 in the *International Journal of Dental Hygiene* and attached here as **Annexure D**.

- 30) The clinical study was a randomized, double blind, crossover design. The products tested were an Oral-B toothpaste marketed in the UK containing 0.454% stabilized stannous fluoride with a similar formulation to Oral-B Pro Health Advanced Enamel Strong and a Colgate Total product sodium fluoride and triclosan which formulation is similar to Colgate Total Original featured in the Advertisement. Volunteers wore an intra-oral appliance with specimens of enamel embedded in their mouths. Each volunteer rinsed under supervision for 1 minute with a slurry of one of the toothpastes (3g toothpaste/10ml water) followed by consumption of 250ml of orange juice 1 and 3 hours later. This regimen was done twice per day.

- 31) The enamel samples were measured for tooth surface loss using contact profilometry at baseline and days 10 and 15. At baseline, there were no statistically significant differences in the surfaces of the two treatment groups. However, at both days 10 and 15, the stannous fluoride-containing toothpaste provided a statistically significant ($p<0.0001$) reduction in enamel loss as against the sodium fluoride-triclosan toothpaste. A summary of the results is shown below.

Table 1. Treatment comparisons for enamel loss (μm) by day

	Original scale in μm estimated median* (95% CI)	% Benefit versus NaF/ triclosan†	Two-sided <i>P</i> -value
<i>Day 10[‡]</i>			
SnF ₂ dentifrice	1.22 (1.07, 1.39)	67%	<0.0001
NaF/triclosan dentifrice	3.68 (3.23, 4.19)		
<i>Day 15[§]</i>			
SnF ₂ dentifrice	1.60 (1.40, 1.82)	68%	<0.0001
NaF/triclosan dentifrice	5.03 (4.42, 5.72)		

- 32) The above results prove that Oral-B Pro Health Advanced Enamel Strong delivers superior efficacy on enamel erosion prevention compared to Colgate Total Original.

¹⁰ A profilometer is a measuring instrument used to measure a surface's profile, in order to quantify its roughness.

The Advertisement is not denigrating of a competitor product by making unfair or inaccurate claims in breach of Rule 8 of the Code of Ethics and Guidelines 1(a), 1(d) and 1(e) of the Code of Comparative Advertising

- 33) The Advertisement does not make any representation, nor does it convey a message or an overall impression, to a reasonable consumer that using Colgate Total Original as opposed to Oral-B Pro Health Advanced Enamel Strong will result in tooth decay or an ineffective clean of the teeth.
- 34) As discussed previously, the message conveyed from the Advertisement is clear: Oral-B Pro Health Advanced Enamel Strong helps with strengthening enamel and protecting the outside from acid erosion. The only message conveyed by the Advertisement about Colgate Total Original is the correct message that, in “protecting the outside” from acid erosion, Oral-B Pro Health Advanced Enamel Strong performs better than Colgate Total Original. The visual of a Colgate Total Original box pushed to the side (known in advertising as ‘ash canning’) by an Oral-B Pro Health Advanced Enamel Strong box merely reinforces our comparative claim in asserting better performance.
- 35) P&G strongly submits that making a comparative claim around enamel protection which is factual and based on scientific evidence does not unfairly cause damage to the business or goodwill of Colgate. The legal system in New Zealand does not prohibit the provision of comparative advertising, provided the message conveyed to consumers is fair, substantiated and balanced. In fact, comparative advertising can serve as a useful tool for consumers to make informed choices and thereby results in more effective competition. This position is acknowledged under the *Trade Marks Act 2002*, where a person does not infringe another person’s trade mark by using it for the purpose of comparative advertising, provided it is in accordance with honest practices.
- 36) It is also a stretch of the imagination to argue that the Advertisement makes any representation capable of disparaging Colgate Total Original’s clinically proven internal strengthening efficacy. Being the market leader in toothpastes in New Zealand for many years, consumers are already familiar with Colgate products and the efficacies promised. While we cannot comment on what data Colgate uses to support its claims, Colgate actively communicates enamel benefits for its toothpastes, including Colgate Total Original. The Colgate Australia/NZ website product page for Colgate Total Original claims that it provides the following benefits (emphasis added):

“(1) prevents cavities; (2) removes plaque; (3) fights bacteria for 12 hours; (4) **strengthens enamel;** (5) removes stains; (6) prevents tartar build-up; and (7) freshens breath.”¹¹
- 37) Colgate toothpaste products, including Colgate Total Original, are well-known in New Zealand. Colgate Total has been in the market for many years and in that time, Colgate has devoted substantial resources on advertising across various touch points. Based on figures obtained from AQX Nielsen Media Research in the January-March quarter for 2018, Colgate had approximately 44% of overall advertising spend in the oral care segment in New Zealand, primarily behind Colgate Total. The share of voice chart, which illustrates advertising spend across the quarter, is attached as **Annexure E**.

E. CONCLUSION

- 38) A primary concern of P&G is the well-being and satisfaction of our consumers, as we work towards our mission of touching the lives and improving the quality of life of New Zealanders through our household brands. We can assure the ASA that P&G is aligned with its objective of ensuring that advertising for direct-to-consumer products is accurate, fair and responsible, and in turn, not jeopardise the trust of reasonable consumers.

¹¹ See link <https://www.colgate.com.au/products/toothpaste/colgate-total-original> (accessed 16 July 2018)

39) P&G are keen to promote and engage in fair and healthy competition in the toothpaste category, to continue to delight consumers with a greater variety of choice to find a product that best suits their needs. The Advertisement seeks to disclose to consumers the relative protection benefits offered by the products compared. Backed by decades of extensive research, robust scientific evidence and a superior technology in the form of a stabilised stannous fluoride formula, Oral-B Pro-Health toothpastes represent a true breakthrough for Oral-B which P&G are very proud to share with New Zealanders.

40) In closing, we respectfully submit that the Advertisement does not breach Basic Principle 4, Rule 4 or Rule 8 of the ASA Code of Ethics, or Principle 1, Guideline 1(a), 1(d) or 1(e) of the Code of Comparative Advertising.

41) Therefore, the complaint should be dismissed on the basis that it is not justified.

ANNEXURE A

Advertising Complaint Response Form

Contact person for advertising complaints	Jessica Miller Senior Legal Counsel P&G Australia and New Zealand 4/1 Innovation Road, Macquarie Park NSW 2113, Australia
Name and contact at creative agency	Sabine Schusser Client Services Director Marcel Worldwide 30 Windmill St, 2000 Sydney Australia
Name and contact at media agency	Karen Booth Business Director MediaCom
	Level 11, 22 Fanshawe Street, Central Auckland, 1010 http://www.mediacom.com
A basic, neutral description of the advertisement	Oral-B Pro Health contains ActivRepair technology which works to strengthen tooth enamel on the inside and protect them on the outside. It's clinically proven to be better at protecting the outside from acids in every day foods than Colgate Total.
Date advertisement began	6 May 2018
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV (free to air and subscription), Youtube
Is the advertisement still accessible — where and until when?	TV, 6 May 2018, ongoing

A copy of digital media file(s) of the advertisement — if the complaint relates to onscreen graphic, please send a broadcast quality version.	Attached to covering email
Who is the product / brand target audience?	People (Male or Female) from 40 to 64 years of age.
Clear substantiation on claims that are challenged by the complainant.	Refer to substantiation research papers in Annexures B, C and D and summary of substantiation data in Annexure F
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.	Acknowledged and the advertiser confirms that nothing submitted in this response constitutes confidential information.

For Broadcast advertisements:

A copy of the script	"My dentist said enamel should be great on the outside and on the inside. Go Pro with Oral-B Pro Health. It's formulated with ActivStrength technology that strengthens enamel on the inside and plus protects the outside better than Colgate Total. Go Pro with Oral-B Pro Health."
A copy of the media schedule and spot list (Please remove all financial information)	Channel List: TVNZ, Mediaworks (TV3 / Choice TV, Sky Network) Spot List: Refer to Annexure G
CAB key number and rating	Key number PGIN2017R2 has a G rating and the CAB number is #80502074

For Digital advertisements:

What platform tools have you used to target your audience?	Not applicable (but available on youtube https://www.youtube.com/watch?v=37nyHSp
	P&G has no further spend against its media plan outside of Television in New Zealand. Please note we do have a Youtube video that can be accessible to New Zealand, however is intended (and funded) for an Australian audience.

RESPONSE FROM MEDIA, CAB

**PROCTER AND GAMBLE TELEVISION ADVERTISEMENT
COMPLAINT: 18/204 KEY: PGIN2017 R2 RATING: G**

We have been asked to respond to this complaint under the following codes:

Code of Ethics – Basic Principle 4

Code for Comparative Advertising – Guideline 1(a), 1(d), 1(e), Principle 1;

CAB approved this Oral-B commercial on 02/05/18 with a G classification.

When the commercial was submitted to CAB, the advertiser provided substantiating documents for the comparative claims made. CAB will defer to the advertiser for the provision of this material to the Board.

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.