

COMPLAINT NUMBER	19/302
COMPLAINANT	J Pearson
ADVERTISER	GlaxoSmithKline NZ Limited
ADVERTISEMENT	Bexsero Television
DATE OF MEETING	15 October 2019
OUTCOME	Not Upheld No further action required

Description of Advertisement

The GlaxoSmithKline television advertisement for Bexsero, a new vaccine to help protect against meningococcal B disease, says: “1 in 10 infected can die, sometimes within 24 hours”.

Summary of the Complaint

The Complainant was concerned the advertisement was “scaremongering and playing on the fears of parents of young babies with the wording in the ad regarding the possibility of babies dying from meningitis.”

Issues Raised

- Social Responsibility
- Vulnerable audiences
- Truthful presentation

Summary of the Advertiser’s Response

The Advertiser said the complications of meningococcal disease can be grave and information on the disease could be hard to hear. Communicating the seriousness of the disease is an important public health message.

Summary of the Complaints Board Decision

The Complaints Board said a television advertisement for a GlaxoSmithKline vaccine to help protect against Meningococcal B disease was not misleading. The Complaints Board said the Advertiser had provided adequate substantiation for the statement: “1 in 10 infected can die, sometimes within 24 hours”.

Relevant ASA Codes of Practice

The Acting Chair directed the Complaints Board to consider the complaint with reference to the following codes:

THERAPEUTIC AND HEALTH ADVERTISING CODE

Principle 1: Social Responsibility

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.

Rule 1 (c) Vulnerable audiences: Advertisements should not portray unrealistic outcomes or prey on or misrepresent vulnerable audiences (e.g. sick, elderly, pregnant women, overweight people).

Principle 2: Truthful Presentation: 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.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout of the advertisement was this is a new vaccine for a serious illness, Meningococcal B. The advertisement is targeted at the parents of young children and teenagers and is being promoted as value for money, given the risks.

The Complaints Board noted the vaccine is only for Meningococcal B, and there are other types of meningococcal disease, such as Meningococcal A, C, Y and W.

Does the advertisement portray unrealistic outcomes or prey on vulnerable audiences?

The Complaints Board agreed the advertisement did not portray unrealistic outcomes or prey on vulnerable audiences. This is because there are serious risks associated with Meningococcal B and the way these risks were conveyed in the advertisement was not scaremongering. The Complaints Board noted that while this information may be potentially distressing to parents, it was not unjustified in the circumstances.

Is the advertisement misleading?

The Complaints Board agreed the advertisement was not misleading. This is because the Advertiser was able to provide sufficient substantiation to support the claim: "1 in 10 infected can die, sometimes within 24 hours". The Complaints Board referred to the references provided by the Advertiser, especially Rosenstein – pages 1378 & 1382, Thompson – pages 397 & 399 and Van Deuren – pages 144 & 150.

In reviewing the Advertiser's response, the Complaints Board noted it referred to the incidence of meningococcal disease over the last year and recent deaths which could create an impression that all were cases of meningococcal B disease. The Board observed there are other types of meningococcal disease, such as meningococcal W occurring in New Zealand that Bexsero would not protect against.

Does the advertisement observe a high standard of social responsibility?

The Complaints Board agreed the advertisement does observe a high standard of social responsibility. This is because the advertisement does not portray unrealistic outcomes or prey on vulnerable audiences and is not misleading.

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1, Rule 1(c) or Principle 2 of the Therapeutic and Health Advertising Code.

Outcome

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

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.

APPENDICES

1. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT FROM J PEARSON

I believe this advertising is scaremongering and playing on the fears of parents of young babies with the wording in the ad regarding the possibility of babies dying from Meningitis.

Sorry I can't provide a video clip but both myself and my husband felt that this ad was out of order in its choice of words and way it was trying to scare parents into purchasing this vaccine.

Appendix 2

RESPONSE FROM ADVERTISER, GLAXOSMITHKLINE

Initial Response

Please find below the **GSK NZ response to Complaint 19/302, GlaxoSmithKline NZ Ltd Television.**

GSK NZ takes the complaints process seriously. We have reviewed the complaint and the TV advertisement against the Therapeutic and Health Advertising Code, Principles 1 & 2 and Rule 1(c).

We understand that the complainant may have found the Bexsero television advertisement, which contains information on meningococcal disease, confronting. The complications of meningococcal disease can be grave and information on the disease could be hard to hear.¹ Unfortunately New Zealand has a high rate of invasive meningococcal disease and the latest surveillance reports indicate case numbers have increased recently in 2019.²⁵ GSK NZ considers that meningococcal disease awareness and the availability of the vaccine to help prevent the disease is an important public health message.

In regard to the Therapeutic and Health Advertising Code, Principle 1: Social Responsibility 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.

GSK considers that the TV advertisement is in the spirit of the principle of Social Responsibility. Meningococcal disease can have a devastating impact on a patient as progression of the disease can be rapid, can have serious complications and can be fatal.^{1 6-8} NZ has a high rate of invasive meningococcal disease compared with other developed countries and the country has a history of epidemic levels of Meningococcal B cases from 1991-2006.^{2-5,9} Communicating the seriousness of the disease has a place as an important public health message.

In regard to Rule 1 (c) — Vulnerable Audiences

Advertisements should not portray unrealistic outcomes or prey on or misrepresent vulnerable audiences (e.g. sick, elderly, pregnant women, overweight people).

Children under 5 years old are most at risk of experiencing the negative effects of meningococcal disease, including death.^{6,7,10} GSK believes this is important health information to convey to parents, and sets the context of which group of parents the information pertains to the most. With diagnosis of the illness being difficult and patients dying despite receiving treatment, vaccination against the disease is an important option for the public, especially parents of young children to be aware of.^{1,3,6}

In regard to the Therapeutic and Health Advertising Code, Principle 2: Truthful presentation 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

The statements in the TV advertisement, "1/10 infected with meningococcal disease can die, sometimes within 24 hours" and "under 5's are most at risk" are well substantiated claims.^{1,3,6-8,10} Overall, the number of cases of meningococcal disease has increased by about 50% from the same time last year.' There have been 2 confirmed deaths from meningococcal disease up to July this year and currently in the media there is the story of a death of a child who had meningococcal disease in the Horowhenua district." GSK believes that the TV advertisement is a truthful presentation what is happening in our communities already, with respect to the effects of meningococcal disease.

Summary

For the reasons outlined above, GSK considers that the advertisement does not breach the Code. We understand that hearing about the effects of meningococcal disease can be challenging. GSK is of the view that it is important to raise awareness of disease impact to the public. Clear statistics on the effects of meningococcal disease we believe helps the public quantify the potential gravity of this disease.

GSK is more than willing to provide any further information you may require and we look forward to your review,

References

1. Thompson MJ, et al. *Lancet* 2006; 367(9508): 397-403.
2. The Institute of Environmental Science and Research. Meningococcal Disease Report 6 March 2019. Available at: https://surv.esr.cri.nz/PDF/surveillance/MeningococcalDisease/2019/MeningococcalDisease_wk8-92019.pdf Accessed 29th August 2019
3. The Institute of Environmental Science and Research. Meningococcal Disease Monthly Report July 2019. Available at: https://surv.esr.cri.nz/PDF/surveillance/MeningococcalDisease/2019/MeningococcalDisease_Jul_2019.pdf Accessed 29th August 2019.
4. Australian Government Department of Health. Meningococcal Disease (Invasive) Available at: <https://www1.health.gov.au/internet/main/publishing.nsf/Content/ohp-meningococcal-W.htm> Accessed 29th August 2019.
5. CDC. Enhanced Meningococcal Disease Surveillance Report 2017. Available at:

<https://www.cdc.gov/meningococcal/downloads/NCIRD-EMS-Report-2017.pdf>

Accessed 29th of August 2019.

6. Immunisation Advisory Centre. Meningococcal Disease. Available at: <https://www.immune.org.nz/diseases/meningococcal-disease> Accessed 29th August 2019.

7. Rosenstein NE, et al. *N Engl J Med* 2001; 344(18): 1378-88.

8. van Deuren M, et al. *Clin Microbiol Rev.* 2000;13(1):144-166.

9. Mills, G. Bell, A. *NZMJ* 2006; 126(1373):10-11.

10. CDC VPD manual Chapter 8: Meningococcal disease.

<http://www.cdc.gov/vaccines/pubs/surv-manual/chpt08-mening.pdf> Accessed 29th August 2019.

11. Tuckey K. 9 News Now "Child dies of meningococcal disease". Available at:

<https://www.tvnz.co.nz/one-news/new-zealand/child-in-horowhenua-dies-meningococcal-disease?fbclid=IwAR08neWMEri5lUbDfMNchC6tHxn-KUivf2C44sRmfTz9OseUzPOFEEGOIWq> Accessed 29th August 2019.

A basic, neutral description of the advertisement	Informing about the availability of Bexsero, a new vaccine to help protect against meningococcal B disease
Date advertisement began	Monday 8 th July
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TVC – TV, TVNZ OnDemand, YouTube, Family Health Diary Website
Is the advertisement still accessible – where and until when?	Yes Last booked TV spot 31 August 2019 YouTube to conclude 31 August 2019 TVNZ OnDemand running until end September 2019 Family Health Diary Website until end October 2019 Digital banners running across various platforms until end 2019 Social media, adshels and parent room posters are not currently running
A copy of digital media file(s) of the advertisement	30 second ad: https://vimeo.com/user25049283/review/345610295/d7212465ae

<p>– if the complaint relates to on-screen graphic, please send a broadcast quality version.</p>	<p>15 second ad: https://vimeo.com/user25049283/review/345610290/e9e6fc6821</p>
	<p>Adshel and banner artwork included for context – see attached</p>
<p>Who is the product / brand target audience?</p>	<p>Parents of infants and teens</p>
<p>Clear substantiation on claims that are challenged by the complainant.</p>	<p>1.Thompson MJ, et al. <i>Lancet</i> 2006; 367(9508): 397–403. 3.The Institute of Environmental Science and Research. Meningococcal Disease Monthly Report July 2019. Available at: Accessed 29th August 20192.Rosenstein NE, et al. <i>N Engl J Med</i> 2001; 344(18): 1378–88. 6. Immunisation Advisory Centre. Meningococcal Disease. Available at: https://www.immune.org.nz/diseases/meningococcal-disease Accessed 29th August 2019 7.Rosenstein NE, et al. <i>N Engl J Med</i> 2001; 344(18): 1378-88. 8.van Deuren M, et al. <i>Clin Microbiol Rev.</i> 2000;13(1):144–166. 10. CDC VPD manual Chapter 8: Meningococcal disease. http://www.cdc.gov/vaccines/pubs/surv-manual/chpt08-mening.pdf Accessed 29th August 2019</p>
<p>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.</p>	
<p>For Broadcast advertisements:</p>	
<p>A copy of the script</p>	<p>See attached</p>

A copy of the media schedule and spot list (Please remove all financial information)	See attached: TVC media schedule TVC spot list
CAB key number and rating	Key Number: FHD_30_1729 Rating: GXC – General Except Children’s Programmes
For Digital advertisements:	
What platform tools have you used to target your audience?	You Tube and On Demand, targeted towards parents of children aged 0-5 years.

ADDITIONAL RESPONSE FROM ADVERTISER

Please find attached three of the references supporting the statement “1 in 10 infected can die, sometimes within 24 hours”. I have highlighted the text of the relevant parts of each reference.

Rosenstein – pages 1378 & 1382

Thompson – pages 397 & 399

Van Deuren – pages 144 & 150

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

GlaxoSmithKline NZ Ltd Television Advertisement

COMPLAINT: 19/302 KEY: FHD 30 1729 RATING: GXC

We have been asked to respond to this complaint under the following codes: Therapeutic and Health Advertising Code - Principle 1, Principle 2, Rule 1(c);

CAB approved the GSK commercial on 04/07/19.

A complainant accuses the commercial of ‘scaremongering’ by quoting accurate medical statistics about a deadly disease.

Any member of the public can take their phone of their pocket and search ‘Meningococcal NZ’ and they will see information provided directly by the New Zealand Ministry of Health.

<https://www.health.govt.nz/your-health/conditions-and-treatments/diseases-and-illnesses/meningococcal-disease-including-meningitis>

In a list of people most susceptible to meningococcal diseases, the Ministry of Health lists young children and babies at the very top. The risk of death is 1-in-10, exactly as quoted in the commercial.

At the time of writing, New Zealand is suffering a serious outbreak of Measles – a disease that is easily vaccinated against.

It is absolutely vital that the people of New Zealand are able to receive information about preventing contractable diseases, and that the spread of information is not impeded by petty interests and anti-science viewpoints.

Every branch of the body public has a responsibility to let accurate, proven and authoritative medical information flow through society.