

<b>COMPLAINT NUMBER</b>	21/044
<b>ADVERTISER</b>	MitoQ
<b>ADVERTISEMENT</b>	MitoQ website
<b>DATE OF MEETING</b>	9 March 2021
<b>OUTCOME</b>	Not Upheld No further action required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about a website advertisement for MitoQ dietary supplement. The Board said the Advertiser had provided sufficient information to support the claim that the customer testimonial complained about in the advertisement was authenticated and genuine, and the use of this testimonial in the advertisement was not misleading.

### **Advertisement**

The customer review section of the website advertisement for MitoQ featured a review by “Lang L – Verified buyer”. The review was headed “Great technology advancement” and gave MitoQ five stars. It included the following text: “...When MitoQ offered their proposition of a product that uses clever science to do what me as a verified\_ buyer tried to do with other products has changed how I take the nutrient. Instead of taking 5 products, I can take 2 capsules and have a consistent level of benefit.”

### **Summary of the Complaint**

The Complainant was concerned one of the customer reviews on the MitoQ website was not written by a genuine person and provided false feedback.

### **Issues Raised:**

- Truthful presentation
- Authenticated testimonial

### **Summary of the Advertiser’s Response**

The Advertiser defended the advertisement and said the customer reviews of the product are created by verified and genuine customers. The Advertiser said they have a three-stage process for the validation of all reviews, and they use a number of privacy protections. These include the automatic substitution of certain information with placeholder text. In this case the word “customer” was replaced with “verified\_buyer” when the review was imported.

## Relevant ASA Codes of Practice

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

### **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.

**Rule 2 (f) Testimonials and healthcare professional endorsements:** Patient testimonials and healthcare professional endorsements in advertisements, where not prohibited by law, shall comply with the Code, be authenticated, genuine, current, and typical and acknowledge any valuable consideration. Exceptional cases shall be represented as such.

#### **Guidelines**

Testimonials for natural health products and dietary supplements, and health services to support a normal bodily function are permitted. However, these testimonials should not include any information that implies the product is a medicine or medical device or that the service has a therapeutic benefit. This is likely to breach the Medicines Act. The content of testimonials must be consistent with the claims allowed in the advertisement for these products and services.

### **Complaints Board Discussion**

The Chair noted that the Complaints Board's role was to consider whether the aspect of the advertisement complained about, in this case one testimonial, breached the Therapeutic and Health Advertising Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised.

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the testimonial complained about in the advertisement on the MitoQ website was: the MitoQ product is good because it is more convenient to use. In this case the customer only needs to take two capsules, instead of five.

#### *Does the Therapeutic and Health Advertising Code apply?*

The Complaints Board agreed the Therapeutic and Health Advertising Code applied in this case. The Board noted that MitoQ is a dietary supplement and under the Code testimonials for dietary supplements are permitted in advertisements, as long as they don't include therapeutic claims. The Board agreed that the testimonial complained about did not make a therapeutic claim.

#### *Is the testimonial authenticated and genuine and is the advertisement misleading?*

The Complaints Board agreed the Advertiser had provided sufficient information to show that the testimonial was authenticated and genuine, and its use in the advertisement was not misleading. The Board noted the Advertiser said they have a three-stage process for the

validation of all reviews. The Board referred to the following excerpt from the Advertiser's response:

All reviews must be placed on MitoQ.com directly where the email address of the reviewer is initially validated.

The marketing team validate the review on the YotPo platform and independently verify the reviewer against our customer transaction records.

All reviews are finally validated by our Compliance Officer as being compliant with relevant regulations.

The Complaints Board noted the Advertiser's explanation that a "YotPo "find-and-replace" rule replaced the word "customer" with "verified\_buyer" when the review was imported."

The Complaints Board said the use of the testimonial in the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 2 or Rule 2(f) 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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

## APPENDICES

1. Complaint
2. Response from Advertiser

### Appendix 1

#### COMPLAINT

This 'verified buyer' is clearly a bot, as it doesn't know it's own name - the website presents this text as honest feedback from a previous buyer, but the fact that this 'verified buyer' refers to themselves as such rather than as their own name shows that it is an autogenerated false feedback intended to sell the product by deceiving the customer

### Appendix 2

#### RESPONSE FROM ADVERTISER, MITO Q

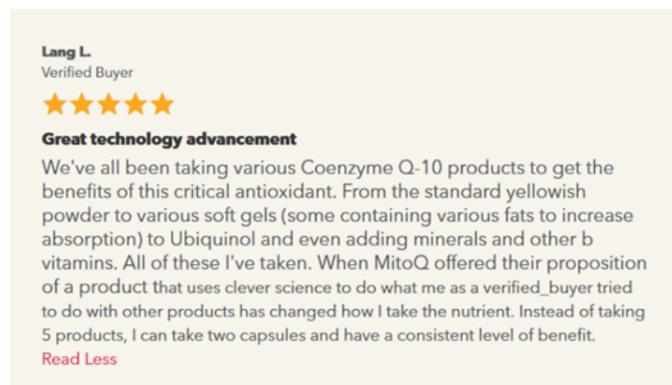
I refer to your letter dated 9 February 2021 regarding the complaint lodged with the ASA in respect of a customer review posted on our website. Thank you for the opportunity to reply to the complaint.

MitoQ takes its obligations seriously in respect of adherence to all the codes of practise administered by ASA. Respectfully, MitoQ refutes any suggestions in the complaint or otherwise that the Advertisement (customer review) breaches any Codes. Please see supporting information below to **defend** this complaint.

#### The Complaint:

This 'verified buyer' is clearly a bot, as it doesn't know it's own name – the website presents this text as honest feedback from a previous buyer, but the fact that this 'verified buyer' refers to themselves as such rather than as their own name shows that it is an autogenerated false feedback intended to sell the product by deceiving the customer.

#### The review in question:



#### Apparent breach:

Therapeutic and Health Advertising Code - Principle 2, Rule 2(f)

Use of testimonials and endorsements

Advertisements must not contain or refer to any personal testimonial unless permission to use the testimonial has been obtained and it is verifiable, genuine, current, and representative of the typical

**Placement of the review:**

This customer review is currently on our website.

**MitoQ response:**

It is the position of MitoQ Ltd that this customer review does not breach the Therapeutic and Health Advertising Code - Principle 2, Rule 2(f), nor any other code set down by ASA, as this review was created by a verified real MitoQ customer. Supporting information below.

**MitoQ Customer Review process and background information:**

MitoQ use the Google Certified GDPR (General Data Protection Regulation) compliant YotPo review moderation system. (<https://support.yotpo.com/en/article/gdpr-faq>). As such MitoQ use a number of privacy protections including automatic substitution of certain information with placeholder text. This is a standard feature of most review platforms.

A YotPo “find-and-replace” rule replaced the word “customer” with “verified\_buyer” when the review was imported. MitoQ used a number of automatic moderation rules such as this to sanitise reviews as they are created.

We understand this action may have caused the customer review to look questionable, and sincerely apologise for this.

Additionally, we have two separate internal processes which ensure a three stage validation of all reviews:

All reviews must be placed on MitoQ.com directly where the email address of the reviewer is initially validated.

The marketing team validate the review on the YotPo platform and independently verify the reviewer against our customer transaction records.

All reviews are finally validated by our Compliance Officer as being compliant with relevant regulations.

**Further Supporting information:**

[The Advertiser provided information confirming the customer’s purchase history].

**Conclusion:**

For the reasons above, as well as demonstrating the authenticity of the customer, we believe that the customer review fully complies with all codes of practise set down by ASA. In addition, we have taken steps to ensure the phrase ‘verified buyer’ is not used as a replacement phrase again.

I am happy to provide any further information if required.