

COMPLAINT NUMBER	13/229
COMPLAINANT	M. Hanna
ADVERTISER	Baa Baa Beads
ADVERTISEMENT	Baa Baa Beads Website
DATE OF MEETING	9 July 2013
OUTCOME	Upheld

SUMMARY

The website for Baa Baa beads (www.baabaabeads.co.nz) promoted amber bead necklaces for infants, claiming that while wearing the beads, the infant would experience a reduction in pain and inflammation associated with teething, ear aches, fevers, upset tummies and a lack of appetite. It also claimed the beads fight infections and improve the body's immunity.

The Complainant said the website contained unsubstantiated therapeutic claims and as such, was misleading.

The Complaints Board held that stating such a wide range of benefits required significant substantiation. In the absence of adequate substantiation provided in the response coupled with the level of claims being made, the Complaints Board considered the advertisement was misleading, and the said claims in the advertisement had not been proved to its satisfaction. It also considered the advertisement did not observe the high standard of social responsibility required given the target audience was entitled to rely on the veracity of the claims. The Complaints Board ruled to uphold the complaint under the Therapeutic Products Advertising Code.

[Advertisement to be removed]

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

COMPLAINTS BOARD DECISION

The Chairman directed the Complaints Board to consider the complaint with reference to Principles 2 and 3 of the Therapeutic Products Advertising Code. This required the Complaints Board to consider whether or not the claims in the advertisement were valid and had been substantiated and whether the advertisement observed a high standard of social

responsibility. The Complaints Board noted that Code of Ethics was also raised but agreed the complaint was better addressed under the Therapeutic Products Advertising Code.

The Complaints Board noted the concerns raised by the Complainant, namely that the website contained unsubstantiated therapeutic claims and as such was misleading.

Turning to the advertisement, the Complaints Board considered the claims made on the website were strong therapeutic claims that required substantiation.

The Complaints Board held that stating such a wide range of benefits, including reduction in pain and inflammation associated with teething, ear aches, fevers, upset tummies, a lack of appetite and “dramatically improving the body’s immunity” required significant substantiation.

The Complainants Board noted the Advertiser had not presented sufficient information to substantiate the claims made in the advertisement. It said the research confirmed Succinic acid was found in amber and had links to health benefits, but the research did not support claims that such benefits could be felt from the wearing of amber beads. While it acknowledged that some evidence had submitted, the research provided did not adequately show that wearing the beads could produce any of the positive effects or benefits listed on the website.

In the absence of adequate substantiation provided in the response, coupled with the level of claims being made, the Complaints Board considered the advertisement was misleading, and the claims in the advertisement had not been proved to its satisfaction. It also considered the advertisement did not observe the high standard of social responsibility required given the target audience was entitled to rely on the veracity of the claims.

The Complaints Board acknowledged the Advertiser had made changes to the website, but held that despite the changes made, the research did not substantiate the claims.

The Complaints Board held the advertisement was misleading and had not been prepared with the high standard of social responsibility required for products with intended therapeutic use, and effected a breach of Principles 2 and 3 of the Therapeutic Products Advertising Code. It noted that as the complaint was upheld under the Therapeutic Products Advertising Code, it was not necessary to assess the advertisement with reference to the Code of Ethics.

Accordingly, the Complaints Board ruled to uphold the complaint.

Finally, the Complaints Board noted that the Therapeutic Advertising Pre-Vetting Service (TAPS) was a user-pays service available to all advertisers making therapeutic claims to help minimise the risk of breaching the ASA Codes of Practice as well as other industry codes and relevant legislation. Information about TAPS is available at www.anza.co.nz.

DESCRIPTION OF ADVERTISEMENT

The website for Baa Baa beads (www.baabaabeads.co.nz) promoted amber bead necklaces for infants, claiming that while wearing the beads, the infant would experience a reduction in pain and inflammation associated with teething, ear aches, fevers, upset tummies and a lack of appetite. It also claimed the bead fight infections and improve the bodies immunity.

COMPLAINT FROM M. HANNA

The Baa Baa Beads website (<http://www.baabaabeads.co.nz/>) contains various advertisements for Baltic amber products that contain unsubstantiated therapeutic claims, in violation of the Therapeutic Products Advertising Code Principle 2.

On the homepage (<http://www.baabaabeads.co.nz/>), the following unsubstantiated therapeutic claims are made:

- "Amber products... are known to reduce inflammation, fight irritations, infections as it dramatically improves the body's immunity."
- "Baltic Amber is Europe's natural pain reliever!"
- "Amber baby teething necklaces are becoming the number one choice as a non-invasive remedy for the side effects associated with teething, such as ear ache, fevers, upset tummies and lack of appetite."

On the "FAQ" page (<http://www.baabaabeads.co.nz/faq.html>), the following unsubstantiated therapeutic claims are made:

- "[Baa Baa Beads] have been made to help with the discomfort of teething, bring the swelling down, soothe and calm the child."
- "Even when these necklaces are known to help with teething, the amber healing oils can also help with mild eczema, fevers, ear-ache, colds and to generally boost the immune system."
- "How do they work?" (Implying that they work)
- "Amber is a natural analgesic and when in contact with the skin, it releases healing oil. It is this oil that soothes and relieves pain."
- "Amber has anti-inflammatory and therapeutic properties."
- "If the child is having a bad day with teething, the necklace can be placed under the sunlight. This will make the oil to be released quicker."
- "If the beads are worn during the day, this will be enough for the oils to work during the night."

On the "Beads for Babies" page (<http://www.baabaabeads.co.nz/about.html>), the following unsubstantiated therapeutic claims are made:

- "[Baltic amber is] a resin used as a natural analgesic for centuries in Europe." [1]
- "In contact with your baby's skin, the amber warms and the beads release healing oils to help calm and sooth babies and toddlers through the discomfort of teething."
- "Amber teething necklaces are becoming the number one choice as a non-invasive remedy for the side effects associated with teething, such as ear ache, fevers, upset tummies and lack of appetite."
- "They are also understood to have additional positive effects such as boosting the immune system and helping with mild eczema."
- "This is Europe's natural pain reliever."

On the "Baa Baa Beads for Grown Ups" page (<http://www.baabaabeads.co.nz/adults.html>), the following unsubstantiated therapeutic claims are made:

- "Amber is a natural anti-inflammatory and pain reliever."
- "[Baltic amber is] a resin used as a natural analgesic for centuries in Europe." [1]
- "Baltic amber healing oils leave calming and soothing effects on our bodies"
- "Anti-inflammatory properties can help with mild eczema and arthritis"
- "Pain relief from head and back aches"
- "General boost to the immune system"
- "For pregnant and breastfeeding moms... It's soothing effect can lead to have more restful sleeps and reduced anxiety."
- "May assist in post partum recovery."
- "Wearing Baltic Amber near the breast during feeding may help reduce inflammation, tenderness and mastitis."
- "With the appropriate care amber can last for generations." (In its current context, this claim implies that the claimed therapeutic properties of amber can last for generations)

On the "Baa Baa Beads for Pets" page (<http://www.baabaabeads.co.nz/pets.html>), the following claims which are also unsubstantiated:

- "Baa Baa Beads collars are an organic and natural flea and tick repellent made from 100% Raw Baltic Amber."
- "Baltic Amber is a resin well known for it's natural organic healing properties used for centuries throughout Europe." [1]
- "100% Raw Baltic Amber contains resinous aromatic terpenes. This produces an aroma from the amber so when worn on your pet, the friction from the fur will absorb this resinous smell which repels the ticks and fleas."
- "The second way in which 100% Raw Baltic Amber works is it has electrostatic properties. Static electricity is generated when Amber is rubbed against the fur which is also a tick and flea deterrent."
- "If your pets have short hair they will also benefit from natural analgesic properties that help reduce and assist with arthritis, eczema and pain."
- "The longer your pet wears the necklace, the more effective it will be. It usually takes 3 weeks or more of wear to have maximum repelling properties. Then no more synthetic chemicals!!"
- "Deal with any existing flea infestations on your pet and in your house with a non toxic solution."
- "With proper use, the amber will continue to release the natural repellents for the lifetime of the necklace."

Although I believe therapeutic claims not regarding humans are not subject to the Therapeutic Products Advertising Code, and I have not been able to find any specific code that deals with such claims, these claims are still in violation of the Advertising Code of Ethics Basic Principle 3 and Rule 2.

As these advertisements claim that products have therapeutic qualities that they have not been shown to have, they fail to adhere to the high standard of social responsibility required of it by the Therapeutic Products Advertising Code Principle 3.

Some recent complaints made to the ASA are relevant to this complaint, regarding similar advertisements of similar products:

- 12-611
- 13-076
- 13-077
- 13-165

[1] Medsafe's Regulatory Guidelines for Medicines Edition 6.15 (the latest edition at this time) Part A Section 1.10 states that:

"There may be several indicators that a product has a therapeutic purpose. These may include... statements of historical therapeutic use, or use by ethnic groups for a therapeutic purpose"

Because of this, such claims should be seen as implying a particular therapeutic claim when present in advertising like this, and must therefore require substantiation. The guidelines are available online here: <http://www.medsafe.govt.nz/regulatory/Guideline/Full%20-%20NZ%20Regulatory%20Guidelines%20for%20Medicines.pdf>

RELEVANT CODE

Therapeutic Products Advertising Code

Principle 2: Advertisements must be truthful, balanced and not misleading. Claims must be valid and have been substantiated.

Principle 3: Advertisements must observe a high standard of social responsibility.

RESPONSE FROM ADVERTISER, BAA BAA BEADS

Please find our responses to the complaint from M. Hanna regarding the following Advertising Codes of Practice.

Code of Ethics - Basic Principle 2

Code of Ethics - Basic Principle 3

Therapeutic Products Advertising Code - Principle 2

Therapeutic Products Advertising Code - Principle 3

Home Page - Please refer to attached documents

Document 1 - The Poland Chamber of Commerce Website which substantiates our comments.

Document 2 - "Succinic Acid Abstracts from clinical studies" - this is a link from The Poland Import

Export Chamber of Commerce website.

Document 3- Studies on the allergenicity of Baltic Amber &

Document 4 - Study on Mass spectrometry in the characterization of ambers:

Both document 3 & 4 are from The US National Library of Medicine - National Institute of Health: PubMed articles comprises of more than 22 million citations for biomedical literature from MEDLINE, life science journals and online books.

Study 1 - Succinate is an inflammatory

Study 2 - The life-extending gene Indy encodes an exchanger for Krebs-cycle intermediates (extract is on Document 2)

Study3 - Succinic Acid ; This is a report from the Scientific Center of Russian Federation Research - we have requested for access to the full study

Please Note:

We have reworded one paragraph on our Home Page - "Baltic Amber is Europe's natural pain reliever!" to "Baltic Amber is used throughout Europe as a natural pain reliever!"

FAQ Page - please refer to the attached documents, 1, 2, 3 & 4

Study 1, 2 & 3

Please Note:

We have reworded the following paragraphs;

"How do they work?" to "How do you use the product?"

"Amber has anti-inflammatory and therapeutic properties." To "Amber has known anti-inflammatory properties, which is the natural form of succinic acid."

Removed the following:

"If the beads are worn during the day, this will be enough for the oils to work during the night."

Beads for Babies: - please refer to the attached documents

Documents, 1, 2, 3 & 4

Study 1, 2 & 3

Please Note:

We have reworded the following paragraph;

"Amber teething necklaces are becoming the number one choice as a non-invasive remedy for the side effects associated with teething, such as ear ache, fevers, upset tummies and lack of appetite." To - "Amber teething necklaces are becoming the favourable preference as a non- invasive remedy for the side effects associated with teething, such as ear ache, fevers, upset tummies and lack of appetite."

Beads for Grown Ups: - please refer to the attached documents

Documents, 1, 2, 3 & 4

Study 1, 2&3

Please note:

We have removed the following paragraph;

"May assist in post partum recovery"

We have reworded;

"With the appropriate care amber can last for generations." To "With the appropriate care amber beads can last for generations"

Beads for Pets: - please refer to the attached documents

Documents 1, 2, 3 & 4

Study 1, 2 & 3

In conclusion, we understand M. Hanna's concerns and have taken this opportunity to reword parts of our website and have provided further evidence on the properties and benefits of 100% Baltic Amber. If this product was researched thoroughly before these complaints made, (we do note M. Hanna has laid similar complaints against other Amber Importers), he would have found many Scientific Research Articles or Studies, though he would have to pay to obtain this information. We have attached 3 Studies and there are many more I can obtain to substantiate - Baltic Amber and Succinic Acid.

We don't believe that we are in any breach of the The Code of Ethics or the Therapeutic Products Advertising Code. We have though reworded parts of our website so to make our advertising clear.

We appreciate everyone has a right to an opinion, though in this instance we believe it is unsubstantiated and if ruled against it will have a huge financial impact on our business. The options to the New Zealand public, our customers and clients to use/try a natural inflammatory is reduced, these people benefit from our natural products daily and we have many references to back this claim.

We hope your findings based on the corresponding evidence and our amended website in our favour.

If you require any further information please do not hesitate in contacting me.