

COMPLAINT NUMBER	16/171
APPEAL	16/009
COMPLAINANT	D Ryan
ADVERTISER	Newtown Acupuncture
ADVERTISEMENT	Newtown Acupuncture Website
DATE OF MEETING	1 March 2017
OUTCOME	Settled

Advertisement:

The website advertisement for Newtown Acupuncture (www.newtownacupuncture.co.nz) promoted the benefits of acupuncture in the treatment of injuries, painful conditions, adverse effects of cancer treatment and other conditions. The advertisement included lists of various conditions.

The Appeal Board ruled the appeal was Settled.

Complainant, D Ryan said: The Complainant said the claims relating to the treatment of injuries, painful conditions, adverse effects of cancer treatment and other conditions were not factual or able to be proved.

The relevant provisions were Therapeutic and Health Advertising Code - Guideline 3(a), Principle 2, Principle 3.

Complaints Board Ruling: Upheld, in part

The complaint was initially considered by the Complaints Board, and was Upheld, in part.

The Complaints Board said the Advertiser had substantiated the low level claims made in relation to pain and inflammation associated with various conditions.

However, the Complaints Board said the word “treat” signaled a strong therapeutic effect and, when used in combination with some of the lists of conditions in the advertisement before it, gave the impression acupuncture could cure the conditions identified. The Complaints Board was particularly concerned about references to IBS and arthritis, and ruled the advertisement was likely to mislead consumers.

Decision Appealed

The Advertiser appealed the Complaints Board decision, on the grounds that further information it provided would make it possible for a more informed decision to be made. The Advertiser provided reference to 55 studies to support the claims made on the website.

Independent Assessment of Evidence

The Chair of the Appeal Board decided to seek an independent assessment of the evidence provided by the Advertiser.

A shortlist of three independent consultants was drawn up and one was selected, because of his previous experience providing expert advice regarding acupuncture complaints to the UK ASA.

The independent consultant selected assessed the quality of the evidence and provided an initial report, recommending that 34 of the 55 studies be assessed in more detail.

Given the cost of further review, and acknowledging the possibility the results might not be conclusive, the ASA decided to meet with the Advertiser, to see if the complaint could be settled.

ASA Meeting with the Advertiser

Two staff from the ASA met with the Advertiser to discuss the complaint, the appeal, the independent assessment and options going forward.

As a result of this discussion, the Advertiser agreed to make some additional changes to their website, in response to the complaint.

Appeal Board Ruling

The Appeal Board noted the changes the Advertiser made to their website, and the removal of references that were of concern.

Noting the Advertiser's co-operative engagement with the process and the self-regulatory action taken by the Advertiser in amending the advertisement, the Appeal Board ruled that the matter was settled.

Decision: Appeal **Settled**