

COMPLAINT NUMBER	19/205
COMPLAINANT	C Morrison
ADVERTISER	Triton Hearing
ADVERTISEMENT	Triton Hearing, Television
DATE OF MEETING	25 June 2019
OUTCOME	Not Upheld No further action required

Description of Advertisement

The cartoon figure presenter in the television advertisement for Triton Hearing says "... Right now, 20% of you are straining to hear me. When the background noise gets this loud only 50% of you can make out this sentence... By now 80% of you can't hear key words...". As the presenter is speaking the background noise of people talking gets gradually louder. The presenter then says: "That's why Triton Hearing has developed our Better Hearing Guarantee with a pair of hearing aids fitted from just \$495." The Consumer Trusted logo appears at the end of the advertisement.

Summary of the Complaint

The Complainant was concerned the percentages quoted advertisement create a misleading impression about the prevalence of hearing loss in the general public.

Issue Raised

- Truthful Presentation

Summary of the Advertiser's Response

The Advertiser said:

- The aim of the advertisement is to normalise hearing loss and to raise awareness about it.
- The advertisement was reviewed and approved by Consumer NZ in 2018.
- Since early 2017 they have been conducting tests, and the percentages used in the advertisement are based on the data collected. The stats are based on self-selected consumers and the raw results.

Summary of the Media Response

The Media said as the clinical data represented in the advertisement is highly specialised, they will defer to the advertiser to provide a detailed response.

Summary of the Complaints Board Decision

The Complaints Board ruled the use of percentages to describe the prevalence of hearing loss in the general public, in the television advertisement for Triton Hearing was not misleading. This is because the claims are low level and designed to give a broad indication about the prevalence of hearing loss in the general population. They do not relate directly to the efficacy of the product being advertised.

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: 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(a): Advertisements shall be accurate. Statements and claims shall be valid and shall be able to be substantiated. Substantiation should exist prior to a claim being made. For medicines and medical devices, therapeutic claims must be consistent with the approved indication(s) (for medicines) or the listed intended purpose (for medical devices).

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout of the advertisement was many people have some degree of hearing loss and, in some cases, this can be improved with hearing aids.

The Complaints Board noted the advertisement was reviewed and approved by Consumer New Zealand in 2018 and the product carries the Consumer New Zealand Trusted logo.

Is the advertisement misleading?

A majority of the Complaints Board said the advertisement was not misleading. This is because the claims made in the advertisement are low level claims designed to give a broad indication about the prevalence of hearing loss in the general population. The makeup of the television audience varies each time the advertisement is played, and all the figures quoted are relative to the sample size. Also, the claims do not relate directly to the efficacy of product being advertised, the hearing aids.

The majority noted the advertisement is targeted at those who are aged 60 and over. This age group is more likely to experience hearing loss and to have greater difficulty hearing in situations where there are many people talking at once.

The majority noted that the percentages quoted are based on testing conducted by Triton Hearing, in conjunction with Canterbury University, so there is adequate substantiation for the claims made.

The majority agreed that while it would have been helpful if the advertiser had provided more information about the testing programme, the advertisement did not reach the threshold to be considered misleading.

A minority disagreed. They said advertisements for therapeutic products must observe a high standard of social responsibility, particularly as consumers often rely on such products, devices and services for their health and wellbeing. Any claims in such advertisements must be substantiated.

The minority said the advertiser has not provided sufficient substantiation to support the statistical claims made in the advertisement.

The minority said as the participants in the testing programme were self-selected, they were not likely to be representative of the general population. This is because people who volunteer to have their hearing tested are more likely to belong to a sector of the community which is at greater risk of experiencing hearing loss. As a result, the test results were likely to be skewed to reflect this.

The minority said the advertiser should have provided more context and detail about the testing programme, showing how the statistics were calculated. This could have been referred to in the advertisement itself or available on the Advertiser's website. This would have given some context to the statements made in the advertisement.

Outcome

In accordance with the majority, the Complaints Board ruled the complaint was not in breach of Principle 2 or Rule 2(a) of the Therapeutic and Health Advertising Code. 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

Appendix 1

COMPLAINT FROM C MORRISON

I do not believe the inference that this audio information relating to the percentage of the general public that can understand what is being said is in anyway correct. I believe this totally misleading and has no basis in fact.

Appendix 2

RESPONSE FROM ADVERTISER, TRITON HEARING

A basic, neutral description of the advertisement	The ad is designed to normalise hearing loss and raise awareness and a common sign - difficulty understanding speech in noise. Then introduces Triton Hearing's Better Hearing Guarantee.
Date advertisement began	This commercial originally aired on TV in February and March 2018 (and received no complaints) And this year that ad began airing on the 6 th of May 2019.
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	The ad appeared on Television, social and digital platforms and our website.
Is the advertisement still accessible – where and until when?	On digital and social channels and our website.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	https://vimeo.com/255830653
Who is the product / brand target audience?	All people 60 plus
Clear substantiation on claims that are challenged by the complainant.	As a commitment to our Consumer NZ trusted status, this commercial along with the details of the Better Hearing Guarantee were reviewed and approved by

	<p>Consumer New Zealand in 2018. The commercial was also approved by CAB in NZ with a G rating and CAD in Australia in August 2018.</p> <p>Since the beginning of 2017 we have conducted nearly 57,000 hearing screening tests. This test was developed and verified by the University of Canterbury as per details below:</p> <p>Data collected from the iPad test over a 5 month period (n=16490 consumers) show that 20% of consumers have an SNR (signal-to-noise-ratio) threshold of -10.4 (i.e. 80% would struggle to hear with background noise at this level), 50% have an SNR threshold of -9.2, and 80% have an SNR threshold of -7.2 (i.e. 20% would struggle at this level).</p> <p>These stats are based on self-selected consumers (people who chose to do the iPad test) and makes no differentiation between people with hearing loss and people without: it is purely based on the raw results of SNR outcome.</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>Animated character with subtitled voice over:</p> <p>“It’s pretty normal to have hearing trouble. So normal that you might not even realise that you do. Let me show you what I mean.</p> <p>Right now, 20% of you are straining to hear me. When the background noise gets this loud only 50% of you can make out this sentence. By now 80% of you can’t hear key words.</p> <p>That’s why Triton Hearing has developed, our Better Hearing Guarantee - with a pair of hearing aids fitted</p>

	<p>from just 495*.</p> <p>Call 0800 45 45 42.”</p> <p>GFX:</p> <p>Triton Hearing & Consumer NZ trusted logo.</p> <p>Call 0800 45 45 42.”</p> <p>*see tritonhearing.co.nz for details</p>
<p>A copy of the media schedule and spot list</p> <p>(Please remove all financial information)</p>	<p>Please see screen shot below for media schedule. As you'll see it was extremely targeted - placed specifically in “fact” based programming with high TARPs.</p>
CAB key number and rating	TH_30_0218 Rating was “G”
For Digital advertisements:	
What platform tools have you used to target your audience?	Google display and Youtube – AP 50 plus.

Hearing loss affects 800,000 kiwis with too few acting on the issue. We introduced \$495 hearing aids to address this issue with a message that was understandable for all. In a stigma based industry, where no one really wants to acknowledge a hearing loss, we used a simple but compelling message to start a chain reaction. This advert was played in 2018. The response was a 30% increase in kiwi's doing something about their hearing loss. That's a statistic that remains the global high water mark for any advertising campaign. I do trust that such a positive outcome will be taken into consideration as part of this complaints review.

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

TRITON HEARING TELEVISION ADVERTISEMENT

COMPLAINT: 19/205 KEY: TH/30/2018 RATING: G

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

CAB approved this Triton Hearing commercial on 06/02/19 with a 'G' general classification. It has played on NZ television for 16 consecutive months, and this is its first complaint.

The complaint about the data represented in the commercial is highly-specialised with a clinical basis, so CAB will defer to the advertiser for those specific details.

In support of the advertiser, CAB notes that Audiology is a highly professional field that treats an increasing number of New Zealanders as our national average age increases.

Abridged.