

COMPLAINT NUMBER	21/168
COMPLAINT ON BEHALF OF	The Society for Science Based Healthcare
ADVERTISER	t Leaf T
ADVERTISEMENT	De stress, Website
DATE OF MEETING	15 April 2021
OUTCOME	No Grounds to Proceed

Advertisement: The t Leaf T website advertisement, www.tleaf.co.nz, promotes its De stress tea with the description "Take time out with this lemon flavoured stress reliever. It contains St Johns Wort, Ginko leaves Nettle leaves and Lemongrass."

The Chair ruled there were no grounds for the complaint to proceed.

Complaint: t leaf T is making a health claim about their De Stress tea on their website that is likely go against scientific evidence.

They are likely to be in breach of the Therapeutic and Health Advertising Code, Principle 2, Rule 2 (b) Truthful presentation.

On their De Stress page (<https://www.tleaf.co.nz/tea/de-stress-herbal-infusion.html>):

"de stress premium herbal tisane"

"Take time out with this lemon flavoured stress reliever"

They are also likely to be in breach of Rule 1 (b) Safety and Effectiveness by not listing the warnings/side effects when taking St. John's Wort.

"Many drugs can interact with St. John's wort, and serious drug interactions can occur when certain medicines are used at the same time. Do not take St. John's wort without medical advice if you regularly use other medicines.

Avoid exposure to sunlight while taking St. John's wort. This product can make you sunburn more easily."

<https://www.drugs.com/mtm/st-john-s-wort.html>

The relevant provisions were Therapeutic and Health Advertising Code - Principle 1, Principle 2, Rule 1(b), Rule 2(b), Advertising Standards Code Principle 2, Rule 2(b).

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 (b) Safety and effectiveness: Advertisements shall not contain any claim, statement or implication that the products, devices or services advertised: • are safe or that their use cannot cause harm or that they have no side effects or risks. • are

effective in all cases • are infallible, unfailing, magical, miraculous, or that it is a certain, guaranteed or sure cure • are likely to lead persons to believe that; or they are suffering from a serious ailment, or harmful consequences may result from the therapeutic or health product, device or service not being used.

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(b) Truthful presentation: 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).

ADVERTISING STANDARDS CODE

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(b) Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

The Chair noted the Complainant was concerned the advertisement is making an unsubstantiated health claim referring to a herbal tea product as a “stress reliever” and not disclosing side effects of the ingredient “St Johns Wort”.

The Chair carefully reviewed the advertisement and said the likely consumer takeout would be that taking a break with a herbal tea product can help as a stress reliever.

Relevant Code

The Chair noted under the section ‘Application of the Code’ in the Therapeutic and Health Advertising Code that this Code only applies to ‘therapeutic products (medicines and medical devices), natural health products and dietary supplements, health services and methods of treatment’. The Chair also noted this Code ‘may also apply when therapeutic or health claims are made in advertisements for other products or services not defined in this code’.

Therapeutic Purpose Claim

The Chair noted that ‘stress’ is not considered a disease or ailment or defect or injury under the definition of therapeutic purpose in the Therapeutic and Health Advertising Code and therefore ‘stress relief’ is not considered a therapeutic purpose claim.

Health Benefit Claim

The Chair noted the definition of ‘health benefit’ in the Code means any one of the following benefits:

- (a) the maintenance or promotion of health or wellness
- (b) nutritional support
- (c) vitamin or mineral supplementation
- (d) maintaining the normal structure or function of the body

The Chair was of the view that ‘stress relief’ did not meet the definition of a health benefit claim and therefore the reference to the beverage product as a “stress reliever” comes under the Advertising Standards Code.

ASA jurisdiction on ingredient warnings

The Chair noted the Complainant’s view that the advertisement should include warnings or side effects about one of the listed ingredients in the beverage, St Johns Wort. The Chair confirmed that any regulatory requirements for such information is outside of the ASA’s jurisdiction and should be referred to the relevant Government regulator, the Ministry of Primary industries or Medsafe.

Compliance with the Advertising Standards Code

The Chair noted the Complainant was concerned the advertisement is making an unsubstantiated health claim. The Chair said the wording in the advertisement about “this lemon flavoured stress reliever” did not meet the threshold to be likely to mislead or deceive consumers in the context of an advertisement about a herbal tea product.

The Chair said the advertisement was not in breach of Principle 2, or Rule 2(b) of the Advertising Standards Code.

The Chair ruled there were no grounds for the complaint to proceed.

Chair’s Ruling: Complaint No Grounds to Proceed

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 calendar days of receipt of this decision.