

12 August 2015

Advertising Standards Authority
Attention: Hilary Souter

By email: asa@asa.co.nz

**SUBMISSION on
DRAFT CODE FOR THERAPEUTIC AND HEALTH ADVERTISING**

1. Introduction

- 1.1 Thank you for the opportunity to make a submission on the Draft Code for Therapeutic and Health Advertising. This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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2. General comments

- 2.1 We support the introduction of a new Code for Therapeutic and Health Advertising (the "Code") and we support the Code's objective to "ensure advertisers maintain rigorous standards in therapeutic and health advertising". Our specific comments on the Code and the guidance notes are set out below.

3. Examples of unacceptable claims

- 3.1 The guidance notes contain only one example of a type of claim that would be unacceptable. To assist advertisers' understanding of what is and is not acceptable, we recommend additional examples are included in the guidance notes.

4. Examples of evidential standards for substantiating a claim

- 4.1 The guidelines on principle 2 of the Code require that advertisements be accurate and that statements and claims are valid and able to be substantiated. The guidance notes state that the:

...substantiation for claims made about a medicine should be supported by the medicine data sheet, consumer medicine information and registered label. This substantiation has been independently evaluated by Medsafe and the medicine has been registered for sale and advertising in New Zealand.

- 4.2 The Fair Trading Act prohibits unsubstantiated claims. However, as the guidance notes state there is currently no mandated evaluation process in New Zealand for the substantiation of claims for other products or services.
- 4.3 In our view, there must be a high evidentiary standard for therapeutic and health claims. Consumers should be able to have confidence that any claims are based on fact. We therefore recommend the guidance notes include examples of the amount, type and quality of evidence that is required to substantiate a claim.
- 4.4 To ensure expected standards are met, we suggest the guidance notes also identify specific sources of information that advertisers should take into account. For example, this could include the EU Register of Health and Nutrition Claims that contains authorised and non-authorised claims for health supplements.

5. Prohibition on unduly glamorising products, services or devices

- 5.1 Under the old Codes, advertisements were not allowed to “unduly glamorise products or services”. We note that this is not included in the new Code and suggest that it be carried across to clause 1(c) of the new Code.

Thank you for the opportunity to make a submission on the Draft Code. If you require any further information, please do not hesitate to contact me.

Yours sincerely



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Consumer Advocate