

**COMPLAINTS RESOLUTION PANEL DETERMINATION**

**Complaint 8-0601 (Swisse Calverv)**

**The complaint**

1. A complaint was made that an advertisement for Swisse Calverv published in Women's Weekly magazine in June 2001 contained an approval number that had been issued in 1999 for a version of the advertisement that had since been changed, consequent upon this Panel upholding complaint 6-700. In response, the sponsor said it understood that, since the advertisement had originally been approved, and the changes made were not of Swisse's choosing, it was sufficient simply to amend the advertisement so as to comply with the Panel's decision and that further approval was not necessary. However, the matter having been brought to its attention, Swisse would refrain from using the advertisement and will submit new advertisements for approval.

**Panel consideration**

2. The advertisement was entitled "Osteoporosis – new research for strong bones" and carried the approval number CHC20661-99/09. The CHC Advertising Services Manager informed the Panel that that number was issued on 27 September 1999 on the basis that the word "new" had been deleted from the heading of an earlier draft submitted for approval. The advertisement published on in June 2001 differed from the version approved in this respect and in other respects flowing from the Panel's decision in complaint 6-700.
3. The Panel finds that the advertisement was not an approved advertisement, in breach of s.42C(2) of the Therapeutic Goods Act. Alternatively, the advertisement published was an approved advertisement that differed from the advertisement that was approved in ways prohibited by s.42C(3) of the Act. The Panel finds the complaint justified.
4. The panel noted the minimum requirements of clause 6 of the Code had not been met.

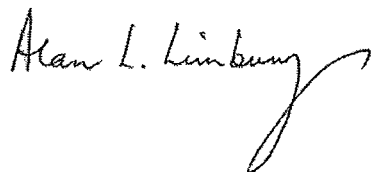
**Sanctions**

5. The Panel requests Swisse Natural Health Care Pty Ltd, in accordance with subregulation 42ZCAI(1) of the Therapeutic Goods Regulations:
  - (a) to withdraw the advertisement from further publication; and
  - (b) to arrange for publication in the earliest possible issue of Women's Weekly a retraction in the form and in the terms of the attachment to this decision; and
  - (c) within 14 days of being notified of this request, to provide evidence to the Panel of its compliance, such as copies of instructions to advertising agents or to the publisher of Women's Weekly.
6. The sponsor's attention is drawn to the provisions of subregulations 42ZCAI(3) and (4) which permit the Panel to make recommendations to the Secretary in the event of non-

compliance with this request, including a recommendation that the listing of the goods be cancelled.

Dated July 2001.

For the Panel

A handwritten signature in cursive script, reading "Alan L. Limbury". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Alan L Limbury  
Chairman

**Attachment**

**Form of retraction** (no other material of the sponsor to be published on the same page)

**RETRACTION**

An advertisement for "Swisse Calvery" published earlier this year in Women's Weekly should not have been published.

The advertisement had not been approved before publication, as required by the Therapeutic Goods Act 1989.

A complaint about the advertisement not being approved was recently upheld by the Complaints Resolution Panel, which determined that:-

- the advertisement was published without first obtaining approval.
- the advertisement differed from an advertisement that had previously been approved.

The Panel requested the advertiser, Swisse Natural Health Care Pty Ltd, to publish this retraction.

Format:

Font: Heading

Type: Times New Roman

Size: 24 point

Case: Upper

Bold

Text

Type: Times New Roman

Size: 14

Case: Sentence

Bold

Text Box: double - 3 pt