

COMPLAINTS RESOLUTION PANEL

Complaint 4-199(2) "Skin Balm"

Individual -v- Swisse H Bio-Juven ("H Bio -Juven")

The Complaint

- 1 The Panel received a complaint concerning an advertisement which appeared on page 147 of the Sunday Telegraph on 31 January 1999 entitled "Breakthrough for Eczema and Psoriasis".
- 2 The complainant, who was a psoriasis sufferer, submitted the advertisement indicating that the complainant was confused and wary about the claims for a new product made in the advertisement.
- 3 The advertisement is an advertorial which makes a number of claims about H Bio -Juven Plantolin Skin Balm. The advertisement contains quotes from representatives of H Bio -Juven and at the bottom a list of stockists.
- 4 In response to the complaint, H Bio -Juven said that the material was controlled by the editors of the Sunday Telegraph and the company only provided the editors with a press release, the rest was left to the editor's discretion. H Bio -Juven also said that the paid advertisement was the half page of stockists only.
- 5 The Sunday Telegraph confirmed that the advertisement was a paid advertisement set entirely from material submitted by H Bio -Juven and that the Sunday Telegraph did not write the editorial on behalf of H Bio -Juven.

Panel Consideration

- 6 Since the advertisement had not been approved under the Therapeutic Goods Regulations and was published by H Bio -Juven in the Sunday Telegraph, the Panel found a breach of regulation 5D(1) of the Therapeutic Goods Regulations.
- 7 The Panel also considered that there were a number of statements in the advertisement which were in breach of the Therapeutic Goods Advertising Code ("Code") and the Therapeutic Goods Regulations under the Therapeutic Goods Act 1989(Cth). These included the statements which are dealt with below.
- 8 The Panel is of the view that the advertisement is designed to arouse unwarranted expectations of product effectiveness through its text, in breach of clause 3.1.2 of the Code. This effect is caused by statements such as:

"a breakthrough for eczema, psoriasis and skin problems using a powerful natural Australian herbal extract..."

"...the most exiting breakthrough we have encountered..."

"...proven to heal skin faster than anything else..."

"...the products' remarkable healing abilities..."

"...remarkable results are being achieved by people who suffer from the more serious skin conditions such as eczema and psoriasis..."

"...the potential for Plantolin is enormous..."

"...the doctors could not believe the condition had cleared..."

- 9 The Panel is also of the view that the advertisement is in breach of clause 4 of the Code because by implication it contains claims which make reference to psoriasis, other than for the relief or treatment of the effects of psoriasis on the skin, without containing the warnings required by clause 4 of the Code.

- 10 The advertisement contains the following statements:

"the product is being hailed as a breakthrough by some of the medical profession as well as consumers"

"'It's drug free, clinically tested and it works,' said Eva Kierzkowska, a leading Pharmacist & Herbalist"

- 11 The Panel is of the view that as a result of these statements, the advertisement contains an implication that:

- (a) the product is recommended by health professionals including doctors, in breach of clause 8.1 of the Code;
- (b) the person conveying the therapeutic claims, namely, Eva Kierzkowska is a pharmacist and herbalist, in breach of clause 8.3 of the Code.

Sanctions

- 12 H Bio -Juven is required to immediately withdraw the advertisement from publication and to notify the Panel in writing that this has occurred within fourteen (14) days of being advised of this determination.

Dated 27 April 1999

For the Panel

L. Oddie

Carolyn Oddie
Alternate Chairperson