

COMPLAINTS RESOLUTION PANEL DETERMINATION

Complaint 15-1101 (Swisse Ultivite) Meeting held February 21, 2002

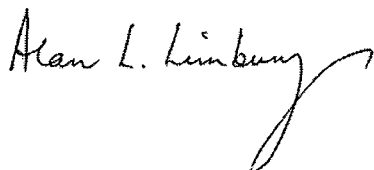
The complaint

1. A complaint was made that an advertisement for Swisse Ultivite published in Good Health News in October 2001 contravened sections 4.1.1(b), 4.1.2(a) and 4.1.2(g) of the Therapeutic Goods Advertising Code by using the expressions "*Tired? Stressed? PMT?*" and "*You'll feel better on Swisse!*" and contravened section 4.4.1(b) [which the Panel takes to be a mistaken reference to 4.4.1(c) of the Code, which was amended in July 2001] by implying professional endorsement in that the label copy depicted states "*formulated by a Professor*" and the text says "*check the label*".
2. The sponsor said it was authorised to use the slogan "*You'll feel better on Swisse!*" as a tag line with the Swisse logo and that this is a registered trade mark. Further the expression "*formulated by a Professor*" does not imply endorsement by a healthcare professional but rather that the formula has been professionally formulated.

Panel consideration

3. The words "*You'll feel better on Swisse!*" appear in fine print as a tag line beneath the Swisse logo at the foot of the advertisement. They do not appear immediately after the headline "*Tired? Stressed? PMT?*" nor in close juxtaposition to it. Taking the advertisement as a whole, the Panel considers that the words will be taken by consumers as a slogan signifying the sponsor's aspirations rather than a promise which could arouse unwarranted expectations. The Panel is mindful that, in other complaints concerning the same product, the Panel has found the very same words to be in breach of the Code when used prominently in association with a similar headline. However here the Panel comes to a different conclusion because of the different presentation, which alters the character of the communication.
4. The words on the label "*formulated by a Professor*" are illegible in the copy of the advertisement provided to the Panel by the Complainant. On the assumption that they are also illegible in the original advertisement, the Panel finds no breach of the Code. However, if legible, those words would be likely to be interpreted by a reasonable reader as a recommendation by a healthcare professional, in breach of Clause 4.4.1(c) of the Code.
5. On the assumption stated, the Panel finds this aspect of the complaint justified.

Dated 6 March 2002
For the Panel



Alan L Limbury
Chairman