

CRP 12-0802

COMPLAINTS RESOLUTION PANEL DETERMINATION

Complaint 12-0802 Swisse Multivitamins 19 September 2002

The complaint

1. On 28 August 2002, the Complaints Resolution Panel received a complaint about an advertisement for Swisse Mens and Women's Ultivite multivitamins that appeared in the Sydney Sunday Telegraph on 28 July 2002.
2. The advertisement entitled "*Take the Swisse Multivitamin Test and be your own judge*" featured a comparative table listing all the ingredients found in Swisse Ultivite and their quantities as apposed to the ingredients and the average quantities of 11 other multivitamins on the market. The advertisement is asking the reader not to be misled by the advertising and terminology used to promote other multivitamins, but rather to do a comparison of the formulae and judge for themselves.
3. The complainant noted that the advertisement did not display an approval number. The complainant was also of the view that the advertisement breaches Clause 4.3 of the Therapeutic Goods Advertising Code (the Code) and that it misleads consumers by implying that good multivitamins must also include herbs and that the comparison is not made between Swisse Ultivite and other multivitamins that contain herbs.

Panel consideration

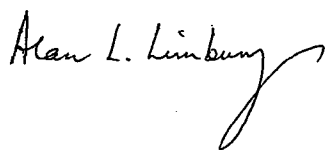
4. The Complementary Health Care Council confirmed the advertisement was approved on 10 July 2002, approval number 31166-01/07. The approval number does not appear in the advertisement and this aspect of the complaint is justified.
5. Clause 4.3 of the Code states that "*comparative claims must be balanced and must not be misleading or likely to mislead either about the product advertised or that to which it is compared...and should not imply that the product to which it is compared is harmful or ineffectual.*"
6. The advertisement does not compare Swisse Ultivite with any other specific product. Accordingly clause 4.3 of the Code cannot apply. This aspect of the complaint is not justified.
7. The Panel found that reasonable consumers would not take the advertisement to be implying that good multivitamins must also include herbs. This aspect of the complaint is not justified.

Matters not specified in the complaint

8. The panel is satisfied that the advertisement to which the complaint relates contains matter that is not mentioned in the complaint, which may contravene the Act, the Regulations or the Therapeutic Goods Advertising Code in other ways. The panel has decided to deal with the matter under subregulation 42ZCAH(1). Accordingly, the panel hereby notifies the sponsor of this decision.
9. Pursuant to subregulation 42ZCAH(3)(a), the Panel will consider whether the advertisement is in breach of clause 4.1.2(c) of the Code in making the comparison between the quantity of the ingredients in Swisse Ultivite and what are claimed to be the average quantities of the ingredients of 11 multivitamin products.
10. Pursuant to subregulation 42ZCAH(3)(b), Swisse Natural Healthcare is invited to send written submissions to the panel, together with any supporting documents.
11. Pursuant to subregulation 42ZCAE(2), the panel requires Swisse Natural Healthcare to produce to the panel, by 14 October 2002 evidence in support of the comparison made in the advertisement. This is to include identification of the 11 products to which Swisse Ultivite was compared, together with a complete list of their ingredients and their quantities.
12. The panel expects to consider this matter at its meeting to be held on 17 October 2002.

Dated 30 September 2002

For the Panel



Alan L Limbury
Chairman