

7 JUN 2012



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Anita Barbara Pty Limited ABN:26 101 460 833 an incorporated legal practice

Our Ref: EB:8073
Your Ref:

5 June, 2012

FAXED

Judith Brimer
Executive Officer
Complaints Resolution panel
PO Box 764
NORTH SYDNEY NSW 2059

Also by facsimile: (02) 9460 2798

Dear Madam

**RE: MERYL DOREY, AUSTRALIAN VACCINATION NETWORK INC
COMPLAINT 2012/04/022**

We refer to the abovementioned matter.

Australian Vaccination Network

In relation to the AVN, it is conceded that there are breaches of section 42DL(g) of the Therapeutic Goods Act (TGA) and sections 4(1)(a), 4(2)(d), 4(2)(g), 4(2)(i) and 4(5) of the Therapeutic Goods Advertising Code (the Code).

Breaches are not admitted for sections 4(1)(b), 4(2)(a), 4(2)(b) and 4(2)(c) of the Code. These are a matter for scientific and medical opinion, however, the AVN are not currently in a position to furnish such evidence.

It is denied that there is a breach of section 4(2)(e)(ii) of the Code as the advertisement never made any suggestion that a person with cancer would be worse off if they chose not to take Black Salve.



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A breach of section 4(2)(f) of the Code is denied as the advertisement made no reference to consumption or quantity of consumption of Black Salve.

A breach of section 42(2)(h) is denied as the advertisement does not claim to be effective in all cases.

It is denied that there is any breach of section 4(4) of the Code as there was no scientific information presented in the advertisement.

A breach of section 4(7) of the Code is denied as the advertisement did not contain any testimonials.

There is no breach of section 5(1) of the Code as the advertisement does not fall within the definition of a prohibited representation in Part 1 of Appendix 6, as it does not make any representations regarding the diseases listed and neither is it a sunscreen. Similarly, there is no breach of section 5(2) of the Code as Black Salve is not a sunscreen by any definition, neither is it obvious that cancer falls within Table 1 to Part 2 of Appendix 6.

Finally, a breach of section 6(3) of the Code is denied as the advertisement was for a DVD not for the good itself.

Meryl Dorey

In relation to Ms Dorey, breaches of sections 4(2)(e)(ii), 4(2)(f), 42(2)(h), 4(4), 4(7), 5(1), 5(2) and 6(3) of the Code are denied for the reasons outlined above.

In relation to section 42DL(g) of the TGA and sections 4(1)(a), 4(1)(b), 4(2)(a), 4(2)(b), 4(2)(c), 4(2)(d), 4(2)(g), 4(2)(i) and 4(5) of the Code, no breaches are admitted.

The Complaint

We are instructed that the subject matter of the complaint is not the subject of any legal proceedings that have not been finally disposed of and neither was any approval required for the publication of the advertisement and/or representations within it.

We enclose a completed Response Form for your attention.

We look forward to hearing from you.

Yours faithfully

JAMES FUGGLE RUMMERY


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Encl/

