

From: [REDACTED]
Sent: Thursday, 22 August 2013 7:49 PM
Subject: Fluoride "advertisements" on Tas and Vic government websites.

I think Bill Turner certainly identified the relevant part of the TG Act in s6, however I believe the application may take a bit more digging and better understanding of the situation in each state. In turn this may inform a broader approach on our part.

Tasmania is simple in that there is one statewide corporation (the Tasmanian Water and Sewerage Corporation) (TWSC) responsible for water fluoridation across the state. The TWSC is registered with ASIC so accordingly the TG Act would apply. The TWSC however has no therapeutic claims on its website that I could locate referring instead to relevant Tasmanian legislation. The therapeutic claims about dental caries are largely contained and made on the Tasmanian government Department of Health and Human Services (DHHS) website www.dhhs.tas.gov.au. Subject to confirmation by legal advice I would suggest that in Tasmania there may be no advertising case for a breach of the TG legislation as:

1. no relevant claims are made on the TWSC website.
2. The DHHS website is outside the scope of the TG Act (s6); and 3. The Tasmanian legislation is in accord with the AHMC National Oral Health Plan 2014-13 and as an endorsed state public health measure may be constitutionally outside the scope of Commonwealth therapeutic goods legislation.

The situation in Victoria appears to be more complicated as water supply is through a series of regional water supply corporations. Time has only permitted investigation of one of these, the South Eastern Water Corporation (SEWC). The SEWC is registered with ASIC and would appear to fall within the scope of the TG Act under section 6. The website also makes therapeutic claims in relation to the prevention of dental caries. As discussed today it is not clear whether the website is referring to a service in this respect and whether the product supplied (reticulated water) would meet the definition of a therapeutic good. I will endeavour to explore the advertising implications further before Monday.

On the far North coast of New South Wales I have been unable to resolve the water supply situation in relation to the TG Act. The supplier Rous Water Council (covering a substantial area of the far north coast around Lismore and Ballina) is referred to in different terms within varying sources. I have confirmed that "Rous Water" is a registered business name with ASIC but have not as yet had direct evidence it is an incorporated body. Accordingly it is likely that Rous Water may be a water supply authority established under NSW local government legislation (a County Council) however the possibility it is an incorporated body cannot be ruled out. In any event it does not appear that Rous Water is making any therapeutic claims in relation to water fluoridation. Should complaints be received about the supply of fluoridated water on the far North Coast and therapeutic claims being made about that supply, this issue may need to be resolved.

It would appear that we may need a more robust approach to potential advertising issues and water fluoridation. On Monday, I would suggest we may need to consider in the first instance whether fluoridated reticulated water can be considered a therapeutic good. We may then progress from there if necessary.
Dave Poulton