



QUICKGUIDE:

How to respond to an advertising complaint about your complementary healthcare product

This information sheet aims to assist members should a complaint be made against one of your complementary healthcare products, in terms of the advertising material. Please refer to “How to make a complaint about a complementary healthcare product” should you wish to make a complaint about a complementary healthcare product being advertised and sold in Australia.

How do I respond to a complaint about the advertising of my complementary healthcare product?

The following tips are intended to assist when responding to a complaint to ensure you provide relevant and useful information to aid the complaints committee in understanding the relevant issues and any accompanying evidence.

- The response should begin with a short, clear summary of the content of the response.
- The response should be presented in a similar way in which the complaint is structured, to enable the committee to easily understand your (the respondent) position on each of the alleged breaches. The response should explain the basis for any disagreement that there is a breach or proactive remedial measures proposed if a breach is acknowledged.
- Where an alleged breach is challenged by you, substantiating evidence should be provided in support of the claims made within the advertisement. This supporting data must be in English. Where the material is written in a language other than English, an independently certified translation must be provided.
- If papers are included in a response, the relevant parts should be indicated, as well as some guidance as to why the papers have been included. All material, including clinical studies and other articles, should be supplied in complete form rather than as an extract/abstract (unless already contained in full in the complaint, in which case only include those pages relevant to the response).
- All documents, especially photocopies, should be easily legible.
- Do not suggest replacement wording for your advertisement, as this will not be reviewed or agreed upon by the committee.
- Do not make a cross claim within the response. Any cross claim constitutes a separate and new complaint and should be submitted as such.



If you receive a complaint:

- ✓ Take the complaint seriously;
- ✓ Address each and every alleged breach;
- ✓ Be clear about why each piece of information has been provided;
- ✓ Address all anomalies between data/product/wording;
- ✓ Provide a summary of the evidence with a coherent argument linking claim to evidence;
- ✓ Attach supporting documentation as appendices;
- ✓ Acknowledge any breaches;
- ✓ State how you will rectify them; and
- ✓ Stick to allowable timeframes.

What doesn't work if you receive a complaint?

- ✗ Do not ignore the complaint
- ✗ Do not be vague, lie or portray the virtuous nature of your company;
- ✗ Do not blame the publisher, include irrelevant information in your response, or refer to what you think your competitors 'get away with';
- ✗ Do not include irrelevant information in your response;
- ✗ Do not provide volumes of information bearing little relevance to the advertised product;

Do not provide information which:

- ✗ refutes advertised claims;
- ✗ is not in English;
- ✗ concludes further research is required;;
- ✗ uses subjects with compromised health;
- ✗ is in-vitro or in animals (other than to support primary evidence);
- ✗ doesn't support claimed synergism.

What if the complaint is upheld?

- ❖ Comply with sanctions;
- ❖ Don't comply:
 - take up with TGA
 - formal appeal offered by CRC.



Regulation of Advertising Therapeutic Goods in Australia

Advertisements for therapeutic goods (including complementary medicines) are subject to the requirements of the *Therapeutic Goods Act 1989* (“the Act”) and the *Therapeutic Goods Regulations 1990* (“the Regulations”), the *Competition and Consumer Act 2010* (previously *Trade Practices Act 1974*) and other relevant laws. All advertisements for complementary medicines directed to consumers must comply with the *Therapeutic Goods Advertising Code 2007* (TGAC). In addition, there is an industry code of practice for complementary healthcare products – the Complementary Healthcare Council of Australia’s (CHC) *Code of Practice for the Marketing of Complementary Healthcare Products*.

[\(http://chc.org.au/Advertising/Complaints/\)](http://chc.org.au/Advertising/Complaints/)

Advertisement, in relation to therapeutic goods, includes any statement, pictorial representation or design, however made, that is intended, whether directly or indirectly, to promote the use or supply of the goods (*Therapeutic Goods Act 1989*). Section 22(5) of the Act specifies that advertising of a therapeutic good can only refer to the indications which are included in the Australian Register of Therapeutic Goods (ARTG) for that specific good.

Generally, advertisements for listed complementary medicines may be directed both to consumers and to healthcare professionals. It should be noted that the Regulations also prohibit advertising to consumers of certain goods, those classified as pharmacist only medicines and which are included in Schedule 3 of the Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP).

Complaints handling processes for advertising of listed complementary medicines

The Complaints Resolution Panel (CRP) receives, considers and determines complaints about advertisements for listed complementary medicines in specified media. Specified media includes TV, radio, the internet, newspapers, magazines, displays (except inside individual shops) and cinematographic film.

Complaints about advertising direct to consumers which does not require pre-approval, or advertising to healthcare professionals, are handled by the relevant industry association under their respective Code of Practice.

The Complaints Resolution Committee (CRC) established by the Complementary Healthcare Council’s self-regulatory *Code of Practice for the Marketing of Complementary Healthcare Products* considers complaints received about breaches of this Code, and breaches of the Act and TGAC in relation to advertisements in non-mainstream media (known as “below the line” material).

Included in ‘below the line material’ for complementary healthcare products are brochures, leaflets, flyers, shelf talkers, newsletters, point of sale material, videos, audio tapes and catalogues as well as any magazine or journals that are not mainstream media.

The TGA reserves the right to intervene in matters where the breaches in advertising are of a serious nature, especially where consumer safety is a concern.