HAVE YOUR SAY

Consultation

Therapeutic and Health Advertising Code

Key Dates

5 June 2025
Consultation Opens

28 July 2025
Consultation Closes

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Introduction

The Advertising Standards Authority

The Advertising Standards Authority (ASA) sets the standards (the codes) for responsible advertising across truthful presentation and matters of social responsibility, within the legal framework for advertising in New Zealand.

It is an industry regulator, and the ASA member organisations represent advertisers, agencies and media companies. It is funded through subscriptions and levies from advertisers and media companies.

Its work is complementary to Government regulators, including the Commerce Commission, Medsafe, Ministry for Primary Industries, the Department of Internal Affairs, the Human Rights Commission and the Chief Censor.

The Advertising Codes

The Advertising Standards Code sets the standards for all ads across all media platforms. Specialist codes are available where more care and a high standard of social responsibility are required. These codes have been developed for categories where there may be vulnerable audiences or products and services that could cause harm, if misused.

The specialist codes are for all advertising to children and for ad categories including alcohol, gambling, financial and therapeutic and health products and services.

Through a principle and rule framework, the codes guide what is acceptable and not acceptable in ads. They apply to both the ad content and where consumers see the ads.

The ASA process for regulating advertising

There are several parts to the ASA process, to support responsible advertising.

The first part is to develop the codes, through a consultation process, which is the purpose of this document.

Once a new code is in place, the ASA provides training across the industry to support compliance during the process of creating the ads and when placement decisions are made

about where the ads will be seen. Nearly 900 industry representatives attended training on code compliance in 2024.

The third step is the free consumer complaints process. The ASA dealt with 1,886 enquiries during 2024, including 1206 formal complaints about 206 advertisements from a range of products and services and advocacy advertising.

Not all ads complained about meet the threshold for the Complaints Board to consider a possible ASA Code breach. The Chair of the Complaints Board accepted 100 advertisements for review by the Complaints Board in 2024 and in 62% of these cases the ASA requested removal or amendment. There is a 99% compliance rate with the decisions of the board.

The Complaints and Appeal Boards have public member majorities and are chaired by public members with extensive experience in complaints adjudication.

The breadth of ASA membership across media platforms provides additional support for decisions by removing the advertising content or not publishing or broadcasting it again to ensure code compliance. The few non-compliant advertisers are generally in unpaid media and are promoting ideas or beliefs under the advocacy advertising rule.

We publish summaries about every ad the Complaints Board considers on our website, www.asa.co.nz.

The effectiveness of industry self-regulation

Advertising is a dynamic and fast-moving industry. Over its 52-year history, the ASA has adapted many times to deal with rapid changes to media platforms, options for direct engagement with consumers advertisers have, and the role of influencers, to name a few.

The advertising industry is highly engaged in ensuring the ASA provides a robust and credible platform for responsible advertising. This applies to the life cycle of advertising from concept to execution to placement.

Codes are reviewed regularly to ensure they are fit for purpose. We actively work with the industry on training and education and our complaints process is quick and flexible with the staff and Boards working hard to promptly address complaints.

The average time for the Complaints Board to deal with complaints is 18 working days. If a complaint is more complex or involves multiple advertisements, the process may take several weeks. A single complaint will trigger the process to review an advertisement.

In contrast, complaints processes anchored by legislation are more complex, take longer and cost more – either to the parties involved in the complaint or the taxpayer.

The purpose of the Therapeutic and Health Advertising Code

The primary purpose of the Code is to set out rules that restrict what advertisers can do and say when advertising therapeutic and health products and services.

The Code is one tool in the regulatory framework that includes legislation like the Medicines Act (Therapeutic Products Act), the Food Standards Code (nutrient and health claims), and the Dietary Supplements regulations. There are also several industry codes including Medicines NZ (prescription medicines), Consumer Health Products New Zealand (over the counter medicines and dietary supplements), the Medical Technology Association of NZ, (medical devices) and Cosmetics New Zealand (members only).

The Code sets out requirements for social responsibility, including rules on safety and effectiveness and vulnerable audiences. The Code also requires advertising to be truthful when making claims and for the advertiser to hold the appropriate level of substantiation prior to the publication of the advertising.

The 2025 Review of the Therapeutic and Health Advertising Code

The ASA Codes Review Policy requires codes to be reviewed regularly to ensure they are fit-for-purpose. There has been a delay in the review of the Therapeutic and Health Advertising Code in part due to the timing of legislative changes. The legislative framework continues to be uncertain, but the ASA has agreed to progress this Code review. The Code includes the following statement:

"For the avoidance of doubt, where legislation relevant to this Code has been updated and/or if a conflict occurs in relation to legislative and code requirements, legislative requirements will prevail."

Once the new legislation is in place, the Code will be checked and any significant legislative changes that impact on the Code will be addressed.

As part of its review process, the Codes Committee will consider relevant Complaints Board decisions (see Appendix 2 - Complaints Summary), any significant changes in legislation and generally prevailing community standards. The structure of the Code will also be updated to reflect a new format used in recent new Codes (Children and Food and Beverage).

The draft Code in Appendix 1 reflects the work of the Committee to date to reflect the new Code format and an effort to simplify the wording. There will be additional resources to provide some of the information in the current Code – for example a resource on mandatory information.

The Committee agreed it would support a more meaningful consultation process to provide a draft updated Code for submitters to comment on. If there is content in the current Code that you think should be included – please note that in your submission.

The ASA Governance Board is responsible for approving the Codes Committee work plan, the review process and the final Code.

What is in the current Code?

The Code has two principles with rules and guidelines that set out requirements when advertising therapeutic and health products and services and guide assessment of code compliance.

It is important to note that this code may also apply to products and services that are not usually considered to be therapeutic and health products or services – if the advertising includes a therapeutic or health benefit claim – for example food and beverage products or cosmetics.

Principle 1 requires advertisers to apply a high standard of social responsibility when advertising products and services in the therapeutic and health category.

Principle 2 covers truthful presentation and includes rules on inappropriate or excessive use, comparative advertising, sponsorship and endorsements.

The Process

Scope of this Consultation

To facilitate the code review process, the Codes Committee is seeking your views on all aspects of a draft Therapeutic and Health Advertising Code. It would be helpful if you had evidence to support your proposed changes.

Your feedback will help inform any further changes to the new draft Code.

The new draft Therapeutic and Health Advertising Code (Appendix 1) has been developed by the Codes Committee and is based on the following:

- The structure of other recently updated ASA Codes.
- The principles and rules in the current Therapeutic and Health Advertising Code.
- Complaints and Appeal Board decisions.

We value your contribution

The ASA welcomes views from all sectors to help the existing regulatory framework for therapeutic and health advertising to support responsible advertising.

Please provide your submission using the form in Appendix 3. This will greatly assist the Codes Committee to review the feedback received on each aspect of the Code raised in submissions.

Consultation Process

Consultation opens on 5 June 2025 and will close at 5pm on 28 July 2025.

Submissions can be made:

1. Email to asa@asa.co.nz

2. Post to:

   Advertising Standards Authority Inc
   PO Box 10675
   Wellington 6140

Submissions should include your name, contact phone number and email address along with advice regarding your preferred form of contact.

The Codes Committee may release submissions from this consultation to the public at the conclusion of the review. If this happens, all submissions will be made public unless you advise us otherwise. Your contact details will be removed. **Please advise if you do not want your submission to be released.**

If you are not the right person in your organisation to respond, we would be grateful if you could please forward this request.

Help spread the word

If you know of other individuals or organisations who would also be interested in providing a submission, please forward this information to them.

Next steps

The Codes Committee has directly invited submissions from a range of organisations including those in the advertising industry and health sector.

The Codes Committee may consider oral presentations from some submitters if there is a need to better understand any of the issues raised.

The Committee will review submissions to inform its final view and the final wording for the draft Codes.

The Committee's report and the code will then be referred to the ASA Governance Board with a recommendation to accept the report and the codes.

The Committee's report, including the new code, will also be published.

Key Issues for Comment

Submitters are invited to comment on any part of the draft Code, but the Codes Committee would particularly welcome views on the following issues:

Testimonials and Endorsements
Vulnerable Audiences

Testimonials and Endorsements

The current Code has Rules on Endorsements (2 (e)) and Testimonials and Healthcare Professional Endorsements (2 (f)):

Rule 2 (e) Endorsements Advertisements shall not claim or imply endorsement of the product, device or service by any government agency, professional body or independent agency unless there is prior consent, the endorsement is current, verifiable and the agency or body is named.

Rule 2 (f) Testimonials and healthcare professional endorsements Patient testimonials and healthcare professional endorsements in advertisements, where not prohibited by law, shall comply with the Code, be authenticated, genuine, current, and typical and acknowledge any valuable consideration. Exceptional cases shall be represented as such.
Current Guidelines: The Medicines Act Section 58 (1) (c) (iii) prevents the use of patient testimonials in advertisements **to consumers** for medicines or medical devices or methods of treatment where a therapeutic benefit is obtained (Note: Section 60 of the Medicines Act exempts advertisements that are circulated solely or principally to healthcare professionals). This means that an advertisement to consumers cannot include (or imply) a patient (or group of patients / class of people) with a medical condition or disease, taking a medicine, using a medical device or have accessed a method of treatment and showing in some way that they have benefited from it. Testimonials for natural health products and dietary supplements, and health services to support a normal bodily function are permitted. However, these testimonials should not

include any information that implies the product is a medicine or medical device or that the service has a therapeutic benefit. This is likely to breach the Medicines Act. The content of testimonials must be consistent with the claims allowed in the advertisement for these products and services.

Questions:

Are the current rules on endorsements and testimonials (included in the draft code) sufficient and clear and reflective of the legislative requirements? If not, please suggest other wording.

Do you support the inclusion of the definitions on endorsements and testimonials from the Medicines Act in the Code? If not, please suggest other wording.

Background

The use of testimonials and endorsements have become increasingly popular with advertisers with the rise of more advanced websites, social media platforms and the use of Influencers by advertisers to promote their products. Advertisers of health products (including natural health / dietary supplements) like to share the feedback from their customer base and use Influencers to promote their products and services.

Like the legal requirement for mandatory information in advertisements, there are also requirements and restrictions on the use of testimonials and endorsements. These are set out in legislation and various industry and organisational Codes of Ethics.

To assist with formulating feedback in this area, please note the following sourced from the Medicines Act:

'Healthcare Professional Endorsement' *'… has been used or recommended by a practitioner, nurse, or pharmacist, or by any other person qualified to provide therapeutic treatment in the course of a profession or occupation and registered under any enactment as a person so qualified, or by a person who is engaged in study or research in relation to any of those professions or occupations or the work performed by persons employed therein'.*

'Testimonial' *- an uncontrolled anecdotal report of the beneficial therapeutic effect of a product or treatment or service for one individual or of a class of persons- be they named or unnamed, be they real or fictitious.*

Specifically, the Medicines Act (Section 58 (1) (c) (ii) & (iii)) states.

Section 58. Further restrictions on advertisements

(1) Subject to section 60 of this Act, no person shall publish, or cause or permit to be published, any medical advertisement that-

(c) Directly or by implication claims, indicates, or suggests that a medicine of the description, or a medical device of the kind, or the method of treatment, advertised-

(ii) is or has been used or recommended by a practitioner, nurse, or pharmacist, or by any other person qualified to provide therapeutic treatment in the course of a profession or occupation and registered under any enactment as a person so qualified, or by a person who is engaged in study or research in relation to any of those professions or occupations or the work performed by persons employed therein; or

(iii) has beneficially affected the health of a particular person or class of persons, whether named or unnamed, and whether real or fictitious, referred to in the advertisement.

Discussion

Restrictions in Section 58 mean that where a product is classified as a "medicine" or "medical device" or a "method of treatment" then either testimonials (iii) or professional endorsement (ii) in advertisements are likely to be in breach of section 58 of the Medicines Act.

A "testimonial" as defined by Section 58 (1) (c) (iii) of the Medicines Act is essentially considered to be an uncontrolled report of the beneficial therapeutic effect of a product or treatment or service on one individual or of a class of persons.

This is because testimonials are anecdotal without professional observation and without the relevant objective scientific indicators. They may also not apply to the population as a whole.

A testimonial in an advertisement for a medicine, a medical device or a method of treatment could also unduly influence a consumer hence the restriction set out in section 58 (1) (c) (iii) of the Medicines Act.

Healthcare professional endorsement covers medical practitioners, nurses, pharmacists, physiotherapists or any person qualified to provide therapeutic treatment during a profession or occupation and registered under any enactment as a person so qualified.

Endorsement by any health professional i.e. a person qualified to provide treatment in the health area, is a breach of section 58 (1) (c) (ii) of the Medicines Act for any product classified as a "medicine" or “medical device” or any service classified as a “method of treatment”. This precludes doctors, pharmacists or other health professionals endorsing or promoting a "medicine" or “medical device” or “method of treatment”.

This can also apply to people who appear to be healthcare professionals (e.g. in "white coats") in advertisements. This imagery can give the perceived authority of professional endorsement in support of a particular product or service.

For Natural Health Products and Dietary Supplements that are not classified as medicines – a testimonial for this group of products could be in breach of the Medicines Act if a therapeutic claim is made in the testimonial.

A testimonial for this type of product should not make a therapeutic claim and should not suggest directly or by implication the product has beneficially affected the health of an individual.

Under current legislation, testimony that does not directly or indirectly imply a therapeutic purpose is permitted. Such testimony should be carefully considered. It could include customer feedback as to ‘how quickly they received their order’ or ‘how helpful the customer service team were’ (without going into specifics on any health condition) or ‘how they have received their product and they are looking forward to using it’ (again, with no mention of any health condition).

Note, under the ASA Codes, product reviews not controlled by the advertiser, are not considered advertising. Advertiser control may include subscribing to a product review service and the ability to monitor and remove user-generated comments on social media.

From 2018 to 2024, 27 complaints to the ASA referred to testimonials and most have been settled with the ads changed or removed.

Vulnerable Audiences

Rule 1 (c) of the current Code states:

Advertisements should not portray unrealistic outcomes or prey on or misrepresent vulnerable audiences (e.g. sick, elderly, pregnant women, overweight people).

Discussion

This rule has been revised in the draft Code and the Codes Committee has discussed whether a definition of 'vulnerable audiences' is required.

The revised rule states:

Advertisements must not portray unrealistic outcomes, prey on fear, or misrepresent vulnerable audiences.

- Advertisements must not promote a sense of urgency for purchase which could result in irresponsible consumption
- Advertisements must not provide an unrealistic sense of body image or promote an unhealthy lifestyle or create undue pressure to conform

The Committee notes vulnerable audiences are groups of people who might be more easily influenced or harmed by advertising due to certain characteristics or situations. These can include mental or physical health issues, age (very young or elderly), a tendency to believe things easily (credulity), economic status, social isolation, or specific challenging circumstances like bereavement or financial issues.

When applying the Code to an advertisement, a key consideration is the likely consumer takeout. If the ad is aimed at a particular audience, then it will be assessed from the average person in that audience. This could include a younger audience, a more mature audience, parents or caregivers of young children etc.

Questions:
Do you have any comments on the updated wording for Rule 1 (c) in the draft Code?

Would a definition of "vulnerable audience' be helpful in applying this Rule? If yes, do you have any suggested wording?

Issues Outside the Scope of this Review

From time to time, submitters may raise issues that are outside the scope of the ASA and its codes during a code review process. These issues will be referred to the relevant government and non-government organisations, however, to assist submitters, it is noted that this review is **not** able to assist in the following areas.

1. Product names, packaging and labels

The Therapeutic and Health Advertising Code does not apply to the naming, packaging and labelling. However, when a name, label or packaging appears in an advertisement it forms part of the advertisement and therefore any visible aspects are covered by the Code.

The code applies to advertising and advertisements. The ASA definition is:

Definition of Advertisement

"Advertising and Advertisement(s)" means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

The Code does not apply to content not controlled by the advertiser.

2. Product development, formulation, availability

The ASA does not have jurisdiction over product development and related matters.

3. Events

The ASA does not have jurisdiction over events and other marketing activities undertaken by advertisers that do not meet the definition of advertising. However, the Code applies to any advertising promoting the event or activity.

4. Editorial / programme content

The ASA does not have jurisdiction over editorial content or programme content where there is no advertiser control.

5. Sponsorship agreements

The ASA does not have jurisdiction over commercial sponsorship agreements between organisations and advertisers. However, advertisements that refer to or feature a sponsorship agreement are covered by the Code.

6. Legislation

The ASA Codes reflect and support current legislation that relates to advertising. Requests for Government regulation of specific products or services are not within the scope of the ASA codes or the ASA code review process.

APPENDIX 1

Draft Therapeutic and Health Advertising Code

The ASA Therapeutic and Health Advertising Code must be read in conjunction with the Advertising Standards Code.

Purpose of the Code
The purpose of this Code is to ensure that advertisers maintain rigorous standards in therapeutic and health advertising.

All advertising shall adhere to the laws of New Zealand and the Principles and Rules set out in this Code. The ASA Advertising Standards Code should also be consulted. Many therapeutic and health industry sectors have their own codes with specific advertising requirements, and these should also be referred to by advertisers to ensure their activity is compliant.

ASA Definition of Advertisement
"Advertising and Advertisement(s)" means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

Application of the Code

This Code covers **all words, visual depictions and conveyed context** in advertising:

- for therapeutic products - (medicines and medical devices),
- health products - (natural health products / complementary health care products including herbal products, dietary supplements and homeopathic products, weight management products and programmes),
- health services.

This Code may also apply when therapeutic or health claims are made in advertisements for other products or services not explicitly referred to in this code.

This Code does not apply to labels or packaging. However, when a label or packaging appears in an advertisement it forms part of the advertisement and therefore any visible aspects of the label and / or packaging are covered by this Code. Further information on jurisdiction is available in the ASA Explanatory Note on Jurisdiction and Scope.

Interpreting the Code
Social responsibility in advertising is embodied in the Principles and Rules of the Code. In interpreting the Code, emphasis must be placed on compliance with both the spirit and intention of the Code.

It is possible for advertising to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule.

In determining whether a Principle has been breached, the Complaints Board will have regard to all relevant matters, including;

- generally prevailing community standards;
- previous decisions;
- the consumer takeout from the advertisement;
- the context, medium and intended audience; and
- the product or service being advertised.

For the avoidance of doubt, where legislation relevant to this Code has been updated and/or if a conflict occurs in relation to legislative and code requirements, legislative requirements will prevail.

Definitions for the purposes of this Code:

Healthcare Professional in this Code has the same meaning & interpretation as the Medicines Act – i.e. A health practitioner who is, or is deemed to be, registered with an authority established or continued by the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession. Healthcare Professional (HCP) includes members of the medical, dental, pharmacy or nursing professions and any other persons who in the course of their professional activities may prescribe, supply, recommend or administer a medicine.

Health Product- for the purposes of this Code a Health Product includes products often referred to as natural health products or complementary health care products. Health Products include:

- herbal products,
- dietary supplements,
- homeopathic products,
- weight management products and programmes,
- health services and
- methods of treatment.

A Health Product has the primary purpose of providing support for an individual's normal and natural health.

Health Claim – Means any one of the following:

(a) a statement that is in support of the normal and natural physiological structure and function of the body
(b) nutritional support
(c) vitamin or mineral supplementation support
(d) supporting the normal structure or natural function of the body

Health Claims in advertisements for a Health Product must be supported by scientific or traditional substantiation. Only products that meet the definition of a Health Product in this Code may make a health claim in advertisements.

Health Services – Services that offer a method of treatment for a range of medical conditions OR services that offer support for normal healthy body functions. Providers may or may not be

registered health professionals (as defined in the Medicines Act). May include (but not limited to), services for Medicines, Surgery, Physiotherapy, Nursing, Rehabilitation, Diagnostics, Psychotherapy, Counselling, Fertility, Sterilisation, Relaxation Massage, Homeopathy, Naturopathy, Chiropractic, Acupuncture, Traditional Chinese medicine and Ayurvedic medicine.

Mandatories are the required legislative and / or industry Code information needing to be included in advertising in whatever format or platform such advertising may appear. Mandatories provide the consumer with additional information that promotes the safe and efficacious use of the product and helps the advertising to be socially responsible. Mandatories are not 'disclaimer' information.

Medicine – Medicines are any substance or article or active ingredient that is manufactured, imported, sold, or supplied wholly or principally for administering to one or more human beings for a therapeutic purpose (see definition below for therapeutic purpose). A medicine achieves, or is likely to achieve, the principal intended action in or on the human body by pharmacological, immunological, or metabolic means.

Only medicines that have been evaluated by Medsafe and have consent to distribute may be advertised in New Zealand. The medicine(s) advertised may be available on prescription or may be purchased over-the-counter.

A product can be a medicine in three ways.

1. It is, or contains, a scheduled ingredient
2. A therapeutic claim is made on the label or in advertisements
3. It is a product with consent to distribute

Medical Device – Medical Devices are devices that have a therapeutic purpose (see definition below for therapeutic purpose). A product can appear to be a Medical Device by virtue of the way it works or the claims that are made on the label or in advertisements. See Section 3(a) of the Medicines Act 1981 (Meaning of Medical Device).

Substantiation is the requirement for verification, confirmation, evidence or proof that a claim made by an advertiser is true. Consumers need to have confidence the advertiser has a reasonable basis for making the claim. Therefore, claims should be supported by sound, relevant, clear and robust evidence. When making a claim, advertisers should ensure they have the evidence to prove it. The level of evidence will depend on the type of product or service and the claim being made.

Therapeutic Purpose – The Medicines Act provides the following definition:

(a) preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury; or
(b) influencing, inhibiting, or modifying a physiological process; or
(c) testing the susceptibility of persons to a disease or ailment; or
(d) influencing, controlling, or preventing conception; or
(e) testing for pregnancy; or
(f) investigating, replacing, or modifying parts of the human anatomy.

Only medicines with consent to distribute in New Zealand and medical devices can claim to have a therapeutic purpose in advertisements.

A therapeutic purpose claim in an advertisement will likely refer to a medicine(s) or medical device that has a therapeutic effect on an actual or implied medical condition / disease or physiological process.

A therapeutic purpose claim may be accompanied by words such as enhance, improve, prevent, interfere with, terminate, reduce, increase, accelerate, inhibit, boost, treat, relieve, diagnose and stimulate (this is not an exhaustive list). For medicines, the therapeutic claims(s) must be consistent with the indication(s) that have been registered for the product. For Medical Devices, any therapeutic purpose claims must be in line with the products intended purpose as detailed in the Device WAND (*WAND = Web Assisted Notification of Devices*).

Additional Guidance

In New Zealand, ANZA (Association of New Zealand Advertisers) facilitates a service from independent adjudicators called the Therapeutic Advertising Pre-vetting Service (TAPS). TAPS is a user-pays pre-vetting process for advertisers. To access the formal TAPS service for review of individual advertising materials, an advertiser must first register with ANZA which is free of charge.

TAPS has also developed guidance documents on a range of matters for therapeutic and health products and services to support responsible advertising. These documents are available free of charge on the ANZA website.

PRINCIPLE 1: SOCIAL RESPONSIBILITY

Therapeutic and Health advertisements shall observe a high standard of social responsibility particularly as consumers often rely on such products, devices and services for their health and wellbeing.

Rule 1 (a) Mandatory Information

Advertisements must contain the mandatory information relevant to the product or service being advertised.

The required information must be legible and/or audible with care taken to ensure the following:

- Written text must be large enough, clear enough and present long enough to be easily read
- Spoken language must be clear and at a speed able to be understood by consumers.

Advertisers must be aware that mandatory information that is not legible / audible / easily understood by the chosen audience may be deemed to be not present within the advertising.

Specific information on the mandatories required for each classification of medicine, medical device, health product, health service, weight management product or programme can be found in the Medsafe guidelines and on the TAPS /ANZA website.

Rule 1 (b) Safety and effectiveness

Advertisements must not contain any claim, statement or implication that the products, devices or services advertised:

- are safe or that their use cannot cause harm or that they have no side effects or risks.
- are effective in all cases
- are infallible, unfailing, magical, miraculous, or that it is a certain, guaranteed or a sure cure
- are likely to lead consumers to believe that;
    - they are suffering from a serious ailment, or
    - harmful consequences may result if the therapeutic or health product, device or service is not used

Rule 1 (c) Vulnerable audiences

Advertisements must not portray unrealistic outcomes, prey on fear, or misrepresent vulnerable audiences.

- Advertisements must not promote a sense of urgency for purchase which could result in irresponsible consumption
- Advertisements must not provide an unrealistic sense of body image or promote an unhealthy lifestyle or create undue pressure to conform

PRINCIPLE 2: TRUTHFUL PRESENTATION

Advertisements must be truthful, balanced and not misleading. Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

Rule 2 (a) Truthful Presentation

Advertisements must be accurate. Statements and claims must be valid and able to be substantiated. Substantiation must exist prior to a claim being made. For medicines and medical devices, therapeutic claims must be consistent with the registered indication(s) (for medicines) or the WAND * listed intended purpose (for medical devices). **WAND = Web Assisted Notification of Devices* For Health Products, the substantiation must not rely on material that in its content includes a therapeutic claim or purpose being made for the ingredient(s) concerned. Such reference/ substantiation is likely to result in an implied therapeutic claim being made for the product being advertised. Health Products are not permitted to make a therapeutic claim.

Please note: The WAND database is not accessible to members of the public or any other party except Medsafe and the New Zealand sponsor.

Rule 2 (b) Inappropriate or excessive use

Advertisements must not encourage, or be likely to encourage, inappropriate or excessive purchase or use. Advertisements for prescription medicines must not encourage, or be likely to encourage, inappropriate or excessive prescriptions or requests for a prescription.

Rule 2 (c) Scientific language and Use of Data

Where permitted, the use of scientific language in advertisements is acceptable providing that it is appropriate to, and readily understood by, the audience to whom it is directed. Advertisements must not use results from tests and surveys, research or quotations from scientific literature in a manner that is misleading or deceptive. Any scientific research referred to in Health Product advertisements must not contain therapeutic claims.

Rule 2 (d) Comparative advertising

Comparative advertisements, or advertising that identifies a competing product or service, must be factual, accurate, make clear the nature of the comparison, must not denigrate competitors and must be of 'like' products or services available in the same market.

- Comparative advertisements must not be disparaging and must be factual, and able to be substantiated, referenced to the source and reflective of the body of available evidence.
- Comparative advertisements must not discourage consumers from following the advice of their healthcare practitioner.
- Comparative advertisements must compare 'like with like'. Advertisements for health products must not include comparisons (either direct or implied) with medicines or medical devices either specifically or generally.

Rule 2 (e) Endorsements

Advertisements shall not claim or imply endorsement of the product, device or service by any government agency, professional body or independent agency unless there is prior consent, the endorsement is current, verifiable and the agency or body is named.

Rule 2 (f) Testimonials and healthcare professional endorsements

Patient testimonials and healthcare professional endorsements in advertisements, where not prohibited by law, shall comply with the Code, be authenticated, genuine, current, and typical and acknowledge any payment received (money or another exchange of value (products or services)). Exceptional cases shall be represented as such.

Rule 2 (g) Sponsorship

Advertisements may include reference to the advertiser's sponsorship, if the sponsorship is explicitly acknowledged and cannot be misconstrued as an endorsement of the product, device or service being advertised.

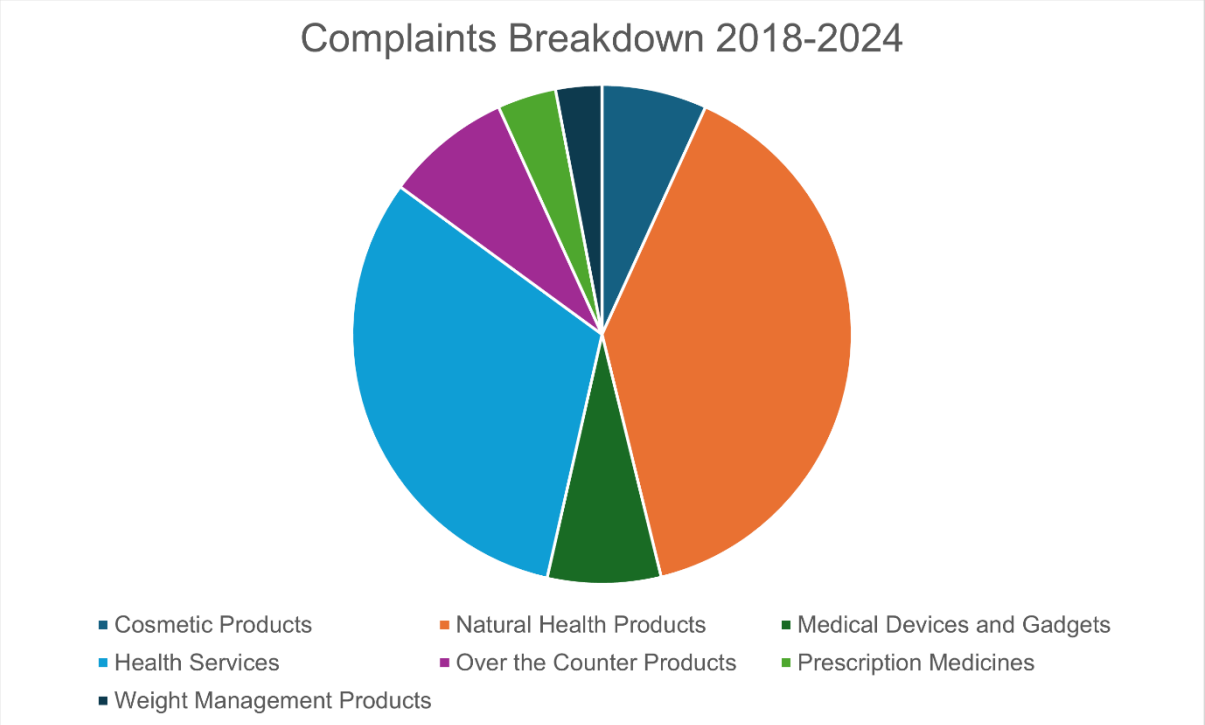
APPENDIX 2

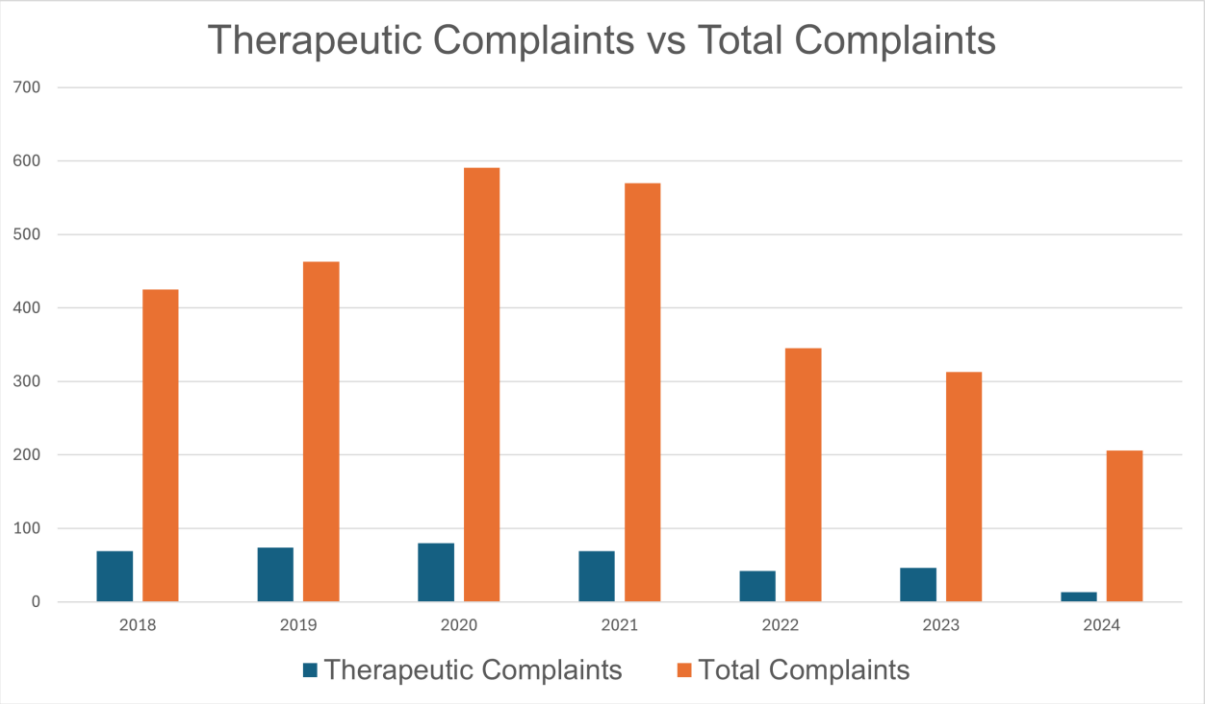
Complaints Summary

In a review of the complaints in the therapeutic category from 2018 to 2024, most are accepted by the Chair to be considered by the Complaints Board and the majority of those are upheld or settled – the advertisements are removed or changed.

The two key drivers of this are most complaints are about misleading claims, and often advertisers either do not hold the substantiation to support the claims or the evidence provided to the Board is not sufficient.

The following graphs show a breakdown of the complaints by category over the period from 2018 to 2024 and the share of therapeutic complaints compared to the overall complaints received in each year.




Therapeutic Complaints vs Total Complaints
700
600
500
400
300
200
100
0
2018
2019
2020
2021
2022
2023
2024
Therapeutic Complaints
Total Complaints

APPENDIX 3

Submission Form

2025 Therapeutic and Health Advertising Code Review Submission Form

You do not have to provide feedback on every section. Please email your completed form to asa@asa.co.nz or post to:

Advertising Standards Authority
PO Box 10675
Wellington 6140

Section 1 – Submitter Details

Name:

Organisation:

Contact Details:

Please check this box if you do NOT want this submission published ☐

Section 2 – Issues for Comment

Testimonials and Endorsements

The current Code sets out restrictions on testimonials and endorsements based on the Medicines Act.
Are the current rules on endorsements and testimonials sufficient and clear and accurately reflect the legislative requirements? If not, please suggest other wording.
Do you support the inclusion of the definitions from the Medicines Act in the Code? If not, please suggest other wording.
Please provide any additional comments you have in relation to testimonials and endorsements in therapeutic and health advertising that are relevant to this Code review.
The Committee would appreciate any advertisement examples that support your recommendations.

Vulnerable Audiences

Rule 1 (c) covers vulnerable audiences: Advertisements must not portray unrealistic outcomes, prey on fear, or misrepresent vulnerable audiences. • Advertisements must not promote a sense of urgency for purchase which could result in irresponsible consumption • Advertisements must not provide an unrealistic sense of body image or promote an unhealthy lifestyle or create undue pressure to conform
Do you have any comments on the updated wording for Rule 1(c) in the draft Code?
Would a definition of “vulnerable audience’ be helpful in applying this Rule? If yes, do you have any suggested wording?
Please provide any additional comments you have in relation to vulnerable audiences in therapeutic and health advertising that are relevant to this Code review.
The Committee would appreciate any advertisement examples that support your recommendations.

Section 3 – Other aspects of the Code

Please provide your comments on any other aspect of the Code that has not been addressed elsewhere in this form.

Please name the Principle, Rule or Guideline you are commenting on.
Comments
The Committee would appreciate any advertisement examples that support your comments or recommendations.
Please include any other general comments you wish to make about the current Code here at the end of this form.