

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Dr James Seddon
Advertiser	Faithful to Nature CC
Consumer/Competitor	Consumer
File reference	Faithful to Nature / Dr James Seddon
Outcome	Dismiss
Date	19 July 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Dr James Seddon against an email advertisement he received from Faithful to Nature.

Description of the advertising

The advertisement features an image of a sick child and her father taking her temperature. The headline states: *"Get Your Little Ones Through Sniffle Season!"* Below the headline it states: *"Winter is nearly upon us folks, and as the temperatures get lower and the nights get longer, we all tend to start paying a little more attention to*

the state of our health. Our little ones are so susceptible to picking up sniffles from all their friends at school which starts to spread like wildfire. Keep their developing immune systems in tip-top shape through the changing seasons by supplementing with our ranges of clean, natural health boosters.”

The advertisement also features the following products: Little Gems Homeopathic Kits; Efficient Microbes Rawbiotics Kids; Pure Herbal Remedies Kiddies Snotty Totty; KiddieKix Breathe Easy Chest Rub; and Solgar Kangavites Multivitamin.

Underneath the picture of the Pure Herbal Remedies Kiddies Snotty Totty product, it states: *“8 Herbal extracts in a convenient spray bottle. Actively fights infections & excess mucous.”*

Complaint

The Complainant took issue with the claims, *“Keep their developing immune systems in tip-top shape through the changing seasons by supplementing with our ranges of clean, natural health boosters”* and *“Actively fights infections & excess mucous.”*

He submitted that the idea of immune boosting is a fallacy and not medically recognised. He explained that as a paediatric infectious disease and immunology specialist, he objects to ill-informed consumers being misled and coerced into spending money on products that they believe will protect their children from illness, when there is no peer-reviewed scientific evidence to support these claims.

Response

The Advertiser argued that the terms "immune booster", "immune support" and "immunostimulant" can be used interchangeably. According to the Merriam-Webster Medical dictionary, an "immune stimulant" can be defined as an agent that stimulates an immune response. In response to the submission that “immune boosting” is not a

medically recognised term, the Advertiser quoted from a number of scientific journals which make reference to natural immune boosters:

- *"Most herbs for the immune system are general immunostimulants. They increase the activity of the immune system by mobilizing effector cells which act against all foreign particles, rather than just one specific type. Echinacea is the best known and one of the most researched of immunostimulants. A number of other herbs are powerful tonics which strengthen the immune system. They have been known to support T-cell function, activate macrophages and help rebuild bone marrow reserves."* - O.A. Odukoya, S.I. Inya-Agha and O.O. Ilori, Immune Boosting Herbs: Lipid Peroxidation in Liver Homogenate as Index of Activity. Journal of Pharmacology and Toxicology.
(<https://scialert.net/fulltextmobile/?doi=jpt.2007.190.195>)
- *"Plants are rich in flavonoids, vitamin C, or the carotenoids so can enhance immune function. Their beneficial effect named as anti-inflammatory and as an immune-stimulant action. It can promote the activity of lymphocytes, increase phagocytosis, and induce interferon production. Garlic as an immune system booster has been found to exert an immune-potentiating effect by stimulating natural killer cell activity."* - Khodadadi S, Role of herbal medicine in boosting immune system. Immunopathol Persa (<http://immunopathol.com/PDF/ipp-1-e01.pdf?t=636990545180560401>).
- *"The results demonstrate that Echinacea, Astragalus and Glycyrrhiza herbal tinctures stimulated immune cells as quantified by CD69 expression on CD4 and CD8 T cells. This activation took place within 24 h of ingestion, and continued for at least 7 days. In addition, these three herbs had an additive effect on CD69 expression when used in combination."* – J Brush et al. The effect of Echinacea purpurea, Astragalus membranaceus and Glycyrrhiza glabra on CD69 expression and immune cell activation in humans. Phytotherapy Research.
(<https://onlinelibrary.wiley.com/doi/abs/10.1002/ptr.1938>)

- *"Colostrum is the most potent natural immune booster known to science. In the early stages of lactation, IgA, anti-inflammatory factors and, more likely, immunologically active cells provide additional support for the immature immune system of the neonate."* - Palmeira, Patricia, & Carneiro-Sampaio, Magda. (2016). Immunology of breast milk. *Revista da Associação Médica Brasileira*.
(<https://dx.doi.org/10.1590/1806-9282.62.06.584>)
- *"Botanical supplements are used worldwide for boosting the immune response and reducing pathogen-associated symptoms."* - Plant Extracts: A Natural Immune Booster for Ulcerative Colitis. Shah S.B. (2011) *Gastroenterology* ([https://www.gastrojournal.org/article/S0016-5085\(11\)01165-6/fulltext](https://www.gastrojournal.org/article/S0016-5085(11)01165-6/fulltext)).

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Substantiation – Clause 4.1 of Section II;

Misleading claims – Clause 4.2.1 of Section II.

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

The Directorate is faced with a challenge – the complaint is fairly wide and non-specific in nature. The Directorate notes that the Complainant takes issue with:

- The whole concept of immune boosting which he states is a fallacy and not medically recognised;
- Two specific claims, being:
 - actively fights infections and excess mucus

- Keep their developing immune systems in tip-top shape through the changing seasons by supplementing with our ranges of clean, natural health boosters.

The Directorate starts by noting that there is no rule saying that advertising of complementary medicines can only use medically recognised terms. The only question that the Directorate is charged with is whether consumers are misled by the advertising.

The second issue that the Directorate wishes to dispose of is the question of “peer reviewed scientific evidence”, which is what the Complainant calls for. It must be understood that the ARB is not mandated to regulate medicines. As things stand, there are a number of medical paradigms. The medicine that we associate with getting from the doctor is usually allopathic medicine, which finds its proof in peer-reviewed double-blind placebo controlled testing. However, there are a number of other paradigms, including homeopathic medicines and herb based medicines. These paradigms are not tested in the same way as allopathic medicines, and therefore many consumers and medical professionals have less faith in their efficacy. However, some consumers choose to trust in these paradigms. It is not the role of the ARB to dictate which medical paradigms are correct.

The ARB will ask itself:

- Is it clear to the consumer what type of medicine they are taking/ what paradigm they are subscribing to?
- Are the claims for the product true in the context of that paradigm?

Taking this into account, the Directorate turns its attention to the actual complaint before it.

The first question is whether the reference to immune-boosting is *per se* misleading.

The Directorate notes that the overall impression created by the Advertiser’s website makes it very clear that the products advertised are not allopathic in nature. The name “Faithful to Nature”, as well as the overall look and feel of the website, make it clear that this is a source of alternative, natural remedies.

The Advertiser has submitted a number of articles showing that the term “immune boosting” is well established in the relevant paradigm. It is also noted that it is a self-explanatory term – the consumer would expect that the advertised products, within the context of the natural remedy paradigms, have been shown to boost immunity. There is nothing confusing about this.

The Directorate therefore notes that the references to immune boosting is not *per se* misleading.

The Complainant has highlighted two specific claims:

- actively fights infections and excess mucus
- Keep their developing immune systems in tip-top shape through the changing seasons by supplementing with our ranges of clean, natural health boosters.

There was some debate amongst the Directorate as to whether the Complainant had in fact taken issue with these claims, or had just raised them as part of his argument that immune boosting is a fallacy.

This is important – if the Complainant was calling for substantiation of these claims, the Advertiser would have been expected to submit proof of the specific claims in terms of Clause 4.1 of Section II. But if he was simply referring to them to describe the material and illustrate his primary complaint, the Advertiser could not be expected to respond specifically.

It is trite that a decision making body must comply with the requirements of administrative law and natural justice – and key to this is the concept of *audi alteram partem*. This essentially means that both parties in a dispute must be given the opportunity to be heard. Part of this requires that a party called on to respond to a case must be clear as to the case that they are called on to answer.

Given that the Directorate, which is well versed in interpreting complaints, was unclear as to whether a case for substantiation was being made, it would be unfair to expect the

Advertiser – a first time respondent before the ARB – to intuit that they must meet such a case.

Given this, the Directorate is of the opinion that the complaint does not sufficiently call on the Advertiser to specifically substantiate the two highlighted complaints.