



Case Report

1	Case Number	0332/16
2	Advertiser	Alka Power
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	14/09/2016
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive
Food and Beverage Code 2.3 - unsupported nutritional/health claims
Food and Beverage Code 2.4 misleading nutritional/health claims
Food and Beverage Code 2.6 inaccurate taste/size/content/nutrition/health claim

DESCRIPTION OF THE ADVERTISEMENT

This internet advertisement appears on the Alka Power website and features statements that the consumption of acidic foods such as red meat, breads, vegetable oils, nuts, beans and legumes, alcohol and soft drinks can strengthen the possibility of cancer, heart disease, diabetes and other such diseases but that foods which are high in alkaline, such as the advertised product, contribute to less disease and better long-term health.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

The website was full of dubious and unsubstantiated "facts" about alkaline foods and drinks, including "Consumption of these foods and beverages weakens the body's resolve and defences, thereby strengthening the possibility of diseases, such as cancer, heart disease, diabetes, etc."

They then go to great lengths to show all the improvements the product will give you, and

how it will improve your health, including a very suspect quote from a cardiologist, before stating: "Though we don't make any health claims like other alkaline waters on the market we get testimonials and correspondences from customers who regularly drink Alka Power because they get great relief by drinking it."

Which quite frankly is a cheap get out clause. In the context of all the claims they make on the website to suddenly say they are not making any claims is extremely disingenuous. You can't make claims and then in small print say "these aren't claims", going against the whole body of information given.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

In response to the complaint made for the above case number, we do not believe that the information contained on our website has breached any of the Food & Beverage Codes listed on the complaint. With regards to the first paragraph from the complaint, "The website is full of dubious and unsubstantiated "facts" about alkaline foods and drinks, including"; "The consumption of these foods and beverages weakens the bodies resolve and defences, thereby strengthening the possibility of diseases, such as cancer, heart disease, diabetes etc": Page 1, Mr Randy Park, bio-chemist and creator of Alka Power, has found the above statement in his research over the past 25 years. Page 2, "Health Effects of Alkaline Diet and Water, Reduction of Digestive-tract Bacterial Load, and Earthing. In the enclosed document we have highlighted important information relating to the benefits alkaline water has to the following diseases; coronary heart disease (CHD), cardiovascular disease (CVD) and cancer. Page 3- 5, "Diabetes – Acid Conditions and Treatment with Sodium Bicarbonate". In the enclosed document we have highlighted important information relating to baking soda not being able to take the place of an alkaline diet and water for the prevention, to treatment and to part of a cure to diabetes. We would also like to highlight the number of Doctors and authors, specifically Dr. Young's comment "Excess acidity is a condition that weakens all body systems". Finally, a diet that's more alkaline can help you reverse the damage caused by acidity and diabetes. Page 6 - 9: Montanna State University Study. This study provides more information on the benefits to one's health found after drinking water with a high content of minerals. Cardiologist quote on our website: Please refer to the enclosed documents with regards to the well respected Dr Pradipkumar P. Jamnadas, MD Cardiovascular Surgeon Page 10: Original quote on our website Page 11: "Dr Pradipkumar P. Jamnadas, MD" Page 12: "And another Doc joins the Alkaline Response" These enclosed documents should verify the complaints sentence of "a very suspect quote from a cardiologist". With regards to the next sentence in question "Though we don't make any health claims like other alkaline waters on the market we get testimonials and correspondence from customers who regularly drink Alka Power because they get great relief by drinking it":

We recognise that we are not TGA approved (Therapeutic Goods Association) therefore we use actual customer testimonials explaining the results and benefits they have felt after drinking Alka Power.

Please refer to the enclosed document from DR Judy Lynch who is an anaesthetist at Bowral Hospital. Dr Lynch specifically came to Alka Power to buy our Alka PI 100 filtration unit.

As you will be able to see in the enclosed document, pages 13 - 32, she has done her research prior to choosing an Ionic alkaline unit, url to verify, In regards to the complaints statement "then in small print say these aren't claims" this is incorrect as the paragraph in question is the same font size as the rest of the information on our website. They are insinuating we are hiding information in small print which as you will see in the enclosed document, page 33, is not the case. In conclusion, I firmly believe that our company is not in breach of the listed Food & Beverage Codes and would never try to mislead or deceive the consumer.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant's concern that the advertisement provides dubious and unsubstantiated facts about alkaline food and drinks.

The Board viewed the advertisement and noted the advertiser's response.

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted that this internet advertisement appears on the advertiser's website and features statements that the consumption of acidic foods such as red meat, breads, vegetable oils, nuts, beans and legumes, alcohol and soft drinks can strengthen the possibility of cancer, heart disease, diabetes and other such diseases but that foods which are high in alkaline, such as the advertised product, contribute to less disease and better long-term health.

The Board noted the independent advice provided that "there was a lack of research to either support or disprove the concept that the consumption of acidifying or alkalizing foods can influence the aetiology or treatment of cancer... [and] there is a lack of evidence from human studies that can be used to either confirm or refute whether these diet-induced effects on acid-base balance influence cancer risk."

The Board noted that the advice had also confirmed that while there was conflicting evidence with regards to the effect of acidity on heart disease and diabetes there was no evidence that a high-alkaline diet could decrease the likelihood of these diseases or overcome any negative effects. The Board noted the advice that, "the Alka Power website contains information

which is in part supported by a published review that reported benefits of alkalinizing mineral water for reducing the incidence of coronary heart disease, cardiovascular disease and cancer. However, the conclusions of that review were based on low-level evidence that could be subject to confounding.”

The Board noted that while there was some supporting evidence to suggest that a high acidic diet could result in increased likelihood of developing cancer, heart disease and diabetes, the Board considered that the advertisement strongly suggests that the advertised product is part of a solution to these serious illnesses.

Based on the above the Board considered that the advertisement did depict material which was misleading with regards to the advertised product’s effect on cancer, heart disease, diabetes and other such diseases.

The Board determined that the advertisement did breach Section 2.1 of the Food Code.

The Board then considered Section 2.6 of the Food Code which provides:

‘Advertising or Marketing Communications for Food or Beverage Products including claims relating to material characteristics such as taste, size, content, nutrition and health benefits, shall be specific to the promoted product/s and accurate in all such representations.’

The Board noted Guideline 2 of the Australian Dietary Guidelines (Department of Health and Ageing, 2013) which provides:

Enjoy a wide variety of nutritious foods from these five food groups every day:

- Plenty of vegetables of different types and colours, and legumes/beans
- Fruit
- Grain (cereal) foods, mostly wholegrain and/or high cereal fibre varieties, such as breads, cereals, rice, pasta, noodles, polenta, couscous, oats, quinoa and barley
- Lean meats and poultry, fish, eggs, tofu, nuts and seeds, and legumes/beans

The Board considered that the advertisement’s claim that foods such as beans, legumes and bread, can increase the possibility of diseases such as cancer, heart disease and diabetes is contrary to the dietary advice provided by the Australian Government and therefore the advertisement is not accurate in its representation of these foods.

Overall the Board considered that the claims made in the advertisement were not specific to the promoted product and that these claims were inaccurate.

The Board determined that the advertisement did breach Section 2.6 of the Food Code.

Finding that the advertisement did breach Sections 2.1 and 2.6 of the Food Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

With regards to our website we will make the following changes on the About page;

The last paragraph currently reads;

Higher acidic foods, such as red meat, breads, vegetable oils, nuts, beans and legumes, alcohol (in all its forms), and soft drinks contribute to oxidative stress in the body. Consumption of these foods and beverages weakens the body's resolve and defences, thereby strengthening the possibility of diseases, such as cancer, heart disease, diabetes etc

We will revise it to the following;

Higher acidic foods, alcohol (in all its forms) and soft drinks contribute to oxidative stress in the body. Consumption of these foods and beverages weaken the body's resolve and defences.