



Case Report

1	Case Number	0348/16
2	Advertiser	Lithgow Valley Springs
3	Product	Food and Beverages
4	Type of Advertisement / media	Radio
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 2.4 misleading nutritional/health claims

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement features a male voiceover: "At least 60% of your body is made up of water, are you getting the right amount of fresh spring water each day? Lithgow Valley Springs can ensure you have enough fresh spring water that may help relieve migraines, asthma, diabetes and high blood pressure by offering delivery to your door. Give your body the TLC and nutrients it needs to function correctly by placing your order with Lithgow Valley Springs today. 6353 1677."

THE COMPLAINT

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

It implies that drinking Lithgow Valley Springs Water is a magic cure all for a whole raft wide spread conditions that are better identified and managed by a GP, a nutritionist of a properly qualified health professional.

I believe that the advertisement is nothing more than an old fashioned "snake oil" type of promotion as it induces fear of serious illness unless you consume their product.

THE ADVERTISER'S RESPONSE

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

The advert is trying to encourage people to drink the right amount of water and that we have a home delivery option.

It is a randomly placed advert on the local radio station only. There is no suggestion that this is a cure for these ailments. Our online researched showed that there are many cases and references that drinking the right amount of water helps reduce the symptoms of the advertised ailments and many more. As of the receipt of your notice on 2/8/2016 we have removed this advert pending your decision.

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 implies that the product is a magic cure for many conditions.

The Board reviewed 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 the Practice Note for Section 2.1 of the Food Code which provides:

“The Board will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

In testing the requirement that an advertising or marketing communication should not be designed to be misleading or deceptive, or otherwise contravene prevailing community standards, the Board will consider the advertiser’s stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.

Thus, an advertising or marketing communication may make reference to one or more of the nutritional values or health benefits of a product but such references must be accurate and

appropriate to the level of understanding of the target audience, and must not misleadingly represent the overall nutritional or health benefits of the product.”

The Board noted that this radio advertisement says that drinking fresh spring water, the advertised product, may help relieve migraines, asthma, diabetes and high blood pressure.

The Board noted the advertiser’s response that the advertisement does not suggest that the advertised water is a cure for the ailments listed but rather that drinking water may help reduce symptoms.

The Board noted the independent advice that ‘studies suggest that an increased intake of water may reduce the potential for migraine attacks to occur. No specific evidence relating to the intake of spring water on migraine attack frequency or severity was found’ and ‘Nor could any evidence be found to suggest that the consumption of spring water can reduce the frequency or severity of asthma attacks.’ The Board considered that consumption of water is important for good health but considered the independent advice indicated that there is no support for the claim that the product advertised is of itself beneficial to the health conditions mentioned.

The Board noted the advice also confirmed that while there is evidence which suggests the consumption of water/spring water may reduce the risk of developing diabetes or high blood pressure the studies did not focus purely on spring water but on the overall diet and therefore the claims are plausible but not proven.

The Board noted the advertisement says the product ‘may help’ and considered that the use of the word ‘may’ is a positive suggestion which implies the product will help. The Board acknowledged that an encouragement to drink more water is a positive message which would not be detrimental to the health and well-being of a person however the Board considered that by making a link to serious illnesses such as high blood pressure, diabetes and asthma the advertisement would attract the attention of people who either suffer from these diseases or at risk of developing them, and in the Board’s view the way in which the advertisement is worded is strongly suggestive of the advertised product providing health benefits with regards to these diseases and there is no evidence that this in fact the case from drinking this product.

Based on the above the Board considered that the advertisement was misleading and did breach Section 2.1 of the Food Code.

Finding that the advertisement did breach Section 2.1 of the Food Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

I understand your comments and we have discontinued the ad since the date of first notification.

I am concerned however that your Board failed to find any evidence of the benefits of drinking an adequate amount of water.

One extract from online info:

“A recent study found that dehydration could play a significant role in asthma and allergies. One researcher believes that the lack of water vapour in the lungs causes the airways to constrict and for the asthmatic's lungs to produce mucus, the two factors that cause an asthma attack. The researcher recommends that people with asthma drink at least 10 eight-ounce glasses of water every day, along with a pinch of salt, and to avoid caffeine. This is because salt regulates water in the body and caffeine robs the body of needed water.”

And Another:

“Dr. B's whole crusade developed in reaction to the blinkered approach of the medical establishment of which he was a part. Twenty years of research and many thousands of case histories of patients who fully recovered within hours or days attest to the validity of Dr. B's contention that the patients are dehydrated rather than sick”

The list is quite extensive.

I am not in agreeance with your determination being posted on a “Public Forum” unless it is noted that, despite your Board being unable to find any evidence there is in fact a lot of supportive evidence online.