

TAPS | therapeutic advertising pre-vetting service

GUIDELINE 7 NHPaDS	Checklist for the development and compliance of advertisements for Natural Health Products and Dietary Supplements
Last Updated	August 2016
What kind of product is this guideline for?	Natural Health Products and Dietary Supplements
What is the purpose of this guideline?	To provide a general checklist for common compliance points for advertisers to use during the development of advertisements.

BACKGROUND

Advertisements for these products must comply with the Medicines Legislation, the Dietary Supplements Regulations and the ASA Therapeutic and Health Advertising Code.

Therapeutic claims for products are limited to registered medicines and medical devices, as per the Medicines Act 1981. This means that the products referred to in this guideline are not able to make actual or implied therapeutic claims in their advertisements. For more detail and explanation about therapeutic purpose claims and the definition of disease, see TAPS Guideline 1 and 2 in the Natural Health Products and Dietary Supplements section of the TAPS Guidelines Page.

Therapeutic purpose claims cannot be made for Natural Health Products and Dietary Supplements even if there is strong scientific evidence that an ingredient or ingredients in the product appear to have a therapeutic benefit. In order to make a therapeutic claim in an advertisement, the product must be a registered medicine or a listed medical device.

Therapeutic claims can be ‘actual’ or ‘implied’. Actual claims are words or obvious imagery that state, for example ‘*Product X treats Disease Y*’. Implied claims are more subtle and it is often the way in which phrases are written or how images are presented that determines if there is a therapeutic claim or not. A good rule of thumb is to consider the phrase or imagery from a consumer’s perspective. If it is likely the consumer will interpret it as a therapeutic purpose claim, then it is likely the advertisement is making a therapeutic claim.

The following are examples of implied therapeutic claims;

- The placement of a product advertisement amongst editorial content that describes the therapeutic benefit of one or more of the ingredients in the advertised product.
- Directing consumers via a footnote or website address to scientific studies or references where the studies or references include evidence of therapeutic claims for one or more ingredients in the product that is advertised.
- Inclusion of an image of a slim waistline with an extended tape measure visible, implying weight loss.

In addition to complying with the Medicines Act, advertisements for these products must also comply with the ASA [Therapeutic and Health Advertising Code](#). This code should be read in full as part of the preparation of advertisements.

Principle 1 of this Code requires that advertisements “observe a high standard of social responsibility”. See TAPS Guideline 1 in the ‘General’ section on the TAPS Guideline Page for a more detailed explanation of this principle. The ASA THAC covers a range of compliance issues including required or mandatory information that must be included in advertisements.

Please note: There is no differentiation in the legislation between advertising these products to consumers or to healthcare professionals. Compliance requirements are the same for both audiences.

The following table provides a checklist to use during the development of an advertisement to help ensure compliance with the NZ legislation and codes. Whilst it is a comprehensive checklist it does not cover every detail of advertising compliance that may arise with individual products.

CHECKLIST for the development and compliance of advertisements for Natural, Herbal, Marine or Dietary Supplement Products.

Requirement	Source
1. Trade Name	
2. No Therapeutic Claims. Check for actual or implied therapeutic claims. Only use "Health Claims" in support of normal physiological function. Check that references or website addresses included do not contain therapeutic claims.	Medicines Act, section 4, <i>Meaning of a therapeutic purpose.</i> ASA THAC: <i>Compliance with NZ laws, Definitions.</i>
3. Mandatory Statements for all advertisements. Any mandatory information as required by the applicable legislation and the following statements; <ul style="list-style-type: none"> • Name and address of the advertiser • <i>Always read the label and use as directed.</i> <p><i>(this is a new requirement with effect from 1st September 2016)</i></p> <ul style="list-style-type: none"> • For products that contain vitamins and / or minerals, the following additional statement (or words to this effect). <p><i>Vitamins and minerals are supplementary to and not a replacement for a balanced diet.</i></p> <ul style="list-style-type: none"> • For products that may be used for a short time, after which the consumer should seek medical advice, the following additional statement (or words to this effect). <p><i>If symptoms persist, see your healthcare professional.</i></p> <p>Mandatory statements should appear in a font size that is large enough and clear enough to be easily read by the target audience. If the statements are present but cannot be read they would be considered absent and the advertisement would not comply with the ASA TPAC. For specific guidance on the placement of these statements in television commercials see TAPS Guideline No. 06.</p>	ASA THAC Principle 1 Guideline 1 (a)
Other major risk information such as contraindications, precautions and adverse effects that have been identified with one or more of the ingredients in the product(s) advertised. For more detailed information about risk statements for specific ingredients, see TAPS Guideline 3 in the Natural Health Products and Dietary Supplements Guidelines section on the TAPS Page.	ASA THAC Principle 1. <i>Observing a high standard of social responsibility</i>

<p>Products to support healthy weight management or products sold with a weight management programme should include the following statements.</p> <ul style="list-style-type: none"> The following statement (or words to the effect). <p><i>Weight management takes time and effort to be successful. People should seek professional advice on diet, exercise and lifestyle changes.</i></p> <p><i>Individual results may vary.</i></p> <ul style="list-style-type: none"> Name and address of the advertiser. Any other mandatory information relevant to products, devices or services advertised with the programme. <p>For more detailed guidelines for weight management products and programmes read the ASA Therapeutic and Health Advertising Code and the accompanying Guidance Notes.</p>	<p>ASA THAC Principle 1, Guidelines 1 (a)</p>
<p>A list of the product ingredients & quantities is not a legislated requirement. However, in some advertisements, particularly where the health benefit of a product is expressed in detail, a list of ingredients in the product will ensure the consumer is well informed prior to purchase.</p>	<p>ASA THAC, Principle 1. <i>Observing a high standard of social responsibility</i></p>
<p>Check the ingredients in the product as some are registered medicines e.g. ephedra, ephedrine, Human Growth Hormone, Pseudoephedrine, Colloidal Silver >10ppm.</p>	<p>Medicines Act, Section 20. <i>Advertising a medicine without consent</i></p>
<p>Websites referred to in an advertisement (or on a product label) must also be compliant with the legislation and codes. Knowingly referring customers to a non-compliant website is a breach of the legislation and / or codes. There is a precedent case where a company suffered a hefty fine from doing this.</p>	
<p>Check for any ASCB (Complaints Board) decisions that may be relative to the product or product category/group that is being advertised. There may be precedent decisions that can guide advertisement content including risk information and claims made.</p>	
<p>Display the TAPS approval number (can be omitted for television and radio).</p>	