

MCA CODE ENFORCEMENT

ADJUDICATION COMMITTEE SUMMARY REPORT: Case No MCA 20-01

1. Case details

Complaint:	30 th July 2020
Adjudicating Committee Report:	11 th September 2020
Complainant/Appellee:	Adcock Ingram LIMITED
Respondent/Appellant:	GSK Consumer Healthcare South Africa (Pty) Ltd
Product:	Calpol tablets Reg no. 44/2.7/0321

2. Complaint

The complaint was lodged following an unresolved company-to-company process.

The complaint related to the respondent's pharmacy (Clicks stores) and television commercials for Calpol. The complainant complained that the statements made in the commercials were misleading to the general public and an infringement of the Code. Specifically, the misleading statement's claim relating to "faster action" for the Calpol tablets was deemed by the complainant to be intended to mislead the reasonable viewer to believe that Calpol tablets "work 5 times faster".

In the process of the exchange of documents between the complainant and the respondent, the complaint against the Clicks in store commercial was withdrawn by the complainant as changes to the advertisement done by the respondent after the company to company process, were to the satisfaction of the complainant.

The matter at hand in the complaint then concerned only the national TV commercial for the product, Calpol.

3. Adjudicating Committee's Ruling

The Adjudicating Committee, considering the perspective of the general public/consumer and how they would receive the ad, noted that the understanding of the general public would be less technical than that of a healthcare provider.

The committee concluded that the ad would likely have been considered by the general public, consumer as suggesting that Calpol works 5 times faster in providing relief. The view of the Committee was that the use of the term 5 times faster, in the context of the advertisement is both a hanging comparison and misleading.

Accordingly, the TV commercial was found to be in breach of the Marketing Code clauses 5.7.2.4 (information claims and comparisons or the manner, in which they are portrayed, shall not mislead directly or by implication, distortion or undue emphasis) and 5.7.1.4 (hanging for open-ended comparisons shall not be allowed. The specific infringement included the final voice over statement: " 5 times faster. Now for adults."

4. Sanctions/Remedies

The Committee ruled that the TVC advertisement be withdrawn with immediate effect. This must be confirmed with the MCA in writing and supported by documentary evidence that it has been effected.

The Committee awarded a cost order in respect of the complainant's complaint fees to be paid to the complainant.

The highlighted that the respondents Code Compliance Officer was not compliant with the code in respect of certification and requested that this be attended to.

5. Compliance with Ruling

- the respondent has demonstrated that the advertisement has been drawn in the required time frame.
- The respondent has paid the cost order.
- A letter of reprimand has been sent to the respondent.
- A Code training and certification program has been initiated on a broad scale at the respondent's company in collaboration with, amongst others, the MCA.

6. Procedural Matters

No comments were made by the Adjudication Committee respect of process.

Full cooperation was received from both parties by the MCA in the management of the enforcement processes with the result that timelines were met and the matter was effectively resolved. Decisions of the Adjudicating Committee were not appealed.



M.Pharm (Industrial Pharmacy)

Executive Officer

Date 8th October 2020

For further information on the complaints processes of the Marketing Code Authority contact the Executive Officer, Val Beaumont, Val@marketingcode.co.za.

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