

1 April 2020

By email only: [REDACTED]

Dear [REDACTED]

Official Information Act #19.141 - Te Kiri Gold

1. We refer to your request received on 4 March 2020 for information about a complaint received by the Commerce Commission (Commission) about Te Kiri Gold, referred to in Stuff New Zealand article dated 3 May 2017 (ENQ0500803).¹
2. You have asked for:
 - 2.1 the outcome of ENQ0500803; and
 - 2.2 a copy of the Commission's decision on ENQ0500803.
3. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

4. We have decided to grant your request.

The Commission's complaints screening process

5. To provide context to how the complaint was assessed, we have outlined the Commission's complaint screening process below.
6. When a consumer contacts the Commission with a complaint about a trader, this is logged in the Commission's complaint database.

¹ <https://www.stuff.co.nz/national/health/92118580/makers-of-te-kiri-gold-back-down-from-medical-claims-after-medsafe-warning>

7. The Commission receives thousands of complaints every year. Each complaint is initially assessed by the Enquiries Team on the basis of the information available at the time.
8. When conducting this initial assessment, the Enquiries Team considers:
 - 8.1 the likelihood of a breach of the relevant legislation (the Fair Trading Act 1986, Credit Contracts and Consumer Finance 2003, and the Commerce Act 1986);
 - 8.2 the Commission's Enforcement Response Guidelines,² and;
 - 8.3 the Commission's strategic priorities and resourcing constraints.
9. The Commission has the power to act on complaints but is not required to take action in relation to all possible breaches of the legislation that we enforce.
10. If a complaint is deemed to meet certain criteria, it is reviewed by a panel of managers and subject matter experts from within the Competition and Consumer Branch. The panel decides which complaints are to be prioritised for further consideration by the Branch.
11. This process enables us to identify reports that best reflect our current enforcement priorities.³ The outcomes of the process are not final and we may revisit any complaint at a later stage, should we wish to reconsider the issues it presents.

Assessment

12. ENQ0500803 was assessed by the Enquiries Team on and referred for further consideration by the panel. The Enquiries Team's assessment of the complaint is below:⁴

ENQ0500803	11/04/2017
<p>AN [staff initials] - FAB [Further Assessment by Branch] Complete</p> <p>The complainant alleges that the trader makes unsubstantiated claims around the health benefits of its product, including curing cancer.</p> <p>The trader's website formerly stated</p> <p>"Te Kiri Gold is an organic liquid, manufactured from the same ingredients and in a similar manner, to the way your body creates your immune system components."</p>	

² Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/>

³ For further information: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-criteria/>

⁴ Please note that we do not alter original assessment records to address typographical or grammatical errors; abbreviations have been expanded in square brackets.

ENQ0500803

11/04/2017

- "Any claims of improvement in well-being, tumor reduction or cancer remission on this site are made by people whom have taken TKG [Te Kiri Gold] and not by staff or shareholders of Te Kiri Gold."

- "Stories from Te Kiri Gold Users" - stories from cancer patients about how using the trader's product has alleviated symptoms of cancer (2 stories involved shrinking tumours and the other going into remission).

The Herald tested the trader's product through Hill Laboratories and found it does not meet the Government's safe drinking water guidelines. The Ministry of Health previously made a statement that the claims made by the trader would be regulated under the Medicines Act. Medsafe has issued a warning against the trader and the claims are no longer being made as a result.

The front page of the trader's website has replaced the previous representations with:

- "Te Kiri Gold is not a drug or medicine. If you had a organ transplant, please consult your physician before ordering Te Kiri Gold".

- The page containing stories from users has been removed.

The trader also has an information disclaimer page which makes a number of statements including:

- "TKG and it's directors make no claims of cancer remission or reduction of tumors, all information on this website or other third party media platforms are from user experience who have given permission to publish their journey."

- "You must not rely on the information on our website as an alternative to medical advice from your doctor or other professional healthcare provider."

- "If you have any specific questions about any medical matter, you should consult your doctor or other professional healthcare provider."

- "If you think you may be suffering from any medical condition, you should seek immediate medical attention."

- "You should never delay seeking medical advice, disregard medical advice or discontinue medical treatment because of information on our website."

While the product is still being sold, the representations in question are no longer being made. As such, the efficacy of further enforcement action appears unclear.

As this report raises similar issues to Kangen Water⁵ which is on the priority tool, recommend group discussion.

⁵ See OIA 18.187 in the OIA register on our website for further information about Kangen Water.

13. The panel decided to add the complaint to an existing water filter demand (DMND0004628).⁶ In November 2018, the demand became a project to engage with and educate traders in this area.
14. The Commission contacted a number of water filtration businesses to discuss the representations they had made about their water filtration systems. Te Kiri Gold was not contacted as part of this project because its website/social media presence indicated that it was not actively trading at the time.

Outcome

15. The Commission decided not to take any further action in relation to ENQ0500803.
16. This decision was made for the following reasons:
 - 16.1 after receiving a warning letter from Medsafe in April 2017,⁷ Te Kiri Gold stopped making the representations in question;
 - 16.2 the Commission had not received any other complaints about Te Kiri Gold; and
 - 16.3 no other representations were found on Te Kiri Gold's website, social media or otherwise that would potentially breach the Fair Trading Act 1986.

Further information

17. Please note the Commission will be publishing this response to your request in the Official Information Act register on our website.⁸ Your personal details will be redacted from the published response.
18. Please do not hesitate to contact us at uia@comcom.govt.nz if you have any questions about this request.

Yours sincerely

Mary Sheppard
OIA Coordinator

⁶ A demand is the name the Commission gives a matter where we intend to complete further work. We place demands on a list and prioritise them based on our Enforcement Criteria and strategic priorities. We review our demand lists on a regular basis and sometimes demands are removed from the list, this is called a resource review. We may remove a demand from our list of pending work for several reasons (e.g. the trader has amended its conduct, the trader is no longer operating, and/or other matters have come to our attention that have de-prioritised previous demands).

⁷ See FN 1.

⁸ <https://comcom.govt.nz/about-us/requesting-official-information/oia-register>