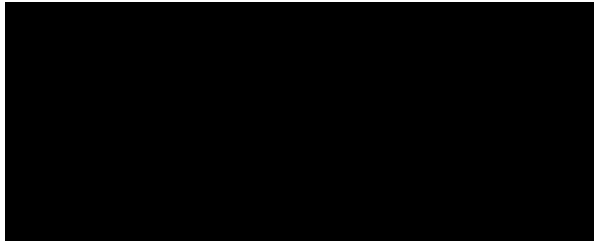


24 October 2023



Official Information Act #23.075 – Response

1. We refer to your request received on 4 October 2023 for information about Ārepa Holdings Limited, a drink company (Ārepa). You would like to know:
 - 1.1 If the Commerce Commission (the Commission) has any current or closed investigations into Ārepa; and
 - 1.2 If the Commission has received any complaints about Ārepa, and if so the outcome.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

Investigations

3. We can advise that the Commission has not opened into investigations into Ārepa.

Number of complaints

4. The Commission has received three complaints regarding Ārepa in the period 1 January 2012 to 4 October 2023. We provide the outcomes of the three complaints in **Appendix A** below.
5. The Commission has decided not to take any further action at this time in relation to the three complaints¹ received relating to Ārepa. There are a number of reasons why the Commission may decide not to take any further action in relation to a complaint or enquiry.

¹ While one of the complaints was referred to an external agency, no further action was taken by the Commission.

6. To provide context to how the complaints or enquiries were assessed, we have outlined the Commission's screening process below.

Commerce Commission's complaint process

7. All complaints or enquiries received by the Commission are logged in our database and assessed by our Screening and Analysis Team on a basis of the information available at that time. When conducting this initial assessment, the Screening and Enquiries Team considers:
 - 7.1 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);
 - 7.2 the Commission's Enforcement Response Guidelines;² and
 - 7.3 the Commission's strategic priorities and resourcing constraints.
8. 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.
9. If a complaint is appropriate for further consideration, it is reviewed by a panel of managers and subject matter experts from within the Competition, Fair Trading and Credit Branches. The panel decides which complaints are to be prioritised for further assessment by the Branch with reference to our Enforcement Response Model.³
10. This process enables us to identify complaints that best reflect our current enforcement priorities.⁴ 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.

Further information

11. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
12. Please do not hesitate to contact us at oja@comcom.govt.nz if you have any questions about this response.

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

³ Our Enforcement Response Model is discussed in more detail from page 3 of the Commission's Enforcement Response Guidelines, available here: https://comcom.govt.nz/_data/assets/pdf_file/0030/62589/Enforcement-Response-Guidelines-October-2013.pdf.

⁴ For further information, see: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-criteria/>

Yours sincerely



OIA and Information Coordinator

Appendix A

Enquiry number	Date received	Complaint	Outcome
ENQ0512178	08/03/2018	Complainant alleges trader does not have reasonable grounds for making the claims on its packaging.	No Further Action (NFA) ⁵
ENQ0566613	30/06/2022	Complainant alleges trader does not have reasonable grounds or evidence to back up the claims on its packaging.	NFA
ENQ0570479	17/10/2022	Complainant alleges trader does not have evidence to back up the claims on its packaging and therefore its marketing is misleading.	NFA

⁵ The Commission may decide not to take further action in relation to a complaint for a number of reasons. These reasons include, but are not limited to, circumstances where we consider the complaint is better suited to private action by the complainant, the complaint is subject to the jurisdiction of another agency, or where there is no clear breach of the law. However, each complaint and enquiry provides information that is valuable to the Commission. This contributes to future priorities, potential issues for us to watch closely or emerging issues to refer to our policy agency, MBIE. In this regard, we will monitor complaints on information we receive as we look to future prioritisation.