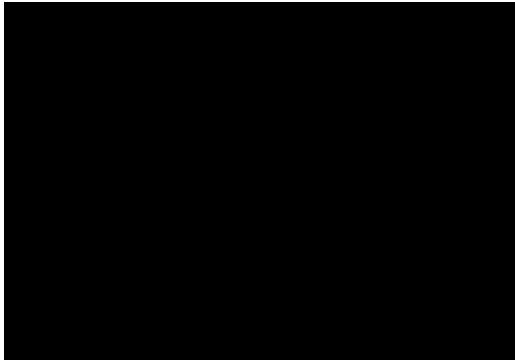


20 January 2022



Official Information Act #21.102 – Sunscreen Complaint Numbers

1. We refer to your request received on 14 December 2021 for the number of complaints received by the Commerce Commission (**Commission**) about sunscreen testing results, the number of investigations into sunscreen initiated as a result of the complaints, and the number of sunscreen investigations that resulted in prosecutions between 17 December 2019 – 17 December 2021.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

3. We have decided to grant your request.

The Commission's complaint screening process

4. To provide context to the information released to you, we have outlined the Commission's complaint screening process below.
5. When a consumer contacts the Commission with a complaint about a trader, this is logged in the Commission's complaint database.
6. The Commission receives thousands of complaints every year. Each complaint is initially assessed by the Screening and Enquiries Team on the basis of the information available at the time. When conducting this initial assessment, the Screening and Enquiries Team considers:

- 6.1 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);
 - 6.2 the Commission's Enforcement Response Guidelines,¹ and;
 - 6.3 the Commission's strategic priorities and resourcing constraints.
- 7. 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.
 - 8. If a report 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 reports are to be prioritised for further assessment by the Branch with reference to our Enforcement Response Model.²
 - 9. 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 report at a later stage, should we wish to reconsider the issues it presents.

Response

- 10. Between 17 December 2019 and 17 December 2021, the Commission received three complaints about sunscreen testing results.
 - 10.1 Two of these complaints resulted in no further action.
 - 10.2 One complaint remains open.
 - 10.3 No investigations into sunscreen resulted in prosecutions during this time.

Additional information

- 11. We also wish to advise you of a complaint that falls outside the timeframe of your request as we believe it provides further insight into sunscreen testing results complaints and outcomes.
- 12. On 29 April 2019, a complaint received by the Commission about sunscreen testing results resulted in the Commission issuing two Information Passed to Trader letters (IPTT) to two different traders and opening two investigations into two other traders.

¹ Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/>

² 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.

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

One of the investigations resulted in a Compliance Advice Letter (CAL), while the other investigation is still ongoing.

13. An IPTT letter is used to assist traders in better understanding and complying with the law. Raising such issues with businesses directly can help them better understand and comply with their legal obligations.
14. A CAL is issued in response to problematic conduct that the Commission has identified. A CAL's purpose is educative and advises the trader of the risk of its conduct breaching the law, and how to avoid a potential breach in future. A CAL does not represent a finding that a trader has contravened the law. Only the Courts can decide if a breach of the law has occurred.
15. After initial screening, some complaints will move to the investigation stage. During this stage, we gather and analyse evidence so we can form a view on whether a breach of the law may have occurred and whether any further action is required. We assess the matter in light of our Enforcement Criteria to determine whether to take the complaint further and, if so, to identify the enforcement responses applicable to the circumstances.⁴
16. 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.
17. Please do not hesitate to contact us at oya@comcom.govt.nz if you have any questions about this request.

Yours sincerely



Alexandra Murray

OIA and Information Coordinator

⁴ Our Enforcement criteria and responses are discussed in more detail from page 4 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.