

27 June 2019



Dear 

Official Information Act #18.210 - Health Claims

1. We refer to your request received on 30 May 2019 for information you believe may have been missing from our OIA response OIA 18.187 on 29 May 2018, specifically:
 - 1.1 a complaint received by the Commerce Commission (Commission) during the past twelve months¹ about 'SleepDrops' which refers to health claims; and
 - 1.2 any other complaints which may not have been caught in OIA 18.187 using the keywords: "cure, treat, therapeutic, therapy, remedy etc."
2. On 5 June 2019, we advised you that:
 - 2.1 "remedy" and "treat" did not return any results for release;²
 - 2.2 "cure", "therapy" and "therapeutic" returned eight results relevant to your request for release;³
 - 2.3 we had added the terms "curing", "treatment", "medicinal", "healing" and "relief" which returned seven results relevant to your request for release;⁴ and
 - 2.4 we had also added the terms "restore", "curative", "heal", "restoration", "remedial treatment", "relieving" and "corrective" which did not return any results relevant to your request.
3. We noted that some of the search terms return the same complaints as other terms, and invited you consider whether there were additional or alternate search terms which better reflected the information you are seeking

¹ We have treated this as the period from 30 May 2018 to 30 May 2019.

² "Remedy" returned one complaint which is relevant to your request but not eligible for release (see paragraph [9]), "treat" did not return any complaints relevant to your request.

³ "Cure", "therapy" and "therapeutic" returned two complaints which are relevant to your request but not eligible for release (see paragraph [9]).

⁴ "Curing" and "relief" returned two complaints which are relevant to your request but not eligible for release (see paragraph [9]).

4. On 10 June 2019, in response to our email of 5 June 2019, you advised that you were happy with the keywords at paragraphs [2.2] and [2.3] above.
5. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

6. We have decided to grant your request.
7. We have provided summaries of 14 complaints and 1 general enquiry returned by the keywords at paragraphs [2.2] and [2.3] above. This includes two complaints about 'SleepDrops', as per paragraph [1.1] above (including your complaint, ENQ0519634) . These are in **Attachment A**.
8. We have prepared summaries of the complaints pursuant to section 16(1)(e) of the OIA, to protect the privacy of natural persons under section 9(2)(a) of the OIA. We have not summarised your complaint, ENQ0519634.
9. We have withheld three complaints which are still subject to assessment by the Commission (as per paragraph [5] to [11] of our letter dated 29 May 2019) under section 6(c) of the OIA, to prevent prejudice to the maintenance of the law. These complaints are:

Complaint number	Date received	Keyword(s)
ENQ0519282	23/10/2018	"Cure", "therapy", "therapeutic"
ENQ0526460	12/05/2019	"Remedy", "Cure", "Curing"
ENQ0525801	15/05/2019	"Relief"

10. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.
11. Please note the Commission may publish this response to your request on our website. Your personal details will be redacted from any published response.
12. If you have any questions in regards to this request, please do not hesitate to contact us at uia@comcom.govt.nz.

Yours sincerely

Mary Sheppard
OIA Coordinator

**Complaints received by the Commerce Commission about
‘SleepDrops’ and/or responding to one or more of the
keywords: “cure”, “curing”, “therapy”, “therapeutic”,
“treatment”, “medicinal”, “healing” and “relief” - collated
for OIA 18.210 and retrieved on 4 June 2019**

Legend:	Enforcement Criteria:
C Complainant	NFA No further action
T Trader	C No or limited trader history
	C2 Trader history exists
	G Conduct is unclear/ unlikely breach
	Q Appropriate for other agency or private action
	V Issues may not be timely
	W Other priorities/ need to balance resources available

Details	Summary
Keywords: cure, therapy and therapeutic	
Details: ENQ0521542 Subject(s): MyHealth Date: 11/01/2019 Outcome: NFA, G	C uses an app called ‘MyHealth’ to manage health appointments. C was approach by someone claiming to be from ‘MyHealth’ who asked questions about C’s health and tried to sell C a cure to a medical issue.
Details: ENQ0515214 Subject(s): HRV Clean Water Limited Date: 28/06/2018 Outcome: NFA, V	C is contacting the Commission because of its case against T: https://comcom.govt.nz/case-register/case-register-entries/hrv-clean-water-limited T told C that its water system could cure eczema. C believes T is misleading consumers.
Details: ENQ0518366 Subject(s): Wendy Sweet Date: 19/09/2018	C states that T provides the public with advice on how to deal with menopause. T introduces herself as “Doctor Wendy” and gives the impression that she is a medical doctor who holds PhD in aging in women and/or exercise science. C states that T is not a medical

Details	Summary
Keywords: cure, therapy and therapeutic	
Outcome: NFA G, C, W	<p>doctor, nor has she completed a PhD.</p> <p>T claims to be a member of the NZ Register of Exercise Professionals but C could not substantiate this on the organisation's website.</p> <p>T claims to have won a number of awards but C could not substantiate this on any of the relevant websites.</p> <p>C believes that T's advice is unethical and sometimes dangerous. C states that T's advice is not based on sound science and could very well be harmful to T's clients.</p> <p>C states that the implication of most of T's advice is that menopausal symptoms are the individual's own fault because of incorrect eating and exercise habits, and that by paying for T's program, women can become medication and symptom free.</p>
Details: ENQ0525810 Subject(s): RegenCellular Date: 30/04/2019 Outcome: NFA, C, Q	<p>C states that T is a private clinic providing alternative medicine in the form of stem cell treatment. C is concerned that T are providing misleading information to consumers. C believes T downplay the potential difficulty of the procedures and overstate the medical evidence for use of stem cells. C concerned that vulnerable consumers with little medical knowledge will be misled into believing that there is higher likelihood of benefit than current medical literature supports, and lower likelihood of risk than what exists.</p>
Details: ENQ0520802 Subject(s): SleepDrops Date: 03/12/2018 Outcome: NFA, V	<p>C has seen an advertisement for SleepDrops on Google ads which states they are "clinically proven". C has not seen any evidence to substantiate this claim.</p>
Details: ENQ0519634 Subject(s): SleepDrops Date: 01/11/2018 Outcome: NFA, V	<p>C has attached a document containing the complaint, examples of T's representations and links to references. Refer to #3394707 for full document (11 pages). Excerpts below:</p> <p>On behalf of the Society for Science Based Healthcare, I would like to lodge a complaint against SleepDrops for making unsupported therapeutic claims, using unverified testimonials, potentially misleading customers with bad advice, and targeting children with their range of homeopathic/herbal products for kids.</p> <p>SleepDrops are a multi-million dollar business in New Zealand that are currently looking at expanding overseas:</p>

Details	Summary
Keywords: cure, therapy and therapeutic	
	<p>https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11553628</p> <p>Deceptive Advertising</p> <p>From what I have seen of SleepDrops' marketing strategy, it appears that they are aware of the restrictions in this country regarding advertising of therapeutic products, including restrictions placed by the Commerce Commission, the ASA and Medsafe, and the company even admits that they have to be creative in their marketing</p> <p>Conclusion</p> <p>The claims I have listed here are only a tiny fraction of what the company have used on their website, social media pages and copy on 3rd party pharmacy websites. A look at all the systematic reviews for the ingredients in SleepDrops shows there is very little positive evidence that the products would be effective for any sleep condition.</p> <p>The tactics that SleepDrops use for advertising their products, such as attempting to circumvent regulations while still making the claims they know they are not allowed to make, advertising to children, and making multiple unsupported claims prefixed with the word "support", seem to be in breach of the Commerce Commission's Fair Trading Act. The claims that have been made have not been supported by evidence, and I have searched in vain on the SleepDrops website for links to scientific studies performed on any of their products.</p> <p>I hope that the Commerce Commission could look at this complaint with some urgency, especially as SleepDrops are currently crowdfunding for investment from New Zealanders and hope to raise \$2 million - some of which will be spent on expanding their operations to other parts the world:</p> <p>https://sleepdrops.co.nz/lets-get-the-world-to-sleep/</p> <p>https://www.pledgeme.co.nz/investments/333-sleepdrops-sleep-support-system-limited</p>
<p>Details: ENQ0523884</p> <p>Subject(s): Emu Oil</p> <p>Date: 11/03/2019</p> <p>Outcome: NFA, G</p>	<p>C states that T is engaging in door to door sales selling oil and makes a number of claims about pain relief. C is concerned that T is targeting vulnerable consumers.</p>

Details	Summary
Keyword: treatment	
Details: ENQ0524000 Subject(s): Ionza water treatment system Date: 05/03/19 Outcome: NFA	<p>C states that T is making claims to consumers about the health benefits of alkaline water, similar to Kangen water.</p>
Details: ENQ0519857 Subject(s): Miers Laboratories Date: 08/11/18 Outcome: NFA, G, H, W	<p>C states that T's homeopathic product makes misleading and factually questionable claims which cannot be proven.</p> <p>C states that ingredients in the product are highly diluted and, at that concentration, are more likely to not exist within the product at all. C believes it is incorrect to classify them as "active ingredients". C states there is not any valid basis to assert that T's product is effective.</p>

Details	Summary
Keyword: medicinal	
Details: ENQ0521384 Subject(s): Comvita Date: 19/12/2018 Outcome: NFA, G	<p>C questions whether there is such thing as "medical grade antibacterial Manuka honey" and would like T to substantiate this claim.</p>

Details	Summary
Keyword: healing	
Details: ENQ0521794 Subject(s): Better Bods Timaru Date: 10/01/2019 Outcome: NFA, G, C	<p>C states that T claims her products have healing properties and advocates using them in lieu of conventional medical treatment.</p> <p>C believes these claims deliberately misrepresent the health benefits of the product and/or individual ingredients, and the manner of presentation is designed to appeal to consumers who are more likely to be vulnerable and desperate (e.g. consumers who are unwell).</p> <p>betterbodz.co.nz</p>

Details	Summary
Keywords: relief	
Details: ENQ0522413 Subject(s): Brand Developers Date: 30/01/2019 Outcome: NFA	C states that T is making unverified medical claims about the pain relief provided by the "Pain Erazor".
Details: ENQ0520711 Subject(s): Pain Erazor Date: 29/11/2018 Outcome: NFA	C states that the advertisements for the "Pain Erazor" make unsupported claims about pain relief and have no science supporting the claims.
Details: ENQ0525337 Subject(s): Health Care NZ limited Date: 29/04/2019 Outcome: NFA, G	C ordered a healthcare product for pain relief online. The product which arrived was for joint health, not pain relief. T said the packaging had changed but it was the same product.

General Enquiry	
Details	Summary
Keyword: cure	
Details: ENQ0516096 Date: 13/07/2018	<p>C enquired about the rules around about selling health supplements to the public and making health claims.</p> <p>C is concerned about capsules being sold Facebook, likening them to "magic beans" that claim to cure all sorts of ailments, including cancer. C notes the capsules are expensive. C is concerned that the public may be led astray and might mistakenly think the capsules could cure incurable illnesses.</p>