

13 April 2017

B White

c/o FYI.org.nz

By email only: [fyi-request-5560-56a606cb@requests.fyi.org.nz](mailto:fyi-request-5560-56a606cb@requests.fyi.org.nz)

Dear B White

### **Official Information Act #16.133 – Homeopathic Products**

1. We refer to your Official Information Act 1982 (OIA) request of 16 March 2017 for the following information:

“1. How many complaints to the commerce commission about homeopathic products in the last 5 years.

2. The number of these complaints which resulted in warnings, or other enforcement actions.

3. The number of self initiated (initiated by the commission or another government agency) investigations into homeopathic products in the last 5 years.

4. The number of these investigations which resulted in warnings, or other enforcement actions.

5. If any guidelines exist (internally or public) in relation to the standards of evidence required for producers of supplements and or homeopathic remedies to not be considered by the commission as misleading in relation to claims made in selling these products.

6. If in the commissions opinion, the act of selling products by pharmacies that have no scientific basis to their claims is misleading to consumers.”

2. We have structured our response in relation to your enquiries.

#### **Questions 1-4**

#### *Search of the Commission’s database for relevant complaints*

3. When someone contacts the Commission with a question, comment, or complaint about a company, this information is stored in our database. For your OIA request, a wide range of search terms were used in order to capture a complete view of alternative health products. To determine the number of complaints the Commission received about homeopathic products from 16 March 2012 to 16 March 2017, we searched the Commission’s enquiries database for the following terms:

3.1 homeopath\*;

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- 3.2 alternative;
- 3.3 holistic;
- 3.4 health;
- 3.5 medic\*;
- 3.6 natural;
- 3.7 pharma\*;
- 3.8 remed\*; and
- 3.9 supplement\*.
4. Once we had the complete picture of alternative health reports<sup>1</sup> made in the last five years, we were able to filter the results down to the ones relevant to your OIA request about homeopathic products.
5. Since 16 March 2012, the Commission has received a total of 31 reports about homeopathic products. The Commission has not “self-initiated” any investigations into homeopathic products.
6. A full breakdown of the outcomes for the complaints can be found in the table below.

No. of reports	Outcome of report
23	Failed enforcement criteria at the initial assessment and no further action was taken
4	Waiting for initial assessment decision
2	Information about the complaint has been passed to the trader
1	Complaint referred to MedSafe
1	Under investigation

7. What the above table shows is that, at present, none of the complaints have resulted in warnings or court proceedings. When the Commission passes information to the trader, we provide information on the nature of the report received and guidance on the trader’s obligations under the Act. We do not investigate the matter any further and consider the matter closed.
8. **Attachment A** provides information on the Commission’s complaints and screening process.

<sup>1</sup> A report refers to any enquiry, comment, or complaint made to the Commission.

### Question 5

9. The Commission does not have guidelines that are specific to the producers of supplements or homeopathic remedies.
10. This is not to say that these traders are exempt from abiding by the Fair Trading Act 1986. All traders must comply with the Act.
  - 10.1 Traders supplying homeopathic remedies must ensure that they do not make misleading claims about the health benefits of their products.
  - 10.2 The Commission's [health and nutrition claims](#) fact sheet covers what traders need to know in order to comply with the Act and what consumers need to be aware of when purchasing products.
11. While the Commission regulates the Fair Trading Act, there are other organisations such as Medsafe<sup>2</sup> and Food Standards Australia New Zealand<sup>3</sup> that also monitor traders who make health benefit claims about their products.

### Question 6

12. The Commission does not mandate the types of products that pharmacies can or cannot sell. It is a breach of the law for any trader to make claims that are false, misleading or unsubstantiated. Please refer to the Commission's fact sheet on [unsubstantiated representations](#) for more information.

### Further information

13. 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.
14. If you have any questions in regards to this request, please do not hesitate to contact us at [ويا@comcom.govt.nz](mailto:ويا@comcom.govt.nz)

Yours sincerely



Lynette Gollop-Davidson  
OIA Coordinator

<sup>2</sup> <http://www.medsafe.govt.nz/>

<sup>3</sup> <http://www.foodstandards.govt.nz/Pages/default.aspx>

## Attachment A - The Commission's complaints and screening process

1. To provide background and context to our response, we provide a summary of our screening process<sup>4</sup> below.
2. The Commission's screening process has been established to deal with the thousands of reports received each year and to determine which reports should be investigated further.
3. Every report is initially assessed by our Enquiries Team on the basis of the information provided. When conducting this initial assessment, the Commission considers:
  - 3.1 the likelihood of a breach of the relevant legislation (namely the Fair Trading Act 1986 (the Act), Credit Contracts and Consumer Finance 2003, and the Commerce Act 1986);
  - 3.2 the Commission's Enforcement Response Guidelines;<sup>5</sup> and
  - 3.3 the Commission's strategic priorities and resourcing constraints.
4. If a report is initially considered by our Enquiries Team to meet our criteria, the report is further considered and sent to a panel of managers for decision. The panel is made up of five senior managers within the Commission. These managers review each report and make decisions on how we should proceed.
5. Though the Commission has the power to act on reports which we consider may breach the Act, we are not a complaint handling body and cannot take action on every report we receive. The Commission seeks to ensure that high priority matters are addressed first.
6. Following the screening process, a report will either be closed or transferred to the investigations team. The action the Commission takes is dependent on how the report fits with the enforcement criteria.<sup>6</sup>

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<sup>4</sup> Please refer to pages 10-11 of the "Competition and Consumer Investigation Guidelines – December 2015" for information on the screening process (<http://www.comcom.govt.nz/the-commission/commission-policies/competition-and-consumer-investigation-guidelines/>).

<sup>5</sup> <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/>

<sup>6</sup> <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-criteria/>