

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Riana Swanepoel
Advertiser	Advanced Technologies
Consumer/Competitor	Consumer
File References	990 - Aktivora - Riana Swanepoel
Outcome	Upheld
Date	29 September 2020

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Riana Swanepoel against Advanced Product Technology for a claim on the labelling of Aktivora hand sanitizer.

Description of the advertising

The complainant submitted the following images of the label of the product:



Complaint

In essence the complainant is of the view that the claim “ALL NATURAL PLANT BASED INGREDIENTS” is misleading as the product also contains more than one chemical ingredient.

Response

The Advertiser submitted that:

- The product is not reliant on the trace amounts of chemicals appearing on the label as the said chemicals only serve as a slight support to the advanced technology built into it (molecular resonance and positive charge amongst other things).
- The product is based on natural plant extracts and oils that make up the main volume of the product, (distilled water, coconut and citrus fruit extracts/citric acid from corn and a few others). Less than 1% (trace amounts) of European Union approved and registered chemicals that are biodegradable and non-bio-accumulative are also used as part of its ingredient formulation.
- Other non-alcohol based sanitizers all need some form of the same chemicals to act as a biocide, because they do rely on them for the efficacy/kill rates and usually in much higher amounts than what was used in the product complained of. It has noted 10% and higher use of these chemicals in these similar products. A percentage that that would be unacceptable to the Advertiser. It should also be noted that even water can also be a biocide if its Ph. value is slightly changed.
- The claim used is “ALL NATURAL PLANT BASED INGREDIENTS” and not “ALL NATURAL PLANT INGREDIENTS”.

Application of the Code of Advertising Practice

The following clause was considered in this matter:

- Misleading claims – Clause 4.2.1 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

In essence the Complainant is of the view that the claim “*ALL NATURAL PLANT BASED INGREDIENTS*” is misleading as the product also contains more than one chemical ingredient.

Clause 4.2.1 of Section II states that advertisements should not contain any statement or visual presentation, which directly or by omission, ambiguity or exaggerated claim, is likely to mislead the consumer about the advertised product.

The Directorate starts, as a basis, by highlighting the following regarding the wording used in the claim:

- “*All*” means everything in it, all the ingredients that are used to manufacture the product, not just some or most of the ingredients.
- “*Natural*” means naturally occurring and not artificially manufactured.
- “*Plant based*” implies that the ingredients are originally and mainly from plants and do not contain any artificial chemicals and other derivatives.

The Advertiser submitted that it used the wording “PLANT BASED INGREDIENTS” and not “PLANT INGREDIENTS” in the labelling of the product.

The Directorate, however, wishes to point out that the question before it in this matter is not about the difference between “PLANT BASED INGREDIENTS” and “PLANT INGREDIENTS” but whether, by including the terms “all natural” in its claim, the Advertiser implied that the product does not contain any chemicals or non-plant based ingredients, but only contains natural ingredients that have been derived from plants. The Advertiser has also not indicated what it believes should be the consumers’ takeout of the claim “plant based ingredients” as opposed to “plant ingredients”, or how that is relevant to the question at hand.

The Directorate notes that the Advertiser confirms that the product does contain trace amounts of chemicals (European Union approved that are biodegradable), including quaternary ammonium compounds, alcohol ethoxylate and others, as per the labelling of the product. It is accepted that this product might contain much lower levels of these ingredients as compared to other products in the category. However, the claim is not “lower than our competitors”, it is “all”.

The inclusion of “all” in the claim is problematic as it implies that all the ingredients that are used to manufacture the product and not just some or most, are included within the claim. The pairing of “all” and “natural” implies that all the ingredients that are used to manufacture the product are naturally occurring and not artificially manufactured and that they are originally and mainly from plants and do not contain any artificial chemicals and other derivatives.

Given this, the Directorate believes that the hypothetical reasonable consumer, on seeing the claim, might well understand that all the ingredients used in manufacturing the product are naturally occurring and plant based, and be misled, as this appears to be untrue.

It is within this context that the Directorate finds that the claim “*ALL NATURAL PLANT BASED INGREDIENTS*” is misleading as the product also contains other non-natural chemicals that are not plant based. The claim is therefore in contravention of Clause 4.2.1 of Section II of the Code as alleged by the Complainant.

Sanction

The Advertiser is required to:

- Withdraw or amend the claim “*ALL NATURAL PLANT BASED INGREDIENTS*” in its current format. The process of withdrawing the claim must be actioned with immediate effect;
- The process of withdrawing the claim “*ALL NATURAL PLANT BASED INGREDIENTS*” must be completed within the deadlines stipulated in Clause 15.3 of the Procedural Guide. In the case of packaging, this is three months.