



JOHN BARKER LAW
— FOOD AND BEVERAGE SPECIALISTS —

LABELLING CONSUMABLE NATURAL HEALTH PRODUCTS

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1. Therapeutic & health claims



Which rules apply?

How your product is classified is essential to understanding:

- what you must say on the label
- what you can say on the label
- what you can't say on the label

Food Act 2014



- *Ministry for Primary Industries*
- Food & supplemented foods
- Claims must not be “therapeutic in nature”
- Nutrition content claims permitted
- General level health claims permitted
- High level health claims permitted
- Vague, non-specific claim (e.g. Manuka Doctor) not a health claim

Dietary Supplements Regs 1985



- *Ministry for Primary Industries (?)*
- Dietary supplements
- Therapeutic claims prohibited
- Nutrition content claims not regulated
- Health claims not regulated BUT broader definition of therapeutic claims overlaps with health claims for food

Medicines Act



- *Medsafe*
- Selling product with claims relating to “therapeutic purpose” could cause them to be classified as a medicine

ASA Code



- *Advertising Standards Authority*
- ASA Therapeutic and Health Advertising Code applies to all advertising but not packaging and labelling
- No therapeutic claims for dietary supplements
- Health benefit claims permitted



Fair Trading Act

- *Commerce Commission, general public*
- Applies to all conduct in trade
- Claims must not be false, misleading or deceptive or likely to be
- Claims must be substantiated with evidence at the time that you make them



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2. Country of origin labelling

Is it mandatory in NZ?

- **Food / supplemented food:** not mandatory - name and address of supplier only required
- **Dietary supplement:** not mandatory - trading name and business address of manufacturer, seller or packer, or of owner of the rights of manufacture, or the principal or the agent of any of them

Will it become mandatory?

Consumers' Right to Know (Country of Origin of Food) Act 2018

- awaiting regulations to apply to “regulated foods”
- appears to be limited to single component fresh or frozen produce
- does not apply to products that are not food – i.e. dietary supplements

When is a product “made in NZ”?

- Fair Trading Act will apply
- No hard and fast rule
- Depends on product, nature of the claim, what consumers are likely to understand in the context
- NZ origin claim doesn't need to be in words – can be symbol or imagery
- Small print doesn't necessarily correct a misleading headline

Recent examples

- “New Zealand made” misleading in relation to goats milk colostrum powder where components imported and mixed in NZ
- “NZ made” claims on supplements found misleading where ingredients largely imported
- “Made by New Zealanders” etc misleading where ham cured in NZ but made from pigs reared overseas



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3. Conclusion

Take aways...

- Don't make therapeutic claims – i.e. cause & effect relationship between product and disease, ailment or physiological process
- Be aware of the specific rules for the product you are making
- Don't make claims that are false, misleading or deceptive or likely to be
- Make sure that you can substantiate any claims at the time that you make them



THANK YOU

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