

# Dr Ken Harvey MB BS, FRCPA

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3 February 2014

Prof John Dewar  
Vice-Chancellor  
Office of Vice Chancellor  
La Trobe University  
Bundoora, VIC, 3086

Dear Prof Dewar,

## **Re: Resignation as Adjunct Associate Professor; Swisse – Latrobe University Partnership**

I am writing to tender my resignation as Adjunct Associate Professor in the School of Public Health because of the recently announced partnership between La Trobe University with Swisse Wellness Pty Ltd.<sup>1</sup>

The University press release noted that Swisse will contribute \$15 million to the University over six years to scientifically examine the quality and efficacy of its products. Professor Nugent, Deputy Vice Chancellor (Research) said that 'once the CMEC is established, Swisse will continue to have its products undergo rigorous and independent, scientific assessment'.<sup>2</sup>

Swisse is well known for prioritizing the marketing of its products (especially by the use of celebrities) over their scientific assessment.<sup>3,4</sup> Indeed, many of the claims Swisse have made about their products have been judged to have breached the Therapeutic Goods Advertising Code by the independent Complaint Resolution Panel (CRP). I have appended a summary of these complaints.

For example, in a 71 page judgement published on 4 June 2013,<sup>5</sup> twenty television advertisements were reviewed for the following products: Swisse Men's Ultivite, Swisse Women's Ultivite, Swisse Ultiboost Inner Balance, Swisse Ultiboost Sleep, Swisse Ultiboost Hair Skin and Nails, Swisse Ultiboost Liver Detox, a Prevention Pack, Swisse Ultiboost Wild Krill Oil, Swisse Ultiboost Coenzyme Q10, Swisse Ultiboost Glucosamine and Swisse Ultiboost Chlorophyll.

Many of these advertisements claimed that Swisse products were "Proven", clinically proven", "proven results", "scientifically shown", "clinically tested with proven results", "proven in clinical trials" (advertisements 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20 and 21).

The CRP noted that most of these studies Swisse used to support these claims were weak in that they were conducted on a small number of patients in narrowly defined groups, such as elderly men, that are not representative of the general adult population to whom the Panel considered the television advertisements were addressed. None of the eight studies cited supported representations that Swisse products were clinically proven to improve stamina, energy, general health and well-being or relieve fatigue, tiredness or stress in the general adult population.

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<sup>1</sup> <http://www.heraldsun.com.au/business/swisse-wellness-robust-ahead-of-international-expansion/story-fni0dcne-1226812765643>

<sup>2</sup> <http://www.latrobe.edu.au/news/articles/2014/release/complementary-medicine-partnership>

<sup>3</sup> <http://www.youtube.com/watch?v=12ww26sQF7E&feature=youtu.be>

<sup>4</sup> <http://www.latrobe.edu.au/news/articles/2012/opinion/complementary-medicines-self-regulation>

<sup>5</sup> [http://www.tgacrp.com.au/uploaded/doc/Swisse\\_Products.pdf](http://www.tgacrp.com.au/uploaded/doc/Swisse_Products.pdf)

## Dr Ken Harvey MB BS, FRCPA (continued)

The CRP determined that the following provisions of the Therapeutic Goods Advertising Code had been breached: sections 4(1)(b), 4(2)(a), 4(2)(c) in all advertisements except Nos. 6, 7, 10 and 11; 4(1)(b), 4(2)(c) in No. 7; 4(4) in No. 2 (also 13); 4(5) in No.5; 4(2)(d) in Nos. 18 and 19; also the Therapeutic Goods Act section 22(5) in No. 8. Accordingly, Swisse were requested to withdraw the advertisements and representations that breached the Code and Act.

In response Swisse Wellness chief executive Radek Sali deemed the ruling “ridiculous” and accused the panel of being “unqualified” to evaluate the evidence Swisse presented to support the health claims and called for an immediate overhaul of the panel.<sup>6</sup>

You will be aware that industry sponsored research is more likely to report positive outcomes than were trials funded by other sources.<sup>7,8,9</sup> In addition, contract research for industry can be specifically designed to provide a particular result. For example, performing a battery of 60 or more tests of mental functioning while administering a multi-vitamin preparation is likely to find that one or two tests will show statistical significance due to random chance. See also a 2012 Swisse contracted research press release<sup>10</sup> and my comments about it.<sup>11</sup>

I certainly support more research into the efficacy of complementary medicines but, in my view, it is crucial that the design, assessment and funding of such research be at arm’s length from a particular company and overseen by an independent body such as the ARC &/or NHMRC. One appropriate mechanism for industry to assist such research would be for several companies to partner with one or more Universities in an ARC Linkage grant submission.

In short, I am concerned that the partnership of La Trobe University with Swisse Wellness Pty Ltd involves a fundamental conflict of interest both for the proposed CMEC and the staff involved. In addition, I am concerned this arrangement will impact on the reputation of the University given the track record of Swisse. Finally a number of colleagues have raised questions about the appropriateness of my ongoing association with La Trobe University given this arrangement with Swisse.

Taking all the above into account, I hereby confirm my resignation as Adjunct Associate Professor.

I have also copied this letter to Prof John Dwyer, President, Friends of Science in Medicine (FSM)<sup>12</sup> for publication and debate of the issues involved. FSM supports research into complementary medicines but both they and I believe that championing good science demands independence and protection from distortions that can develop if the outcomes are of pecuniary significance to the donors of the research funds.

Yours sincerely,

Dr Ken Harvey  
Cc  
Head, School of Public Health, Media and Communications,  
Prof John Dwyer, President, Friends of Science in Medicine.



<sup>6</sup> <http://www.theage.com.au/national/swisse-ads-did-mislead-as-complaint-is-upheld-again-20130607-2nvok.html>

<sup>7</sup> <http://annals.org/article.aspx?articleid=745938>

<sup>8</sup> <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3411392/>

<sup>9</sup> <http://onlinelibrary.wiley.com/doi/10.1002/14651858.MR000033.pub2/full>

<sup>10</sup> <http://www.medreach.com.au/wp-content/uploads/2012/11/Swisse-Press-Release-Nov-2012.pdf>

<sup>11</sup> <http://www.medreach.com.au/?p=570>

<sup>12</sup> <http://www.scienceinmedicine.org.au/>

# Dr Ken Harvey MB BS, FRCPA (continued)

## Therapeutic Products Advertising Complaints Resolution Panel Register<sup>13</sup>

<u>Complaint No.</u>	<u>Date of Meeting</u>	<u>Product</u>	<u>Complainant</u>	<u>Respondent</u>
<a href="#"><u>2013/03/015</u></a>	06/06/13	Swisse Ultivite + Energy Effervescent	Anonymous	PINCHme Pty Ltd; Swisse Wellness Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Code section 4(8)  <b>Sections Found Not Justified:</b> None  <b>Action:</b> Withdrawal of representations, Withdrawal of advertisement</p>				
<a href="#"><u>2013/01/020</u></a>	16/05/13	Super Liquid Fish Oil and Swisse Hair Skin Nails	Anonymous	Swisse Vitamins Pty Ltd; Sanofi-Aventis Healthcare Pty Ltd; Pacific Magazines Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Act section 42C; Code section 6(3)  <b>Sections Found Not Justified:</b> None  <b>Action:</b> Withdrawal of advertisements</p>				
<a href="#"><u>2011/11/001 and 2011/11/009 (Reconstituted Panel)</u></a>	27/11/12	Swisse Products	Requested anonymity	Swisse Vitamins Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Code sections 4(1)(b), 4(2)(a), 4(2)(c) in all advertisements except Nos. 6, 7, 10 and 11; 4(1)(b), 4(2)(c) in No. 7; 4(4) in No. 2 (also 13); 4(5) in No.5; 4(2)(d) in Nos. 18 and 19; Act section 22(5) in No. 8.  <b>Sections Found Not Justified:</b> Code section 4(2)(h) in all advertisements; 4(5) in all advertisements except No. 5; 4(1)(b), 4(2)(a) and 4(2)(c) in Nos. 6, 10 and 11; 4(2)(a) in No. 7; 4(6)(b)(iii) in Nos 10 and 11; 4(6)(b)(iv) in No. 19; Act section 42DL(1)(f) in No. 5.  <b>Action:</b> Withdrawal of advertisements, Withdrawal of representations</p>				

<sup>13</sup> <http://www.tgacrp.com.au/index.cfm?pageID=13>

## Dr Ken Harvey MB BS, FRCPA (continued)

<a href="#"><u>2011/10/029</u></a>	01/12/11	Swisse Products	Anonymous	Swisse Vitamins Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Act section 42C  <b>Sections Found Not Justified:</b> None  <b>Action:</b> Withdrawal of advertisement</p>				
<a href="#"><u>2010-12-002</u></a>	03/03/11	Swisse Liquid Iron	Requested anonymity	Swisse Vitamins Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Code sections 4(1)(b), 4(2)(c), 4(2)(i)  <b>Sections Found Not Justified:</b> None  <b>Action:</b> Withdraw advertisement; withdraw representations</p>				
<a href="#"><u>2009-10-009</u></a>	21/01/10	Swisse Ultiboost Eye	Blackmores Ltd	Swisse Vitamins Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Act section 22(5); Code section 5(2)  <b>Sections Found Not Justified:</b> None  <b>Action:</b> Withdraw advertisement; withdraw representations</p>				
<a href="#"><u>2009-02-020</u></a>	07/05/09	Swisse Multivitamin	Requested anonymity	Swisse Vitamins Pty Ltd
<a href="#"><u>2008-04-025</u></a>	17/07/08	Swisse Ultivite	Dr Ken Harvey	Swisse Vitamins Pty Ltd
<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Code section 4(6)(b)  <b>Sections Found Not Justified:</b> Code section 4(2)(f), 7(2)  <b>Action:</b> Withdrawal of advertisement; withdrawal of representations</p>				
<a href="#"><u>2008-03-028</u></a>	01/05/08	Swisse Glucose Balance	Anonymous	Swisse Vitamins Pty Ltd

## Dr Ken Harvey MB BS, FRCPA (continued)

	<p><b>Finding:</b> Justified  <b>Sections Found Justified:</b> Code sections 4(1)(b), 4(2)(a), 4(2)(c), 4(2)(d)  <b>Sections Found Not Justified:</b> None  <b>Action:</b> Withdrawal of advertisement; withdrawal of representations</p>			
<a href="#"><u>12-0607</u></a>	20/09/07	Pregcel	Anonymous	Swisse Vitamins Pty Ltd
	<p><b>Finding:</b> Justified  <b>Action:</b> Withdrawal of advertisement</p>			
<a href="#"><u>2-1005</u></a>	15/12/05	Clinicals Cerexl	Anonymous	Swisse
	<p><b>Finding:</b> Justified - publisher (Bulletin) responsible  <b>Action:</b> Explanation accepted, no sanction</p>			
<a href="#"><u>19-0905</u></a>	17/11/05	Clinicals Syzak	Anonymous	Swisse Natural Healthcare
	<p><b>Finding:</b> Justified (publisher - Bulletin)  <b>Action:</b> Explanation accepted. No sanction.</p>			
<a href="#"><u>8-0805 &amp; 15-0805</u></a>	15/09/05	Swisse Women's Ultivite	Company	Swisse Vitamins Pty Ltd
	<p><b>Finding:</b> Justified  <b>Action:</b> Withdrawal of advertisement; withdrawal of representations</p>			
<a href="#"><u>15-0805 &amp; 8-0805</u></a>	15/09/05	Swisse Women's Ultivite	Anonymous via TGA	Swisse Vitamins Pty Ltd
	<p><b>Finding:</b> Justified  <b>Action:</b> Withdrawal of advertisement; withdrawal of representations</p>			