



200/3 (3) R 11/3/96
Please refer to journal
file. *

BRITISH SMALL ANIMAL VETERINARY ASSOCIATION

Mr D J Thompson OBE MA MVB MRCVS
President
The Royal College of Veterinary Surgeons
Belgravia House
62-64 Horseferry Road
London SW1P 2AF

7th March 1996
Exec/RCVS/DT/11

Dear Des,

Di Snelair
Please comment.
P. 11/3

Endorsement of products by veterinary surgeons.

You will be aware that this thorny problem has yet again been brought to the fore, this time by the Sainsbury's Select Diet range.

The "veterinary approved" labeling on these products is likely to mislead the pet owning public into thinking that the approval quoted is independent. Indeed, I believe that Sainsbury's have responded by saying that "a recognised veterinary association" has also endorsed the product, but that for reasons of "commercial confidence" they cannot reveal who their veterinary endorsers are, nor which is the recognised association.

I hope that the R.C.V.S. continues to press Sainsbury's to reveal just who is doing the endorsing and that, as we understand that this constitutes unethical behaviour, appropriate action will be taken by the College against those involved.

With best wishes,
Yours sincerely,

John Robert Dalton BVMS MRCVS
President
copy to Officers

John R.F. Dalton BVMS MRCVS President Avon House Middle Woodford Salisbury, Wilts SP4 6NR Tel: (01722) 782652 (Home) (01722) 412211 (Work) Fax: (01722) 782690 (Home)	Lynne V. Hill MVB MRCVS Senior Vice President Glenburn Veterinary Clinic 7 Nuts Corner Road Crumlin, Co. Antrim BT29 4BW Tel: (018494) 52226 Fax: (018494) 22838	H. Simon Orr BVSc DVR MRCVS President Elect Castle Veterinary Surgery 1 Tilehurst Road Reading, Berkshire RG1 7TW Tel: (01734) 57488 Fax: (01734) 834248	David F. Wadsworth BVMS MRCVS Junior Vice President 94 Norbreck Road Thornton Cleveleys Lancs FY5 1RP Tel: (01253) 357380 Fax: (01253) 357503	Registered Office Kingsley House Church Lane Shardington Cheltenham Gloucester GL51 5TQ Tel: (01242) 862994 Fax: (01242) 863009
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MEMORANDUM

TO: LYNNE HILL

COPY: JUSTIN SKALA
BARRY BUSH
BARRY BURSTON

FROM: NICK SHARP, Legal Department

DATE: 7TH MARCH 1996

CONFIDENTIAL

Sainsbury's Select range
use of "VETERINARY APPROVED" stamp

Further to our conversation, I confirm that our outside lawyers Herbert Smith have taken advice from leading Counsel specialising in Trade Descriptions matters as follows:

NOT SO
TELEPHONE
CONVERSATION!

The use of the phrase "Veterinary Approved" on the packaging of the new Sainsbury's range could bear one of two possible meanings as far as consumers are concerned:

1. A substantial number of independent and competent vets have properly researched, tested and approved the product; or
2. An official or recognised independent and competent body of the veterinary profession has properly researched tested and approved the product.

Either of these meanings would, in the opinion of leading Counsel, be sufficient to mean that the statement amounted to a false or misleading trade description, and therefore a criminal offence under the Trade Descriptions Act 1968.

On the basis of the information given in the article from the Yorkshire Post (5th March) which I have seen, it must be very doubtful whether Sainsbury's would be able to satisfy either of the two tests given above.

Nick

11 MAR 1996

BRITISH VETERINARY ASSOCIATION

MEMORANDUM

FROM: Chrissie Nicholls - Head of Veterinary Services

TO: Bob Stevenson - BVA President
Paul DeVile - BVA Past President
Ted Chandler - BVA Vice-President
John Dalton - BSAVA President
Roger Clarke - SPVS President

CC: Jim Baird - BVA Chief Executive
Peter Woolley - RCVS Secretary & Registrar

DATE: 8 March 1996

OFT INVESTIGATION INTO SUPPLY OF SPECIALIST PET FOOD

The Office of Fair Trading have written to BVA today following "a complaint from a member of the public about the supply of a brand of specialist pet food. The complainant states that his vet not only recommended the product for his pet but is also his only source of supply. He wishes to be able to buy the product from a supermarket. We understand that the product is in fact available from other outlets, such as breeders and specialist pet shops but that the manufacturer has a policy of not supplying supermarkets."

Having spoken to the OFT it would appear that they had not written to RCVS. This they will be rectifying.

In the meantime I would be grateful for your help in providing information to assist BVA in responding to the following questions put to us by the OFT. Incidentally the deadline for a response is **Wednesday 27 March** so I would be obliged if I could have your comments by **Friday 22 March**.

1. Are you able to estimate how many of your members sell pet food to pet owners?
2. What kinds of pet food do your members sell? Is it only 'specialist' or 'scientific' pet food, or do they sell mass-market pet foods?
3. Do you have any information about the proportion of vets' income which is

represented by sales of pet food?

4. What guidelines do you issue to your members to ensure that their decision to recommend a particular pet food is not influenced by the fact that they also sell it?
5. In The Veterinary Record of 3 February 1996, a representative of one pet food manufacturers refers to the veterinary clinic as 'the primary partner for its products'. Do you share this view? In particular, do you think that the well-being of pets would suffer if your members were to recommend products which pet owners then bought elsewhere, or if pet owners made their own choice of what to feed their pets on the basis of a vet's diagnosis and the information on the packaging of pet food (supplemented, if necessary, by promotional leaflets)?

C8/3



THE ROYAL COLLEGE OF VETERINARY SURGEONS

MEMORANDUM

DATE: 11 March 1996

TO: Registrar

FROM: Di Sinclair

ENDORSEMENT OF PRODUCTS BY VETERINARY SURGEONS - SAINSBURY'S SELECT DIET RANGE

1. The words 'veterinary approved' cannot constitute product endorsement in terms of our Guide because that requires a named identifiable vet up front recommending the product.
2. The expression may also be a statement of fact in that a veterinary surgeon employed by the Company has approved the formula before manufacture. Hills and Pedigree both employ vets and could equally say 'veterinary approved'. Hence we have no locus.

BUT if the advertising standards body believe the term to be misleading the public, they can take action.

3. Rumour has it that the 'recognised veterinary association' is the Canadian Veterinary Association. They are not however within our jurisdiction either.

Di Sinclair

*Please mail
up. 1.1V.96.
Lush under J.R. Jallo
style per products*

29 March 1996

1 APR 1996

*

SAINSBURY'S

Ref: GMB/KB/053

Mrs D A Sinclair
Assistant Registrar (Legal)
The Royal College of Veterinary Surgeons
Belgravia House
62-64 Horseferry Road
London
SW1P 2AF

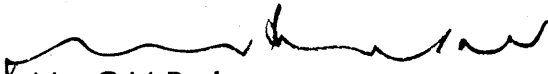
Dear Mrs Sinclair

Thank you for your letter of 22nd March.

I believe that Professor Peters from the Royal Veterinary College has already been in touch with you to explain that they have approved our Select Diet formulations.

I hope this clears up any misunderstanding.

Yours sincerely


Mrs G M Barker
Senior Manager - Non Foods I



The Advertising Standards Authority Limited
2 Torrington Place London WC1E 7HW Telephone 0171-580 5555 Fax: 0171-631 3051

FAX TRANSMISSION

TO : Di Sinclair COMPANY : RCVS
FROM : Claire Serle DATE : 11.6.96
FAX NO : 0171-222-2002 NO OF PAGES : 1

PLEASE REPORT TRANSMISSION PROBLEMS TO: 0171 580 5555

MESSAGE:

Dear Ms Sinclair

RE: SAINSBURYS SELECT DIETS - "VETERINARY APPROVED"

Our telephone conversation of 7th June refers. You may be aware that I tried to contact you again today.

The ASA administers the rules by which the advertising industry controls the content of advertisements. One of our tasks is to investigate complaints from both the public and the industry about advertisements which are alleged to break the British Codes of Advertising and Sales Promotion. We have received a challenge to Sainsbury's claim that their Select Diet is "veterinary approved".

We have taken the matter up with the advertisers. They have told us the Royal Veterinary College carried out tests on their products and concluded that the nutritional content was found to be within the recommendation of the Association of American Feed Control. We are currently assessing whether this amounts to "approval" and considering how the claim will be understood by customers.

We have also been told that you were fully aware of the approval and we should welcome your comments on this as well as endorsements generally. We should also be grateful for any other information that you consider may be helpful.

I look forward to hearing from you at your earliest convenience.

200/3 (1)

*
Copies to all Vet Schools sent.

Please quote
LEG/ADV

Professor M M H Sewell MA VetMB PhD MRCVS
Royal (Dick) School of Veterinary Studies
Faculty Office
University of Edinburgh
Summerhall
Edinburgh EH9 1QH

16 July 1996

Dear

**PROVISION OF COURSES FOR LAY PERSONS
- ENDORSEMENT OF PET FOODS**

I am asked by the College's Advisory Committee to draw the following points to the attention of the heads of veterinary schools.

In recent years there have been instances where schools have provided training for non-veterinarians in pregnancy diagnosis by ultrasound scanning in cattle and AI in mares.

The College's position on both these procedures is clearly set out in the draft paper Deregulation Pressures Facing the Veterinary Profession at pages 5-7 and 8-9 respectively, which are attached. Both are identified as acts of veterinary surgery. Thus until such time as regulations and satisfactory safeguards are in place the provision of such training could lead to contravention of the law and should not be permitted.

I am further asked to advise that in entering into any contractual arrangement with pet food or other manufacturers, those concerned in the Universities should take appropriate steps to ensure that their involvement can in no way be interpreted as a form of product endorsement. The relevant guidance by the College on such matters is contained in the attached extract from the 1996 Guide to Professional Conduct.

Yours sincerely

Registrar

Enc.



THE UNIVERSITY
of LIVERPOOL

26 JUL 1996

Mr P E Woolley OBE
The Royal College of Veterinary Surgeons
Belgravia House
62-64 Horseferry Road
London
SW1P 2AF

* 200/3
Dean of the Faculty of
Veterinary Science
Professor Chris Gaskell
BVSc, PhD, DVR, MRCVS

Faculty of Veterinary Science

Veterinary Science Building
Liverpool L69 3BX

Telephone: 0151 794 4282
Facsimile: 0151 794 4279

19 July 1996
CJG/LF

Dear *Pete,*

**Provision of Courses for Lay Persons
- Endorsement of Pet Foods**

Thank you for your letter which I will make available in the Faculty.

In relation to the arrangements with Pet Food or other manufacturers, I would be grateful if you could re-assure Advisory Committee that we are very conscious of the potential difficulties referred to and in drawing up any arrangements have been at pains to ensure explicitly the academic independence of staff, whose contracts are with the University, not the manufacturer. In all cases this has been in the interest of the sponsor as well as the Faculty.

John

Chris

Legal

① If & when we receive other
replies - file them with my letter.

KP/5
② Copy to chairman & vice.

Reln 30/7

OFFICE OF FAIR TRADING

Chancery House, 53-64 Chancery Lane, London WC2A 1SP
Switchboard 0171-242 2858, Direct Line 0171-269 0171 269 8731, Fax 0171-269 0171 269 8538

Mr D J Thompson OBE BA MVB MRCVS
President
The Royal College of Veterinary Surgeons
Belgravia House
62-64 Horseferry Road
London
SW1P 2AF

Your Ref DJT/LGE

Our Ref CF/15.72/133

Date 6 September 1996

Dear Mr Thompson

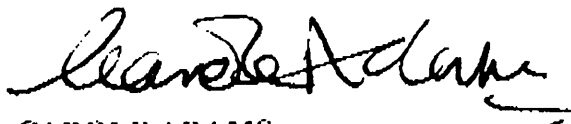
THE SUPPLY OF SPECIALIST PET FOODS

Thank you for your letter of 25 March in connection with our informal investigation into the supply of specialist pet foods. You will recall that our complainant wished to be able to buy from a supermarket a product which had been both recommended and supplied by his vet. I am grateful to you for responding to our enquiries.

I am writing to inform you that we are taking no further action in this case. We do, however, have some concerns about the restrictions placed by suppliers on the distribution of specialist and therapeutic pet foods. The view of the RCVS is that the use of therapeutic diets should be strictly controlled. We would accept that vets are best placed to advise pet owners on whether therapeutic products are most appropriate for sick pets, and - if so - which ones, but we do not think that this is an argument for vets to have a monopoly in their sale.

However, the market for therapeutic pet foods is recent and still fairly small, and we do not think that intervention by the Director General would be appropriate at this stage. We intend to monitor the development of the market.

Yours sincerely



CAROLE ADAMS
Competition Policy Division

TO: RCVS
FAX NO: 0171 269 0171
ATTENTION OF: REG - PRES - LEGAL
FROM: DES THOMPSON
FAX NO: 0171 269 0171
COMPANY: RCVS
Post-It
15/9/96



Hill's Pet Nutrition Ltd.
1 The Beacons, Beaconsfield Road
Hatfield, Herts AL10 8EQ

Tel: 01707 276660 Fax: 01707 271859

*Trademark of Colgate-Palmolive Company
and used under licence by Hill's Pet Nutrition, Inc.

Mrs. D.A.Sinclair,
Assistant Registrar (Legal),
The Royal College of Veterinary Surgeons,
Belgravia House,
62-64 Horseferry Road,
London SW1P 2AF

11th September, 1996

Dear Di,

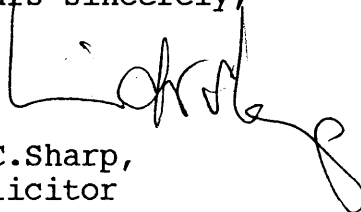
I refer to our correspondence earlier in the year about Sainsbury's and their spurious "Veterinary Approved" claim, and noticed with interest the attached extract from the ASA's monthly report, which came down (I am pleased to say) against Sainsbury's.

I am pretty sure you will have seen it before me, but I send it just in case.

I must say this seems to me to be one of the ASA's more rational judgements; it is rarely thus in my experience !

With kind regards,

Yours sincerely,


N.C.Sharp,
Solicitor

D. J. Thompson, O.B.E., B.A., M.V.B., M.R.C.V.S.
I. Millar, B.V.M.S., Cert. V. Ophthal., M.R.C.V.S.

193 BELMONT ROAD, BELFAST BT4 2AE.
TEL : BELFAST (01232) 471361

Branch Surgery
55A James St., Newtownards
Tel : (01247) 815235

FAX

FROM: DES THOMPSON 01232 659453

TO: RCVS

ATTN: DI SINCLAIR

REF: OFFICE OF FAIR TRADING

DATE: 15/09/96

PAGE 1 OF 2

Attached is a belated response from OFT.

I am pleased that at least they appear to accept that veterinary guidance is necessary.

I believe we should respond to have it on file.

Our response should confirm their acknowledgement that veterinary advice is essential for the safe use of these "specialist dietary prescription foods". We would not suggest that the profession should have "a monopoly in their sale" but we believe that as the welfare of animals is of prime concern that they should only be available "on prescription".

Please noted up. This is the
Sainsbury letter signed. 16.12.96

Y 250/13
Please quote:


Mr N C Sharp
Hills Pet Nutrition Ltd
1 The Beacons
Beaconsfield Road
Hatfield, Herts
AL10 8EQ

23 September 1996

Dear Nick

Re: SAINSBURY'S PET FOOD

Many thanks for your letter of 11 September 1996 with the attached extract from the ASA's monthly report.

Although I had heard about it I had not seen it.

Kind regards.

Yours sincerely

Mrs D A Sinclair
Assistant Registrar (Legal)

**J Sainsbury plc
t/a Sainsbury's**

*Stamford House
Stamford Street
London SE1 9LL*

*Previous complaints upheld
in the last 12 reports: 1*

Leaflet

Complaint: Objections, including one from the British Veterinary Association, to an in-store leaflet that claimed "Sainsbury's Select Diet A nutritionally complete food for your cat or dog. Veterinary Approved". The complainants challenged whether it was misleading to claim the products were veterinary approved. (7.1, 14.5)

Adjudication: Complaints upheld.

The advertisers said both the canned and dried product had received approval from recognised veterinary bodies; the former, which was manufactured in Canada, was approved by the Canadian Veterinary Medical Association. The dried food had been tested in the UK by a leading veterinary authority, which found the nutritional content to be within the recommendation of the Association of American Feed Control, which was the recognised UK standard for manufactured pet food. The Authority reminded the advertisers that professional endorsements should originate from within the European Union unless otherwise stated in the advertisement and asked them to clarify the origin of the endorsement in future. Furthermore, the Authority considered that readers would understand the claim "veterinary approved" as a positive endorsement and not simply as meaning that the product had undergone testing and had satisfied industry standards. The Authority noted the advertisers had withdrawn the leaflet but asked them to get copy advice.

Public & industry complaints from:
London & Northamptonshire

Sirius Introductions

*Sirius House
Alderley Road
Chelford
Cheshire SK11 9AP*

Regional press

Complaint: Objection to two press advertisements for an introduction agency that were headlined "The Intelligent Person's Introduction Agency" and claimed "for the intelligent, articulate and well-educated person", "BS5750 marks our commitment" and "The largest agency with personal interviews and BS5750". The complainant objected that:

1. the claim "for the intelligent ... and well-educated person" was misleading, because the complainant was matched with someone who had no qualifications and worked as a warehouse operative; and
2. the advertisements gave the impression that the company had BS5750 certification. (3.1, 7.1)

Adjudication:

1. Complaint not upheld.

The advertisers showed that some of their other members were educated to degree level. They maintained that clients saw these details before they met and could refuse dates if they wished. They said they believed that a formal education was not the only way of measuring whether someone was intelligent and well-educated and one of their methods of selecting members, by interview, showed whether they had these qualities. The Authority considered that people without formal further education could fit the advertised description and accepted the claim.

2. Complaint upheld.

The advertisers gave a certificate of BS5750 compliance issued in 1993 by a quality assurance company that was not accredited by the Department of Trade and Industry's accreditation body, the United Kingdom Accreditation Service; they had not been visited by the quality assurance company since April 1995 and could not show that procedures had been checked on that occasion. The Authority understood that the Trading Standards Department had visited the company and asked the advertisers to remove all references to BS5750 in future advertising material until they had obtained satisfactory registration or certification. The Authority considered the advertisers had not justified the claim and asked them not to refer to BS5750 (or ISO 9000) until they had satisfactory registration or certification.

Complaint from:
West Yorkshire