Guidance Note on Advertising Rapid Antigen Test Kits

This Guidance Note is effective from 17 March 2022

Key points

The COVID-19 Public Health Response (Point-of-care Tests) Order 2021 prohibits a person from importing, manufacturing, supplying, selling, packing, or using a point-of-care test for SARS-CoV-2 or COVID-19 unless the Director-General of Health has authorised the person's activity or exempted the point-of-care test from the prohibition.

Rapid antigen tests that are exempted and authorised for use in New Zealand can be found in the Point of Care Tests Order gazette notice and on the Ministry of Health website.

RAT tests are medical devices and regulated under the Medicines Act 1981.

The ASA and TAPS recommended mandatory statement to be included in all RAT kit advertising is: 'Always read the label and use as directed. Negative test results do not exclude infection from COVID-19. Follow current Ministry of Health advice at (https://covid19.govt.nz).

Recommended Mandatory Statement

The ASA in conjunction with TAPS have agreed that the following statement should be mandatory in all RAT kit advertising.

> **'Always read the label and use as directed. Negative test results do not exclude infection from COVID-19. Follow current Ministry of Health advice at (https://covid19.govt.nz).**

Use of Ministry of Health or COVID-19 Government logos

Suppliers of Rapid Antigen Test Kits that are listed on the approved suppliers list of the Ministry of Health website may refer to that in advertisements – for example "Ministry of Health authorised RA test" or similar wording, to help differentiate themselves from any products without authorisation.

ASA and TAPs consider the use of the logos from Ministry of Health and / or the Government's Unite Against COVID-19 may result in a consumer takeout that the Ministry or the Government have endorsed the advertisement. ASA and TAPS consider these logos should not be included in RAT kit advertising.

Claims in advertisements

Like all claims in advertisements, claims relating to RA tests must be able to be substantiated. Advertisers must have suitable substantiation on hand prior to making claims in an advertisement. More information about claim substantiation is available in the ASA Guidance Note on Responding to a Complaint about Misleading Claims.

Prior to preparing and placing advertisements, advertisers are expected to:

- **Be familiar with the relevant legislation and codes; and**
- **Observe a high standard of social responsibility; and**
- **Ensure their advertisements are truthful and not misleading; and**

- **Ensure their advertisement do not confuse consumers, abuse their trust, exploit their lack of knowledge or, without justifiable reason, play on fear.**

This guidance note has been developed by the Therapeutic Advertising Pre-vetting Service (TAPS) and the Advertising Standards Authority (ASA) to help support responsible advertising of Rapid Antigen Test kits.

TAPS (Therapeutic Advertising Pre-Vetting Service)

The ASA strongly recommends advertisers make use of the Therapeutic Advertising Pre-Vetting Service (TAPS) user-pays service to help minimise the risk of breaching the ASA Codes, as well as other industry codes and relevant legislation. TAPS is available to all advertisers making therapeutic or health claims in advertisements. Information about TAPS is available at the ANZA website including a range of useful advertising guidelines.