

'This is the ASA – Come out with your hands up'

Report from the Shiatsu Society who attended a meeting at the offices of the Code of Advertising Practice on October 11th 2005 – and letters between myself and David Home about the report and the implications of this.

The section in blue within David's letter is my comment on the statement that he has made. In red, areas I question in my response to his report.

CAP Meeting report – David Home, Chair - Shiatsu Society.

I was surprised to see the room packed and the first person I met was Jayne Foster from the British Acupuncture Council who had had meetings with Dominic and Veronica with regards to the ethics problems as she deals with that for the BAcC. It was interesting to see into another world of control and monitoring. I collected a file of information some of which will not be that relevant because of the subject material, however I think the office will need to keep a close watch on ASA and might need to go to CAP for advice – which is free and they also have a free quarterly email up-date on regulation changes etc.. I hope that a filtered version of some of the main points in the info pack I received can be put together for the office and those in charge of marketing.

The presentation focused on beauty more than health and was mostly concerned with slimming, cosmetics and hair products. However there was general information that applied across the board and focused on honesty and truthfulness. In slimming, for example, it was not possible to refer to 'obesity' as it was regarded as a serious medical condition and any claims regarding weight loss had to be only within the health guidelines of up to 2lbs a week. Some blatant examples of rule breaking were given in the slide show.

The use of wording became a minefield in cosmetics so that a phrase such as 'reduces the appearance of wrinkles' was acceptable and 'reduces wrinkles' was not. It appeared to be possible to make claims of temporary improvement such as 'moistens the skin' but not long-term benefits such as 'tones the skin'. No reference to helping with medical conditions such as cellulite, obesity etc. seemed acceptable at all.

Testimonials were only acceptable if they were basically subjective such as 'This is my favourite chocolate' but claims of 'I lost 10lbs in two weeks eating this product' was not. And so it went on. With things such as, '80% of people found product 'Z' helpful you had to be careful with the number of people tested and whether they came from the same group you were targeting in your publicity.

With regard to the more medical aspects, when I asked who the experts used to adjudicate new claims the speaker was suitably evasive but he did say that they were more concerned with the way the trials had been carried out, the depth of testing etc. and 100 people seemed a minimum often 200.

And double blind testing seemed the favourite. When I mentioned that if something used was proved by acceptable trials to be both effective but with an attached negative aspect / side-effect, it was perfectly acceptable to advertise only the positive – so half the truth will do it appears!

They supplied us with a long list of words that tended to cause problems in slimming and cosmetic adverts depending on the context they were used in, so again wording a phrasing are carefully scrutinised when a complaint is put in.

They supplied a 'help note on Health, Beauty and Slimming Marketing that refers to ailments. It gave the feeling that you cannot in any way hint at being able to do anything a doctor can do and that all ailments basically need to be referred to a doctor, even if you can prove it helps.. They have compiled two lists of ailments, one for 'non-serious' and one for 'serious' where medically qualified supervision is needed. With reference to the list, Practitioners represented by these capital letters can probably treat those listed ailments that display the same capital letter'.

P – Psychosomatic, M – Manipulative, Ac – Acupuncture, Ar – Aromatherapy.

Then on the list you see things like, Stress (Ar, P) no hope there for manipulation or acupuncture and PMS/PMT (P) so obviously female problems are all psychosomatic!

Another couple of quotes are:

'The ASA is unlikely to accept references to serious or prolonged ailments in a marketing communication addressed to the public, even if the marketed product is proven to treat the ailments'.

'unless otherwise indicated, prefixing an acceptable reference to an ailment with 'serious', 'chronic', 'persistent' or similar is likely to render it unacceptable.

Thus you might get away with 'can help relieve some of the symptoms associated with asthma', but not, 'can help with chronic asthma' and so on.

(My experience of the ASA is that, 'can help relieve some of the symptoms associated with asthma' is not acceptable unless you can provide scientific proof of this - Mike) and this is what the ASA say about it:-

"In order to close the case, we seek your written assurance that future advertising by you will not include the claim, explicit or implicit, that Shiatsu can be used to treat asthma, unless adequate substantiation can be provided". Letter from Malcolm Phillips September 1st 2005

In the long term they can insist on seeing your adverts before you publish them if you continue to break their rules and receive complaints. They also seemed to imply that any evidence from the complimentary / alternative sector would have to be 'robustly substantiated' with double blind trials etc and even then you probably couldn't say 'chronic asthma'.

Overall it felt like a minefield with a brick wall at the end if you are to take the Mike approach. I think we will have to tread carefully in any marketing campaign, which is why I suggested at the beginning that conferring with CAP until we get acceptable evidence may be a good thing.

Perhaps what we need to do is focus on getting the name of shiatsu out there and let the shiatsu do the talking. The quality of the pudding is in the eating and vote with your feet both come to mind. David Home.

[I sent an email asking for clarification on the two areas in red; and this was the reply.](#)

Hi Mike

How are things post MC. As you said the CAP meeting was both interesting and alarming because they seemed to be playing with words and as I mentioned in the report they issue a regular update for free as they screw down a few more terms each month that are acceptable or not. In other words they almost make the rules up as they go along and this was backed up by the lady in charge of ethics at BacC.

The idea that no advert can use a word like obesity or cellulite shows how pedantic and awkward they can be and protective of the medical profession. One of the favourite words being banded about was 'robust'. So all claims in advertising had to be robustly supported by scientific evidence, and they would robustly follow up complaints that were repeated. They even had the power to insist on regular transgressors to pass every advert through them to be scrutinised for naughty words.

With regard to the sentence you mention, you are the Mike, however nothing personal was intended. Those on the committee were well aware of how you wanted to take a stand against ASA and that was all I was saying.

The whole area of wording for adverts concerning health where treatments are concerned is like a minefield and that they appeared to 'robustly' defend their approach and were definitely going to listen to anything at all which was not supported by 'robust' scientific evidence.

They said they had the experts who examined the process or protocol of accumulation of data and so on, and they seemed to love the double blind with placebos blah, blah, blah etc. In other words they would put up a brick wall to any who would not play the game the way they write it. However by working with them we might be able to discover what would support our claims without having our legs blown off..

Thus treading carefully seems a better option crossing a minefield, especially one with watch towers etc on the other side of it.

In fact I would say that almost all leaflets in all health centres are breaking their codes, but nobody has complained about them yet.

I think the office is going to have to clarify quite a lot with CAP if it wants to give advice to members I hope this goes some way to explaining what I was trying to say.

Best wishes – Dave

[My reply to this was –](#)

Reply to David Home's email of 9th November 2005.

Dear David

Thank you for your reply. I apologise for the delay in getting back to you only we have been away in England for the last week and have only just returned home.

And life is great 'post' MC, thank you very much.

My observation on your report is that there is nothing in it about the CAP and the ASA, and what they are saying, that we didn't already know nearly two years ago; and they are still sensitive about certain areas and questions which we also already know about.

What is apparent is that the ASA and the CAP are getting more powerful, the situation is getting worse, and both are tightening their grip on organisations such as ours, and other complementary medicine organisations.

Thanks for explaining David, but I did not believe that your remark was a personal one, however I did feel that clarification as to what you meant by 'the Mike approach' was required.

Any stand would have been better than the, 'Our hands are up and we give in', situation that we have now, which will have massive repercussions for the whole of our membership, students and practitioners alike, and considering that the Shiatsu Society is supposed to provide protection for its members, the fact that it has given in without a shot being fired hardly inspires confidence in the Organisation and its future.

Your letter says. "Those on the committee were well aware of how you wanted to take a stand against the ASA and that was all I was saying".

This doesn't make it clear that I was suggesting we challenged how the rules had been set up by the CAP; This was an area that they had been aggressively refusing to supply information on, and it was also a question that the SS agreed to bring up at the CAP meeting at the beginning of October.

Your report of this meeting shows quite clearly that they were once again refusing to provide an answer, and that you have accepted this!

'The Mike approach' is well documented, and quite clear in that the ASA and the CAP can be challenged in a number of areas, which are those areas that they refuse to provide information - Who drew up the rules by which Complementary medicine is judged? We have had the answers to these questions for more than eighteen months and now the ASA

and the CAP doesn't wish to tell us because they certainly can be bought to question over this.

The other area I felt needed pursuing was in the area of 'truthfulness'.

As testimonials, client flow chart records kept by the client showing the positive results of treatment etc do not constitute, as far as the ASA is concerned, evidence that shiatsu works, the ASA has decided that I had been fraudulent in my dealings with the public through the Virgin advert. What is unacceptable to me is that the Shiatsu Society has accepted this decision; despite you saying at an MC meeting that this case history was a model of how case histories should be!

Cliff 's suggestion that I be philosophical about it in the interests of the Society, may have been to some degree acceptable if the Society had taken a stand, and hadn't now accepted the ASA's decision that shiatsu can only be advertised for 'relaxation only'.

Unfortunately you have now accepted the rules of the ASA, and, as you have put in your letter to me, the ASA are, "definitely not going to listen to anything which was not supported by 'robust' scientific evidence", "in other words they will blow the legs off anyone who will not play the game as they write it"

You have your answers here David, and playing their game, which is what the MC has done on behalf of the Shiatsu Society, places the students and practitioners of the Shiatsu Society, squarely in their hands.

Without doubt, the repercussions of this will be far reaching; well beyond the boundaries of the shiatsu Society.

For our students and practitioners, any claims to be able to carry out what we are trained to do throughout our training, the core curriculum, towards MRSS etc. will, by the rules you have accepted and are now responsible for upholding, be classed as 'fraudulent' as you have accepted the ASA's ruling that we are a therapy 'For Relaxation Only'.

Your words, "I would say that almost all the leaflets in all Health Centres are breaking the codes – but no-one has complained about them yet" I believe to be a 'head in the sand' approach, which is the same as the MC response to the ASA complaint, which popped up nearly two years ago.

My suggestion then, that we need to be clear about what was going on and deal with it, was quietly forgotten. (Like myself, this practitioner was accused of being fraudulent in his dealings with the public. and also of steering people away from 'proper medical treatment').

The practitioner in question in this case, accepted the ASA ruling on the understanding that the Society would take the matter seriously and do something about it... well the MC stuck their heads in the sand, (yet again) and hoped that it would go away.

I said that it wouldn't, and I gain no satisfaction from being right.

The price to the Society however, and shiatsu in general has been phenomenal, and the other practitioner, like myself, was a sacrificial calf, for nothing gained. (So much for the protection of the Society, and how much the members are valued)

We have lost the opportunity to challenge the weakness in their argument with the knowledge that we have, about the very questionable way in how, and by whom, the rules were drawn up that we are now being bludgeoned with. And it isn't as though the Society is short of cash!

Before resigning from the MC two weeks before the AGM, after completing all that I said that I would accomplish with the exception of the marketing workshops, there was still £25,000 left from the marketing budget for the year. To me this money would have been well spent protecting the future marketing of the Shiatsu Society and its members.

The MC is responsible for advising the members that they can now only advertise themselves 'for Relaxation only', and how are you going to 'police' this, that is when you decide to tell them, as the report that I am now commenting on was of a meeting at the beginning of October and it is now mid November.

Why the delay in advising the members of this?

How are you going to tell the schools, that is the ones who are interested in producing 'practical' as well as esoteric shiatsu, that they cannot realistically advertise a practical training system for their students any more. And what incentive do the practitioners of the future have when they cannot advertise in the public arena, their practical skills, which are required by the core curriculum before graduation, without breaking the rules of the Shiatsu Society (which imposes the core curriculum) and also the ASA?

I have no intention of advertising my skills, 'for relaxation only', as I value myself, and what I do, far more than that.

As Cliff has recently spoken about bringing the rules regarding advertising, up to date, I expect that I will be breaking these some time in the future if it includes the ASA ruling, which the Shiatsu Society is now obliged to put in place.

As I put in my letter of resignation, which I will happily send to the new MC members so that there is no doubt as to what was written: Referring to the MC at that time I included:

"And while it refuses to recognise and respond to difficult and uncomfortable issues, choosing to take the easiest way out and compromising its values, it will not act impartially in the interests of its members, or the long-term interests of the Shiatsu Society".

As a member of the society, I must register my concern at the Society's acceptance of the ASA's ruling on Complementary medicine. I do not believe that taking this route is in the best interests of the Society.

With best wishes

Mike