

# NAD Gives Bill of Good Health to Dietary Supplement Immunity Claims

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The National Advertising Division of the Better Business Bureaus, a self-regulatory body that polices national advertising, recently gave an a-OK to certain dietary supplement immunity claims. The action was initiated under NAD's partnership with the Council for Responsible Nutrition against dietary supplement maker Olly Public Benefit Corporation. CRN requested that NAD determine whether Olly had a reasonable basis for the message that its Kids Mighty Immunity product helps support immune health. In particular, NAD assessed four immunity-related claims made on the product website:

- "Formulated to help support little immune systems in the biggest way to help keep kids healthy and happy year-round."
- "Wellmune. These beta glucans support immune health by helping to promote built-in cellular defense mechanisms."
- "Elderberry. Respect your elders - this super food has been used for centuries to support the immune systems."
- "Zinc. An essential mineral that helps keep immune cells functioning in tip-top shape."

In support of its general immunity message, Olly argued that the product is a good or excellent source of vitamins C, D, and zinc and also contains Wellmune beta glucan yeast. The advertiser presented studies and literature explaining the support roles played by vitamin C, vitamin D, and zinc in the immune system. This evidence indicated that the nutrients - when taken in sufficient doses - "help form a physical and chemical barrier to keep out pathogens, and also support specialized adaptive immune system cells that work as part of the body's natural processes to eliminate pathogens." NAD found that this data was sufficient, and Olly did not need to present a clinical study on its product, because the context of the webpage and the product packaging conveyed the message that these claims were based on the supplement's individual ingredients and not testing of the final product.

In addition, Olly provided evidence in both adults and children demonstrating that, after oral digestion, Wellmune is bioavailable and binds to immune cells. NAD found this was a reasonable basis for the Wellmune claim. Likewise, NAD found that the elderberry claim, supported by historical accounts citing elderberry for immune support, was sufficiently limited.

Importantly, NAD appreciated that the advertiser did not make any express or implied claims regarding the common cold or other illnesses and avoided imagery that implied cold prevention or cure, such as depictions of sick children, worried parents, or visits with health care professionals. It noted that evidence presented in other NAD proceedings failed to show a relationship between

regular vitamin C supplementation and the reduction in the incidence of colds.

We have seen other examples of cases where immunity claims for foods and dietary supplements have been problematic for companies. However, as shown in this NAD matter, it is possible to effectively tailor claims to the available evidence so that they withstand regulatory scrutiny.