

## Article Information

Author: Anne Freeman

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## Reckitt Benckiser accepts targeted pain from ACCC

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*In our March edition of Competition and Consumer News, we reported on proceedings that had been initiated by the ACCC against Reckitt Benckiser in relation to its marketing of Nurofen targeted pain relief products. Reckitt Benckiser has now admitted various contraventions of the Australian Consumer Law.*

The proceedings related to the following Nurofen branded products (Specific Pain Range):

- Nurofen Migraine Pain ibuprofen lysine 342 mg tablet blister pack
- Nurofen Tension Headache ibuprofen lysine 342 mg tablet blister pack
- Nurofen Period Pain ibuprofen lysine 342 mg tablet blister pack
- Nurofen Back Pain ibuprofen lysine 342 mg tablet blister pack.

The packaging of each product in the Specific Pain Range is coloured differently, refers to a different pain condition, bears the statement “FAST TARGETED RELIEF FROM PAIN” and bears the statement that the product “...IS FAST AND EFFECTIVE IN THE TEMPORARY RELIEF ASSOCIATED WITH...” the relevant pain condition.

Reckitt Benckiser accepted that in the packaging of the Specific Pain Range products, it had represented that each product in Range is specifically formulated to treat the particular type of pain specified on the packaging and the product solely or specifically treats that particular type of pain, and no other. Nurofen’s website also contained the same representations.

Those representations were misleading or deceptive because each of the products contained the same active ingredient and is of the same formulation, and no product is more or less effective than the others in treating the symptoms shown on the packaging.

The Court is yet to make a decision on the appropriate pecuniary penalty but it has ordered that Reckitt Benckiser:

- Be restrained for three years from selling, marketing or promoting any product in the Specific Pain Range in the Specific Pain Range Packaging or in packaging that makes any representation that the product is specifically formulated to treat the particular type of pain on the packaging and/or the product solely or specifically treats that type of pain and no other.
- Cease any shipment, distribution, sale of the Specific Pain Range Products in the offending packaging and remove the products in that packaging from display and sale in all retail outlets.
- Publish a prominent corrective notice on its website and in The Australian newspaper.
- Update its consumer protection law compliance program.

The ACCC has agreed an interim packaging arrangement with Reckitt Benckiser for use following the removal of these products which will clearly disclose to consumers that the products are equally effective for other forms of pain.

Although Reckitt Benckiser has accepted its wrongdoing, it is anticipated that the fine levelled against it will be substantial. It is also required to pay the ACCC’s costs.