

## Herron, William

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**From:** Leach, Joshua  
**Sent:** Wednesday, 11 April 2012 9:22 AM  
**To:** Leach, Joshua  
**Subject:** Details for MARS matter: 981045 [SEC=UNCLASSIFIED]

**Security Classification:** UNCLASSIFIED

Matter id: 981045  
Complainant: Anonymous  
Contact name:  
Address:  
City:  
State: NSW  
Post code: 2000  
Fax:  
Mobile: N/A  
Home phone: N/A  
Work phone: N/A  
Email:  
Trader(s): Pro Teeth Whitening (Aust) Pty Ltd

Description: C wants to remain anonymous.

C is concerned about the Take-Home Whitening Kits sold in various pharmacies.

C asks:

1) whether T is required to state in the product where the product is manufactured  
2) T stated on the product: "8 shades whiter teeth in 2 days!". C asks, it is misleading as C tried the product and his teeth did not 'whiten' after 2 days.

3) T states, 'Australia's Advanced Take-home kits' is M&D as it means products are manufactured in Australia.

Advice given: 1) No requirement to state country of origin under TPA. But any rep made must be accurate.  
2) Rep must be made on a reasonable basis. If a rep turns out to be inaccurate, it may raise concerns under s52. Info is logged to est POC.

3) Whether a rep is M&D depends on the overall impression it creates in the mind of a reasonable consumer. Is whether a reasonable consumer would take that phrase to mean that the product is manuf in Aus. Ultimately, only a court can say yes or no.

Conduct details: Part: V Section: 52 Description: Misleading or deceptive conduct: Other  
Industry details: teeth whitening  
ANZSIC code: 1841