

<b>COMPLAINT NUMBER</b>	16/389
<b>COMPLAINANT</b>	J. Webb
<b>ADVERTISER</b>	Volkswagen New Zealand
<b>ADVERTISEMENT</b>	Volkswagen YouTube
<b>DATE OF MEETING</b>	29 November 2016
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The 30-second Volkswagen New Zealand television advertisement for Tiguan showed the vehicles from various angles and being driven. The words “Sharp new look” appeared on the screen then “162kW GTI Engine\*” The words “4MOTION all-wheel drive\*.” and “personalised technology.” also flashed on the screen and finally an image of the front of the car appears with the words: “All-new Tiguan from \$41,990\*” with, at the bottom of the screen, the message: “\*Plus on road costs. 4MOTION & 162 kW GTI engine on selected models only.”

The Complainant was concerned that the Tiguan television advertisement was misleading because it promoted the Tiguan as having all-wheel drive and a high-power engine from \$41,990 but the cheapest car with all-wheel drive was \$57,990 and the top high power engine model was \$66,990.

The Complaints Board said the advertisement used a method conventionally employed to introduce a line-up of vehicles with an introductory price to create interest and a subsequent escalation of features and price. A majority of the Complaints Board said the advertisement was saved from breaching the Code of Ethics by the asterisks alerting the consumer to the disclaimer that noted only the top model vehicles had all-wheel drive and high power engines and the price was higher.

The Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

Please note this headnote does not form part of the Decision.

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## COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rule 2 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement had been prepared with a due sense of responsibility to consumers and to society. The Complaints Board was also required to consider whether the advertisement contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim was misleading or deceptive, was likely to deceive or mislead the consumer, made false and misleading representation, abused the trust of the consumer or exploited their lack of

experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

### **The Complaints Board ruled to Not Uphold the complaint.**

#### **The Complaint**

The Complaints Board first addressed the Complainant's concern that the "Settle for Everything" Volkswagen Tiguan television advertisement was misleading because it promoted the Volkswagen Tiguan as having all-wheel drive and a high-power engine from \$41,990. The Complainant said they had seen the advertisement and then checked Tiguan details on Volkswagen's website.

The Complainant said: "I discovered that I can't get those features for the price advertised. In fact when I went to their website the cheapest car that had all-wheel drive was \$57,990 and doesn't even seem to be available yet." The Complainant said they had seen a disclaimer at the end of the advertisement but the overwhelming impression they had was that those features were available at that price.

#### **The Advertiser's Response**

The Complaints Board then turned to the Advertiser's response. The Advertiser, Volkswagen New Zealand, said their brand vision was to make Volkswagen cars accessible to as many people as possible and the common approach was to showcase vehicles with higher spec features available to those with bigger budgets along with those priced at entry-level.

The Advertiser said: "In this case, we believe that presenting the top spec vehicle, the 'Tiguan TSI R-Line 4MOTION,' and showcasing a combination of features with clear legal sign-posts, provides the necessary details consumers need to choose a model which best suits their needs and budgets." The Advertiser submitted the advertisement therefore complied with Basic Principle 4 and that, in relation to Rule 2, all precautions had been taken. Asterisks appeared on the screen where the vehicles appeared leading to a substantiation message, "All-new Tiguan from \$41,990\* - \*Plus on road costs. 4MOTION & 162kW GTI engine on selected model only."

In regard to the Complainant's concern that the TSI R-Line 4MOTION model was not available but was "coming soon", the Advertiser said the website message "coming soon" was beside the vehicle. The messaging had since been updated to reflect that the vehicles were now due at the end of December this year and could be pre-ordered and paid for.

#### **The Complaints Board's Discussion**

A majority of the Complaints Board said the Tiguan television advertisement was saved from breaching the relevant rules of the Code of Ethics by asterisks on the screen beside the words "162kW GTI Engine\*," "4MOTION all-wheel drive\*." and "All-new Tiguan from \$41,990\*". These asterisks alerted the consumer to a disclaimer pointing out that only the top model vehicles had all-wheel drive and high power engines and the price was higher. The majority noted asterisks linked to the same disclaimer were also used alongside Tiguan vehicles pictured in Volkswagen's website.

The majority of the Complaints Board accepted the advertisement clearly stated the cost of the Tiguan vehicles ranged "from" \$41,990\* and this price was clearly the base cost for a range of vehicles with escalating specifications and the asterisks legitimately alerted consumers to qualifying statements.

The majority of the Complaints Board noted that high-end features added about 50 percent to the cost of the entry-level vehicle and this could have been made clearer but cars were a major purchase and consumers were likely to research additional information after seeing

the advertisement and before making a purchase.

A minority of the Complaints Board disagreed. The minority said the asterisks were too small and that the advertisement associated four models and featured wording which appeared to link the entry price of \$41,990 and the luxury features. That could have suggested, without the explanation associated with the asterisk, that these features pertained to the \$41,999 vehicle. The minority of the Complaints Board held that the substantial differences between the cost and features of four vehicles similarly pictured was difficult to pick up from the advertisement. In the minority view the advertisement was misleading and had not been prepared with a due sense of social responsibility.

However, in accordance with the majority, the Complaints Board said the advertisement was not in breach of Basic Principle 4 or Rule 2 of the Code of Ethics.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.

## DESCRIPTION OF ADVERTISEMENT

The 30-second Volkswagen New Zealand television and YouTube advertisement for Tiguan vehicles was backgrounded with drum beats and shows the vehicles from various angles and being driven. The words “Sharp new look” appeared on the screen then “162kW GTI Engine\*” The words “4MOTION all-wheel drive\*.” and “personalised technology.” also flashed on the screen and finally an image of the front of the car appears with the words: “All-new Tiguan from \$41,990\*” with, at the bottom of the screen, the message: “\*Plus on road costs. 4MOTION & 162 kW GTI engine on selected models only.”

## COMPLAINT FROM J. WEBB

Settle for Everything Volkswagen Tiguan TV Ad / Youtube Ad.

I believe that the claim in the latest Volkswagen Tiguan TV advertisement is misleading because the ad promotes the fact that the Volkswagen Tiguan has all wheel drive and a high power engine from \$41,990.

I then went to Volkswagen’s website to check out the details on the Tiguan and I discovered that I can’t get those features for the price advertised. In fact when I went to their website the cheapest car that had all wheel drive was \$57,990 and the car that had all wheel drive and the top high power engine model was \$66,990 and doesn’t even seem to be available yet. It said the top model car was “coming soon” as at 15 September 2016.

When I saw the ad on Youtube to check my facts I saw a disclaimer at the end, but the overwhelming impression I got from the ad was that I could get those features at that price.

## CODE OF ETHICS

**Basic Principle 4:** All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

**Rule 2: Truthful Presentation** - Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation,

abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

## **RESPONSE FROM ADVERTISER, VOLKSWAGEN NEW ZEALAND**

Thank you for your letter of 17 November 2016. We understand the complaint refers to the perception by a Consumer that the Tiguan vehicle with all-wheel drive and a high power engine is available from \$41,990. And that this vehicle is available to buy today (the website states that this particular vehicle is 'coming soon' as at 15 September 2016) - and that this appears to breach the following ASA codes:

### **Code of Ethics - Basic Principle 4, Rule 2.**

At Volkswagen NZ we take our approach to advertising very seriously and we prepare our communications with a great sense of social responsibility. Our brand vision is to make Volkswagen cars accessible to as many people as possible, so our common approach is to showcase some of the higher spec features available to those with bigger budgets, while also showcasing its accessibility by highlighting the entry-level price. In this case, we believe that presenting the top spec vehicle, the 'Tiguan TSI R-Line 4MOTION', and showcasing a combination of features with clear legal sign-posts, provides the necessary details Consumers need to choose a model which best meets their needs and budgets.

### **Advertising code of ethics - Basic Principle 4.**

Principle 4 states, "all advertisements should be prepared with a due sense of social responsibility to consumers and society".

In our view the legal sign-posting on the advertising complies with Basic Principle 4.

### **Advertising code of ethics - Rule 2.**

Rule 2 states, "Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading)."

In our view we have taken all precautions to ensure we've caveated each claim which only applies to the 'Tiguan TSI R-Line 4MOTION', by using an asterisk on the screens where they appear ('162kW GTI engine' and '4MOTION all-wheel drive') and then with a substantiation message on the end frame, pulling these all together, ('All-new Tiguan from \$41,990\* - \*Plus on road costs. 4MOTION & 162kW GTI engine on selected models only.')

The Consumer in question said himself that when he watched the TVC again he saw the legal sign-posts / disclaimer at the end.

### **Other matter raised.**

The complaint also refers to the website stating a coming soon message next to the 'Tiguan TSI R-Line 4MOTION' vehicle. Consumers are able to pre-order and pay for this vehicle in any one of our Dealerships around the country. The date these vehicles are due in New Zealand has now been confirmed as end of December 2016. The messaging on the website has been updated to reflect this.