

COMPLAINT NUMBER	17/003
COMPLAINANT	J Galvin
ADVERTISER	Harvey Norman
ADVERTISEMENT	Harvey Norman, Website
DATE OF MEETING	25 January 2017
OUTCOME	Not Upheld

SUMMARY

The Harvey Norman website advertisement promoted a “New Year Clearance” and said “sale on now” and “Huge Deals Storewide.” At the bottom of the advertisement the words “excludes Sonos, Miele Cookware/Whiteware and Outlet Stores. Sale ends 30/01/17”.

The Complainant was concerned the advertisement was very misleading. They noted that several items in the clearance were cheaper elsewhere, and that Harvey Norman was selling them and other items for less before the New Year.

The Complaints Board noted the response from Harvey Norman that the advertisement did not claim the pricing was cheaper than other retailers or the cheapest ever. The Complaints Board noted the advertised deals did not align with the Complainant's expectations but agreed the advertisement was not misleading.

Accordingly, the Complaints Board ruled to Not Uphold the complaint.

[No further action required]

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

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 social responsibility to consumers and to society and whether it contained any statement or visual presentation or created an overall impression which was misleading or likely to mislead.

The Complaints Board ruled the complaint was Not Upheld

The Complaint

The Complaints Board first addressed the Complainant's concern that Harvey Norman's New Year Clearance Sale advertisement was very misleading. The Complainant said: “I have checked several items and they are cheaper elsewhere (Fitbit Charge is up to \$100 cheaper elsewhere) and Harvey Norman was selling them and other items cheaper before New Year. Vary misleading.”

The Response

The Complaints Board then turned to the response from the Advertiser, Harvey Norman. The Advertiser said, in answer to the Complainant's apparent concern that several of the items in the New Year Clearance Sale were cheaper elsewhere, that "Harvey Norman had not made any claims in advertising/website that our pricing is cheaper than elsewhere." Addressing the Complainant's concern that Harvey Norman was selling items cheaper before the New Year, the Advertiser said Harvey Norman had not made any claims that pricing for the sale was the lowest ever pricing but that products in the sale were priced below their everyday ticketed price and that the Fitbit Charge 2, with a full price of \$269, was currently available for \$246.

The Complaints Board's Discussion

The Complaints Board accepted Harvey Norman's explanation that the goods on sale were cheaper than Harvey Norman's normal price but not necessarily cheaper than elsewhere or prices previously charged at Harvey Norman. The Complaints Board observed that the advertisement before it made no specific claims at all, just that "huge deals" were on offer. The Complaints Board noted the size of the deals (for example for a Fitbit) did not align with the Complainant's individual expectations but the Complaints Board unanimously agreed 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 THE ADVERTISEMENT

The Harvey Norman website advertisement included a red banner edged in white and containing the words "New Year Clearance" written in white and "sale on now" written in yellow. Beneath, in white on a blue background, was written: "Huge Deals Storewide!" and in small white print at the bottom of the advertisement: "excludes Sonos, Miele Cookware/Whiteware and Outlet Stores. Sale ends 30/01/17."

COMPLAINT FROM J GALVIN

New Year Clearance Sale Advertising is very misleading -I have checked several items and they are cheaper elsewhere (Fitbit Charge is up to \$100.00 cheaper elsewhere) and Harvey Norman was selling them and other items cheaper before the New Year. Very misleading.

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 HARVEY NORMAN

The complainant appears to have two areas of concern, which I have addressed in the points below:

- 1. Several of the items in the New Year Clearance Sale are cheaper elsewhere.**

- Harvey Norman has not made any claims in advertising/website that our pricing is cheaper than elsewhere.

2. Harvey Norman was selling items cheaper before the New Year

- Harvey Norman has not made any claims that our pricing for this sale is our lowest ever pricing.

- Products included in this sale are available below their normal (ie everyday) ticketed price.

- The Fitbit Charge 2 that was mentioned in the complaint is currently available at \$246; this product's full price is \$269.