

COMPLAINT NUMBER	17/042
COMPLAINANT	M Chow
ADVERTISER	Ignite Light Show
ADVERTISEMENT	Ignite Light Show, website
DATE OF MEETING	28 February 2017
OUTCOME	Not Upheld

SUMMARY

The Ignite Light Show website advertisement promoted an Ignite Show scheduled for Auckland on January 21, 2017, with a wet weather date of January 22, at the Centre Field of the Ellerslie Racing Club with gates opening at 5pm and closing at 11.55pm.

The Complainant was concerned that none of the acts advertised to take place at the event occurred and the company had failed to provide a refund to the Complainant or to respond to their direct emails.

The Complaints Board said it was clear that the Complainant had not seen the acts they had seen advertised and had decided that they had not happened at all.

The Complaints Board's role was to consider whether the advertisement was misleading. They held that it was not because the Advertiser had intended to provide all of the entertainment outlined in the advertising but the weather had made a number of the events unsafe.

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

[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 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 the complaint was Not Upheld

The Complaint

The Complaints Board first considered the concerns of the Complainant who believed the advertising for the Ignite Light Show was false since none of the advertised events occurred on the night and the company had failed to provide a refund.

The Complainant reported that the event was advertised on three websites, Grabone, Ticketek and the Ignite Light Show website but did not happen. The Complainant said in part: "A replacement event has also not been offered. The company has failed to respond to any direct emails I've provided."

The Advertiser's Response

The Complaints Board turned to the response from the Advertiser, Ignite Light Show. The Advertiser said the show was held in the inner circle of the Ellerslie Racecourse, Auckland on January 21 based on weather information that indicated scattered showers would occur late in the evening or early the next morning and after the show. Gates opened at 5pm with the first entertainment, a clown show, at 6pm.

The Advertiser stated in part: "We were monitoring the weather closely and getting updates as the night went on. Unfortunately due to the winds picking up the bouncy castles were unable to be inflated due to safety reasons and this call was made by the bouncy castle owner. The wind also affected the cold balloon inflation which also could not happen due to safety issues. This decision was made by the Waikato Balloon Club. We arranged for individual fire dancers to entertain in the absence of the cold air balloon inflation." The Advertiser said when they learned the bad weather would arrive earlier they brought forward the "basket burn" which was followed by performances by Highly Flammable, individual fire dancers and a laser show. The arrival of a "weather bomb" found some spectators braving it out in the inner circle while others sought shelter in the grandstand or public bar and others left. The Advertiser said the show was designed to be best viewed from the inner circle where the entertainment was performed. The Advertiser said the "weather bomb" was out of their control and they had tried to provide the best show they could under the circumstances. Images on the Ignite Light Show website were not fake, there was video footage taken on the night and the company had invoices from contractors and entertainers who performed. The Advertiser said the show was not a scam as the Complainant had attested. The Advertiser said: "... if the extreme weather bomb had not hit Auckland as hard and fast as it did that night the event would have run to the exact timetable advertised. We tried to provide the best show we could under the circumstances..."

The Advertiser acknowledged that the Complainant had requested a refund saying most of the acts did not perform. The Advertiser said they had sent the Complainant three explanatory emails in reply to the Complainant's emails and included these in their response.

The Complaints Board Discussion

The Complaints Board said it was clear that the Complainant had not seen the acts they had seen advertised. The Complaints Board accepted some acts did not happen because of safety issues brought on by strong winds and a downpour that had not been anticipated. It noted the advertisement said the show was best viewed from the inner circle of the venue which was exposed to the inclement weather and from which some spectators had obviously moved to avoid being drenched.

The Complaints Board's role was to consider whether the advertisement was misleading. The Complaints Board agreed the Advertiser had intended to provide all of the entertainment outlined in the advertising and the weather had made a number of the events unsafe.

The Complaints Board said the website advertisement was not misleading. It agreed that the website had included information about the importance of safety and the risk of some events being impacted by weather alerting consumers to possible limitations for the show. The Complaints Board also noted the weather that hit Auckland the night of the event was referred to as a 'weather bomb' and could be considered an extreme event. The Complaints Board said while the advertisement was not misleading, the Complainant had raised issues relating to a refund and communication from the Advertiser. However, these were matters of service and outside the jurisdiction of the Complaints Board.

The Complaints Board said the advertisement was not misleading and had been prepared with the due sense of social responsibility required by the Code of Ethics.

The Complaints Board ruled to Not Uphold the complaint.

DESCRIPTION OF ADVERTISEMENT

The Ignite Light Show website advertisement was for an Ignite show scheduled for Auckland on January 21 2017, with a wet weather date of January 22, at the Centre Field of the Ellerslie Racing Club with gates opening at 5pm and closing at 11.55pm. The advertisement described "mind -blowing laser light shows through the night. Hot air Balloon night glow choreographed to music on dusk, nail biting fire dancers throughout the night. This event is for the whole family to come and enjoy with carnival rides and bouncy castles on site along with mobile caterers and entertainers."

The advertisement listed the first entertainment of the night as "6pm-7pm clown/fire performance for the kids. Bring the kids and let them enjoy the fun." The advertisement indicated this would be followed at 7pm by the cold inflation balloon, 9.05pm by the start of inflation of up to six hot air balloons, 9.15 by the "hot air balloon night glow performed to music, 9.50pm by a performance by Highly Flammable and 10.20pm by solo fire dancers and a laser light show with music.

Disclaimers in the advertisement said no alcohol could be brought to the event, that hot air balloons could only be inflated if weather permitted and if inflation was not possible the balloonists would entertain with a "burn to music." Disclaimers included that the "Ignite Light Show wet weather date will be held on the 22nd Jan 2017 please check for notifications by Ticketek, IGNITE Light Show facebook and webpages."

COMPLAINT FROM M CHOW

Ignite Light Show provided false advertising of the light show which was supposed to occur on 21 January 2017 (Saturday).

None of the advertised events have occurred, and the company fails to provide a refund. This event was advertised in three areas:

- 1) Grabeone <https://new.grabone.co.nz/events/entertainment/p/media-shepherd>
- 2) Ticketet <http://premier.ticketek.co.nz/shows/show.aspx?sh=IGNITELI17>
- 3) the company's website: <http://ignitelightshow.co.nz/auckland/> They have also posted fake images of the events which did not occur on the day on facebook. A replacement event has also not been offered. The company has failed to respond to any direct emails I've provided. More than 1000 people have witness this disgusting behavior/scam.

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: IGNITE LIGHT SHOW

Background:

On 21st January 2017 the Ignite Light Show was held in the inner circle of the Ellerslie Racecourse, Auckland.

We made the decision to proceed with the show on the advertised date based on the weather information we had at the time which was that scattered showers were expected late in the evening/early Sunday morning which would be after the show had finished. On that basis gates opened at 5pm with the first entertainment for the kids at 6pm (clown show).

The public had been invited to "bring a picnic" and enjoy the carnival atmosphere with the clown show, bouncy castles and other amusement rides. We were monitoring the weather closely and getting updates as the night went on, unfortunately due to the winds picking up the bouncy castles were unable to be inflated due to safety reasons and this call was made by the bouncy castle owner. The wind also affected the cold balloon inflation which also could not happen due to safety issues, this decision was made by the members of the Waikato Balloon Club. We arranged for individual fire dancers to entertain in the absence of the cold air balloon inflation. As the evening progressed the weather was changing rapidly, we learned that bad weather was now looking like it would arrive earlier. Reacting to this we brought forward the basket burn choreographed to music by half an hour (a basket burn was advertised should it be too windy to inflate the balloons). This was followed by performances by Highly Flammable, individual fire dancers and a Laser show. By this time the bad weather had arrived much earlier than expected and much more extreme and we found ourselves hit by a "weather bomb". While some public braved it out in the inner circle others chose to seek shelter in the grandstand, Ellerslie Racecourse public bar and some others chose to leave the grounds. The show was designed to be best viewed from the inner circle as our site map showed on our website.

M. Chow contacted us requesting a refund stating that most of the acts did not perform at all. I corresponded with them confirming that the acts did perform and to date sent them 3 emails regarding this (email correspondence between M. Chow and Ignite Light Show representative attached). As the entertainment was advertised and performed in the inner circle of the racecourse it is an individuals decision if they wish to leave this area and not view the entertainment that was performed.

We in no way have passed off "fake" images of the night on Facebook or any other forums. Images shown on our website for the Ignite Show 21st Jan 2017: <http://ignitelightshow.co.nz/auckland/> and any other public forums we posted on are from the actual night, we also have video footage to support this. As well we have invoices from each of our contractors/entertainers who performed on night which we have paid in full.

We totally understand the disappointment of some of those who attended however we do not believe that we have falsely advertised in any way. This was not a scam as M. Chow has stated in the complaint, if the extreme weather bomb had not have hit Auckland as hard and fast as it did that night the event would have run to the exact timetable advertised. We tried to provide the best show we could under the circumstances however there is always a risk with running outside events and an unexpected weather bomb was totally out of our control especially due to how fast this came in.