

<b>COMPLAINT NUMBER</b>	17/188
<b>COMPLAINANT</b>	P. King
<b>ADVERTISER</b>	AMI Insurance
<b>ADVERTISEMENT</b>	AMI Insurance, Digital Marketing
<b>DATE OF MEETING</b>	11 July 2017
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The AMI website, [www.ami.co.nz](http://www.ami.co.nz), features the tag lines “Caring for New Zealanders for nearly 100 years” and “We’ve been here for New Zealanders for 90 years”.

The Complainant said the advertiser cannot claim to have been caring for New Zealanders for nearly 100 years, as the new company has only been in existence for 5 years.

The Complaints Board said that the IAG acquisition of the AMI business as a going concern meant they retained the intellectual property of AMI, including all its trademarks and the right to use the AMI name.

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 1 and Basic Principle 2 of the Code for Financial Advertising. This required the Complaints Board to consider whether the advertisement had observed a high standard of social responsibility in that consumers often relied on such products and services for their financial security and whether the advertisement was truthful and clear and did not mislead, deceive or confuse customers or abuse their trust, exploit their lack of knowledge or unjustifiably play on fear. That included by implication, omission, ambiguity, exaggerated claim or hyperbole.

### The Complaint

The Complainant did not believe that AMI should be using statements such as ‘Caring for New Zealanders for nearly 100 years given that they are only approximately 5 years old.

### The Advertiser’s Response

The Advertiser detailed the history of the new IAG subsidiary which acquired the business, assets, liabilities and obligations of AMI. The acquisition of AMI by IAG encompassed all the intellectual property of AMI including its trademarks and the right to use the AMI name.

The exception to this were Christchurch earthquake claims, which remained with the old entity, taken over by the government and renamed Southern Response.

The Advertiser also referred to the precedent decision, 11/709, and defended the fact that they were in a stronger position because they acquired the AMI business as a going concern and continue to run and invest in the AMI brand.

### **The Complaints Board Discussion**

#### Precedent

The Complaint's Board referred to a precedent decision (11/709/ appeal 12/002) which was Not Upheld.

That decision said in part:

.... The majority of the Complaints Board noted that the successor of each business had purchased a going concern – thus effectively the same business which was then rebranded to suit the then current owner. As such the majority said the same procedures, policies and practices were maintained and cohesiveness renamed for those engaging in the services offered. On this basis the majority of the Complaints Board said the words “Established in 1931” were not likely to mislead or deceive consumers as the business which had been sold on and rebranded at different times, and which was now NZ Vault, did have a history dating back to 1931 and the integrity of such had been maintained via its form of succession over time. Accordingly the majority of the Complaints Board said the advertisement was not likely to mislead or deceive consumers...”

The Complaints Board agreed the precedent was relevant to the complaint before it about AMI's claims.

The Complaints Board took into account that IAG's acquisition of AMI encompassed all the intellectual property including its trademarks and the right to use the AMI name. The Complaints Board also noted the continuity of business (excluding the Christchurch earthquake claims) approach.

The Complaints Board acknowledged the frustrations faced by Christchurch earthquake insurance claimants. However, the task before it was to consider whether the claims by AMI that it had been “Caring for New Zealanders for nearly 100 years” and “We've been here for New Zealanders for 90 years” were likely to mislead consumers.

In the Complaints Board's view, the statements on the AMI website were not likely to mislead consumers. It agreed that the transfer of business operations to an IAG subsidiary and retention of the trademarks and related intellectual property supported this finding.

The Complaints Board said the website advertising had observed a high standard of social responsibility required by the Code for Financial Advertising and was not in breach of the Code.

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

### **The Complaints Board ruled the complaint was Not Upheld**

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#### **DESCRIPTION OF ADVERTISEMENT**

The AMI website, [www.ami.co.nz](http://www.ami.co.nz), features the taglines "Caring for New Zealanders for nearly 100 years" and "We've been here for New Zealanders for 90 years".

### COMPLAINT FROM P KING

AMI Insurance is breaching Fair Trading Act and also advertising standards by saying they "AMI Insurance - Caring for NZers for nearly 100 years". The truth is they didn't care for NZers when the earthquake hit and went bust and had no funds to pay out. Apparently a new company was formed called AMI Insurance which doesn't have to pay out the claims. Therefore AMI Insurance cannot be almost 100 years old. They are only about 5 years old. If they were almost 100 years old then AMI Insurance would have to pay my claim or be put into liquidation by the owners who include myself as it was a mutual. This dishonest advertising MUST stop. AMI Insurance must advertise the truth that they are only 5 years old. Using the claim they are 100 years old and still trading gives the public the impression everything was ok with the earthquake payouts. AMI Insurance has been likened to a ponzi scheme .. it should have been shut down and the public should know what really happened .. not claims online in AMI advertising that everything is OK and we are 100 years old and everyone got paid. Phoenix companies of this type are usually stopped by the Companies Office for good reason.

### CODE FOR FINANCIAL ADVERTISING

**Principle 1:** Financial advertisements should observe a high standard of social responsibility particularly as consumers often rely on such products and services for their financial security.

**Principle 2:** Advertisements should strictly observe the basic tenets of truth and clarity. Advertisements should not or should not be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated claim or hyperbole.

### RESPONSE FROM ADVERTISER: AMI INSURANCE

We refer to your letter dated 22nd June 2017, notifying us of the complaint made by Mr. Paul King in relation to the use of the words "*AMI! Caring for NZers for nearly 100 years*".

We consider this statement to be accurate.

IAG set up a new subsidiary which acquired the business of AMI comprising the assets, liabilities and obligations (save in relation to claims arising from the Christchurch Earthquake sequence) of AMI. Thereby IAG took over and continues to operate the same business that has been in existence for almost 100 years.

The purchase involved:

- Acquiring all the AMI customers.
- Honouring all claims under AMI policies from the acquisition date, and all open claims made before the acquisition date (save in relation to claims arising from the Christchurch Earthquake sequence);
- Acquiring all of the AMI systems, processes, equipment, leases for AMI stores across New Zealand and all the AMI staff.
- The nature of the acquisition was such that:

- i. For any AMI customer with an open claim (save for earthquake claims) as at the date of the acquisition, that claim was handled by the same business and staff under the new AMI entity, owned by IAG NZ Ltd.
- ii. Policies that were taken out with AMI before the acquisition continued with the new AMI entity afterwards.

This transaction involved a seamless transfer of the business operations of AMI into the new AMI entity, run by the transferred staff of the old AMI entity, continuing to work from the same premises, with the same systems.

Accordingly with the purpose of a seamless continuation of service, the business of AMI that had operated prior to the acquisition continued after the acquisition without interruption.

Only earthquake related claims were not transferred to the new entity. These claims remained with the old entity, taken over by the government and renamed Southern Response. Those claims continue to be honoured by Southern Response.

Accordingly if an AMI customer in Christchurch had a fire damage claim for their house as well as an earthquake claim, lodged before the acquisition, AMI, under the new entity would honour the fire claim and the earthquake claim would be honored by Southern Response. Continuity of the business was at the heart of the transaction for the acquisition of the AMI business by IAG.

Thank you for supplying us with the appeal decision in the matter of New Zealand Vault Limited. We submit that our position is much stronger than that of NZ Vault Limited. Like New Zealand Vault Limited, we acquired all of AMI's customers, all of AMI's staff (many hundreds in number), all the systems and processes of AMI including the AMIGO claims management system. We acquired the AMI business as a going concern whereas NZ Vault Limited did not. We acquired all the intellectual property of AMI including all its trademarks and the right to use the AMI name, NZ Vault Limited did not. NZ Vault Limited acquired a business and rebranded it. We acquired a business and continued with the brand of that business which we have continued to invest in heavily to promote and sustain.

In summary our position has all the characteristics which led the Board to dismiss a similar complaint against NZ Vault Limited, plus more characteristics which strengthen the legitimacy of the statement complained of.

Accordingly we invite the Board to dismiss this complaint.