

COMPLAINT NUMBER	17/138
COMPLAINANT	T Ealand
ADVERTISER	Skyscanner
ADVERTISEMENT	Skyscanner, Digital Marketing, Email
DATE OF MEETING	22 August 2017
OUTCOME	Not Upheld

SUMMARY

The Skyscanner email advertisement had in its subject line: “Auckland International flight offers from \$48.” In the body of the email it stated: “Want to fly away? We've found these deals from Auckland International for you.” Underneath was a green box containing the words “New Plymouth \$48 return”.

The Complainant was concerned the advertisement was misleading as the subject line stated “Auckland International flight offers from \$48” but the \$48 fare in the email was Auckland – New Plymouth.

The Complaints Board noted the Complainant’s concern with the email subject line but said the text of the advertisement clearly promoted a \$48 return flight to New Plymouth. The Complaints Board said when considering the whole advertisement, not just the subject line of the email, the advertisement was not misleading.

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 turned to the concerns of the Complainant and their belief that Skyscanner had sent misleading information implying that international flights were available from \$48.

The Complainant said they had contacted the Advertiser by email to say they had repeatedly received false advertisements from Skyscanner and the latest, on April 17, 2017, said "Auckland International flight offers from \$48" but there were no international airfares for \$48. The Complainant said they had complained in an email to Skyscanner, saying, in part: "There is an offer of a flight on a domestic route for \$48 and the flight doesn't even leave from an international airport rather the local Auckland domestic airport. I want what was advertised to me which is a \$48 international flight." The Complainant said the Advertiser's return emailed response [which explained how Sky Scanner arrived at pricing] was not satisfactory and the addressed email clearly stated "international flights for \$48" when they never existed."

The Complainant said that a further email from Skyscanner showed the issue had not been resolved.

The Advertiser's response

The Advertiser, Skyscanner, said Skyscanner was an independent travel research engine which compared the prices of flights offered by airlines and online travel agents in response to user searches. The Advertiser explained Skyscanner was not a travel agent and did not sell travel products or services to consumers but directed users to the website of the relevant online travel agent or airline to book directly.

The Advertiser said it engaged in various types of paid advertising and sent newsletters to consumers such as the Complainant who had subscribed to the service.

The Advertiser said the Complainant had misquoted the emailed newsletter in saying that it said there were "international flights available for \$48." The Advertiser submitted that the subject line read "Auckland International flight offers from \$48" where Auckland International was the name of the airport rather than an advertisement for international flights.

The Advertiser said the Complainant had been advised by email after the matter had been raised internally that IATA standard codes were used for airport names which were chosen by the user on signing up for the newsletter "and presumably this was Auckland International in this case." The Advertiser noted that the Complainant referred to the fact that the flight advertised did not leave from an international airport, "however it is our understanding that there is only one airport in Auckland with both an international and domestic terminal but the name is common to both."

The Advertiser said, in part, that as a result of the confusion highlighted by the Complainant, and though they were not in agreement with the allegation of misleading advertising, they were looking at ways to minimise future misunderstanding from the use of airport names in email subject headings. The Advertiser believed inserting a dash between the airport name and the flight deals, for example "Auckland International – flight deals from \$48) would diminish the possibility of misinterpretation.

Further, the Advertiser said they appreciated that the subject in the email could be interpreted as both "Auckland International: flight offers from \$48" and as "Auckland: International flight offers from \$48" and would investigate how to be clearer in the future. The Advertiser pointed out that the screenshot of the message showed deals that departed from Auckland International and the flight noted was domestic.

The Complaints Board discussion

The Complaints Board noted the Complainant's assertion the advertisement claimed: "Auckland International flight offers from \$48" and discussed whether the subject line was the complete advertisement. The Complaints Board concluded the subject line was not the advertisement but rather the heading to the email advertisement. The Complaints Board acknowledged the heading was ambiguous but said this was clearly followed in the body of the email by the words: "Want to fly away? We've found these deals from Auckland International for you" followed by a clearly promoted \$48 return New Plymouth fare. The Complaints Board's view was that most consumers would see the fare immediately featured was a domestic return fare to New Plymouth.

The Complaints Board noted the Advertiser acknowledged the subject line in the advertisement could be interpreted as "Auckland International: flight offers from \$48" and also as "Auckland: International flight offers from \$48" and would investigate how to be clearer in the future. The Complaints Board acknowledged the Advertiser's belief that inserting a dash between the airport name and the flight deals would diminish the possibility of misinterpretation but said having a hyphen would not have altered the outcome of the Complaints Board's deliberations.

Noting the Advertiser's intention to clarify subject lines in promotional emails and observing that the body of the email advertisement clearly promoted a \$48 domestic return flight to New Plymouth, the Complaints Board ruled the advertisement was not likely to mislead consumers and had not breached Basic Principle 4 or Rule 2 of the Code of Ethics.

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

Decision: Complaint Not Upheld

Note: The Complainant also stated in their complaint that clicking on the unsubscribe button to the email service had not worked. This was not a matter that the ASA could deal with but it noted that Advertisers should ensure they promptly action such requests from consumers.

DESCRIPTION OF ADVERTISEMENT

The Skyscanner addressed email advertisement had in its subject line: "Auckland International flight offers from \$48". In the body of the email, under the Skyscanner logo, it stated: "Want to fly away? We've found these deals from Auckland International for you." A box containing the words "New Plymouth \$48 return".

COMPLAINT FROM T EALAND

Sky Scanner sending misleading information. Below is a copy of the correspondence I have had with them recently.

Twistie 17 Apr, 01:34 BST

Hello, I have noticed recently that you keep sending me false advertisements which spark my interest meaning I click into your email ads. The latest being "Auckland International flight offers from \$48" sent to me on the 17-4-2017. When I click on the subject there is no international flight on offer for \$48. There is an offer of a flight on a domestic route for \$48 and this flight doesn't even leave from an international airport rather the local Auckland domestic airport. I want what was advertised to me which is a \$48 international flight. Please contact me to resolve this issue. Thanks.

-----Original Message-----

From: "Skyscanner" [support@skyscanner.zendesk.com] Date: 04/17/2017 03:11 AM
 To: "Twistie" Subject: [Skyscanner] / False Promotional activity / 454784 Peishan Ching (Skyscanner) 17 Apr, 08:11 BST

Hello, My name is Peishan and I work in the User Support team here at Skyscanner. Thanks for getting in with us, and we are sorry to hear of the problem that you had. For the prices information that you have received via the Deals emails - the prices shown on these articles pulls prices based on the lowest price taken from the the month view feature in the next 90 days which means that the prices that you have received are not the actual "Live" prices, and we have indicated the disclaimer at the end of the article. After you have click on the link, you will be redirected to our month views where it works by storing prices users have found for a specific route over the past 15 days. The more searches users do on a given route, the more accurate the prices we are able to show on the month page. Because flight tickets and availability change frequently, the prices that you see on the month page are therefore only estimated prices, a fact we always indicate on the relevant page. When you go through to the results page, we will always show you the most recent "live" fares available from the airlines and travel agents at that point, as the price is updated in real-time when the page loads. We do understand that currently there is limitation with this feature. We want these prices to be as accurate as possible and are constantly working on improving this feature's performance, as well as clarifying how this feature works. I hope this offers some clarification, and I've shared your feedback internally with the rest of the team. Many thanks for your time and our apologies once again for all the inconvenience caused. Please let me know if you have any other questions at all – I'd be more than happy to help.
 Best regards, Peishan Skyscanner Support

Hello Peishan Thanks for getting back to me. I find your response not to be satisfactory. Your subject header is designed to pull me into your email. It clearly states "international flights for \$48" when they never existed. It is false and misleading and clearly done for the purpose of drawing people in. I will now forward this complaint onto the Advertising Standards Authority (ASA) here in New Zealand.

FURTHER FROM THE COMPLAINANT: T EALAND

This is the latest email from skyscanner.

The same issues have not been resolved.

The Subject line shows "Auckland International flight offers from \$48"

You then click into the email to find there are no international airfares for \$48.

You will then notice they have purposfully put in one flight from Auckland to New Plymouth for \$48. That is a domestic flight and it doesnt even fly from the Auckland International Airport.

Also, if you click unsubscribe you still receive this junk mail.

Im a guy always looking for a Flight Bargain. I got return flights on Jetstar from Auckland to Bali for \$300 return recently. So these emails from skyscanner might not seem like an issue to some people but to me they suck me in and they are nothing but bogus. They told me it was a technical glitch but wouldn't honor the advertng. 5 months down the track and they are still sending out these fake emails.

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: SKYSCANNER

A basic, neutral description of the advertisement	Email subject reading “[Airport name] flight offers from [price]” with content relevant to that airport
Date advertisement began	Initial low level market roll out in May 2016. Launched in the NZ market in Oct 2016.
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Email
Is the advertisement still accessible – where and until when?	Email - generally sent out on a weekly basis to subscribed users.
Who is the product / brand target audience?	Subscribed users

By way of background, Skyscanner is an independent travel search engine which automatically compares the prices of flights offered by airlines and online travel agents (known as OTAs) in response to user searches. We are not a travel agent and we do not sell any travel products or services to consumers. We operate our websites and mobile applications to allow consumers to compare the prices offered by airlines and OTAs in one place. When a user wishes to book a flight, we direct that user to the relevant website of the airline or OTA to allow them to make a booking directly.

Skyscanner engages in various types of paid advertising including display advertising, native advertising, search engine marketing, social media advertising and pay per click advertising in the UK. We also send out newsletters to those consumers who have subscribed to that service, such as the complainant.

The complainant alleges that the newsletter he received contained false and misleading information and that it clearly stated there were 'international flights available for \$48'.

However, this is a misquote of the email newsletter. As you can see from the screenshots provided, the subject line reads: 'Auckland International flight offers from \$48' where Auckland International is the name of the airport in question, rather than it being an advert for international flights. This is perhaps more clearly shown within the body of the email itself where Auckland International is in bold.

This was communicated to the complainant when the issue had been escalated internally and I attach the email sent from my colleague, Lynsey Briston, explaining how the email was generated, and specifically, how we use the IATA standard codes for the airport names in order to pull through the details of a user's local airport which is chosen by the user on signing up to the newsletter and presumably was Auckland International in this case.

I also note that the complaint refers to the fact that the flight advertised does not leave from an international airport, however it is our understanding that there is only one airport in Auckland with both an international and domestic terminal but the name is common to both.

Considering the complaint in the context of the Code of Ethics referred to, we do not feel that this is a violation of the stated code. Rather, the complaint misrepresents the actual position in terms of advertising within the newsletter as sent out by Skyscanner and fails to include all of the relevant correspondence.

Consumer trust is of the utmost importance to Skyscanner and we would never intentionally mislead or deceive consumers to spark interest. Even though we are not in agreement with Mr Ealand's allegation of misleading advertising, as a result of the confusion highlighted by the complainant in his initial correspondence to us, we are looking at ways in which we can minimise the risk of a similar misunderstanding arising in the future through the use of airport names in our email subject headers. In our view, if we insert a dash between the airport name and the flight deals, e.g. 'Auckland International — flight deals from \$48', this would further diminish any possibility of a similar misinterpretation happening again. We would, however, welcome any comments you may have on this as a proposed further step we could take.