

<b>COMPLAINT NUMBER</b>	17/413
<b>COMPLAINANT</b>	D. Subritzky
<b>ADVERTISER</b>	St Pierre's
<b>ADVERTISEMENT</b>	St Pierre's, In Store
<b>DATE OF MEETING</b>	12 December 2017
<b>OUTCOME</b>	Settled – advertisement changed/removed

## **SUMMARY**

The point of sale advertisement for St Pierre's Double Decker Teriyaki Chicken on Rice said "Teriyaki Chicken on Rice – Double Decker \$7.50."

The Complainant said the advertisement was misleading as the advertised price was \$7.50, however they were charged \$13.50. The issue for the Complainant was the lack of information around portion sizes in order to be able to put the price of the offer into context.

The Advertiser explained the larger Double Decker product was originally a tailor-made option, rather than a standard menu item. The Advertiser confirmed that due to the popularity of the larger size Double Decker Teriyaki Chicken on Rice, a change had been made to the point of sale signs to indicate the pricing was 'from \$7.50' and that the regular Double Decker was \$7.50 and the large size was \$13.60.

The Complaints Board said the advertisement could have been misleading to consumers unfamiliar with the pricing/sizing of the products on offer. However, the Advertiser had taken the self-regulatory action of changing the wording on the point of sale sign to read "from" and clarified the size/price issue by stating the regular Double Decker was \$7.50 and the large size for \$13.60 on future advertising.

This amendment by the Advertiser resulted in the Complaints Board ruling that no further action was required.

The Complaints Board ruled the complaint was Settled. – advertisement changed/removed

### **[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 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 settled – advertisement changed/removed**

#### **The Complaint**

The Complainant said the advertisement for the Double Decker Teriyaki Chicken on Rice was misleading as the advertised price was \$7.50, however they were charged \$13.60. The issue for the Complainant was the lack of information around sizing in order to be able to put the price of the offer into context.

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

The Advertiser responded with details about its billboard signage and explained the larger Double Decker product was originally a tailor-made option, rather than a standard menu item. The Advertiser confirmed in the response that due to the popularity of the larger size Double Decker Teriyaki Chicken on Rice, a change had been made to the point of sale signs to indicate the pricing was 'from \$7.50' and that the regular Double Decker was \$7.50 and the large size was \$13.60.

#### **The Complaints Board Discussion**

The Complaints Board acknowledged the Advertiser's explanation that the larger version of the Double Decker Teriyaki Chicken on Rice was originally not a standard menu item and therefore size/price difference was not displayed.

The Complaints Board noted the complaint may have been exacerbated by a service issue which added confusion at the time of sale, but said this was outside the Complaints Board's jurisdiction.

The Complaints Board said the advertisement could have been misleading to consumers unfamiliar with the pricing/sizing of the products on offer. However, the Advertiser had taken the self-regulatory action of changing the wording on the point of sale sign to read "from" and clarified the size/price issue by stating the regular Double Decker was \$7.50 and the large size for \$13.60 on future advertising.

This amendment by the Advertiser resulted in the Complaints Board ruling that no further action was required.

Accordingly, the Complaints Board ruled the complaint was settled.

### **DESCRIPTION OF ADVERTISEMENT**

The point of sale advertisement for St Pierre's Double Decker Teriyaki Chicken on Rice said Teriyaki Chicken on Rice – Double Decker \$7.50.

\*Double the Teriyaki Sauce – Double the Mayo – Double the Chicken

### **COMPLAINT FROM D SUBRITZKY**

St Pierre's sushi advertised chicken teriyaki for \$7.50. However when I got in store they charged me 13.90 and said 7.50 was for a small size. Their boxes have no size information on them so there is no way of knowing what is small and what is large. There were no small sizes in the store at the time of purchase.

## 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 – ST PIERRE’S

1. In summary the billboard states a FROM \$7.50 price.

The intention of this Double Decker promotion was to sell the one size (\$7.50) but some customers enjoyed the product so much and requesting a larger size. As customary with all St Pierre’s products we do tailor make many products for customers tastes.

As a result we had a double size Double Decker price of \$13.60.

2. When D Subritzky came to the Mt Roskill store and requested one he may have pointed to a larger size Sushi box with other food in it and requested it as a Double Decker. As a result the staff member may have misunderstood their request. The manager of the store told me they never display the larger option but just make it on request.

3. Due to the popularity of larger size of Double Decker we have recently changed the point of sale sign (please see attachment).

But our billboard is the same (please see attachment).

Contact person for advertising complaints	Nick Katsoulis
Name and contact at creative agency	N/A (In-house)
Name and contact at media agency	APN, QMS
A basic, neutral description of the advertisement	New product - double decker promotion
Date advertisement began	June 2017
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Billboard
Is the advertisement still accessible – where and until when?	Yes, still current

A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	
Who is the product / brand target audience?	All people
Clear substantiation on claims that are challenged by the complainant.	The price is written as from \$7.50
The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	