

<b>COMPLAINT NUMBER</b>	17/425
<b>COMPLAINANT</b>	M Vaughan
<b>ADVERTISER</b>	The Warehouse Limited
<b>ADVERTISEMENT</b>	The Warehouse Limited, Out of Home
<b>DATE OF MEETING</b>	12 December 2017
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The instore advertisements for the Warehouse promoted the new 2017 everyday 'price drop' of Christmas Trees and compared them to the price in 2016. One advertisement stated, in part:

"PRICE DROP  
Wonderland Luxury Glitter Green 210cm 1089 Tips  
\$120  
Was \$240 on 15/11/16"

The white ticket price also said the tree cost \$120.

The Complainant said the white ticket price was the same as the on sale price which was false advertising.

The Advertiser said the 'price drop' was not a sale price but was promoting its new everyday price of the Christmas Trees and therefore the white ticket price was correct and not misleading. The Advertiser also demonstrated that promoting the new 'everyday' price of a product was a common industry practice.

The Complaints Board accepted the response from the Advertiser and was of the view the advertisement was unlikely to mislead consumers and was not in breach of Rule 2 or Basic Principle 4 of the Code of Ethics.

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 4 and Rule 2 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement contain any statement or implication that was

misleading or likely to mislead or deceive the consumer and whether it had been prepared with a due sense of social responsibility to consumers and society.

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

#### **The Complaint**

The Complainant said the advertisement for Christmas Trees was misleading as it was labelled a "Price Drop" but behind the sign, the white ticket price was the same. The Complainant said "this is clearly false advertising."

#### **Response from Advertiser, The Warehouse Limited**

The Advertiser said the same price on both tickets was correct. With regard to the price being the same on both tickets, the Advertiser said, "a 'Price Drop' is not an 'on sale' product, but is a product where the everyday price has been dropped and the yellow 'Price Drop' ticket is used in order to let the customer know that this product has had the price dropped permanently. Our protocol allows the Price Drop tickets to be used for a set period directly after the price has been dropped. These products will not rise in price as this new price point is their everyday price... we are trying to show our customers the value of the drop in price of this seasonal product between when we last ranged it and our current season range... Both tickets show the same price as this product is not 'on sale' and will not increase in price, but will remain at that same price going forward.

The Advertiser also addressed the part of the advertisement which referred to the 'was price' and the price of the product in 2016 stating, in part: "As this product is a 'seasonal' product and is not in our stores on a year-round basis as it is specifically ranged only for this period in the lead up to Christmas, in order to tell the customer what the price drop on that product is we have noted what last year's price was. It is exactly the same product as last year, however as it only comes into our range in late October each year we are only able to show the value of the price drop when we show what our 2016 price was for that product."

The Advertiser said the convention of 'price drop' to reflect the updated 'everyday price' of a product was commonly used across the retail and grocery industry and provided several examples.

#### **Complaints Board Discussion**

The Complaints Board noted the concerns of the Complainant the advertisement was misleading. The Board took into account the explanation from the Advertiser that the yellow 'price drop' promotion was advertising a new permanent price drop in the product compared with the previous time it was in stock and the white ticket price was therefore the same and placed behind the 'price drop' advertisement for efficiency.

The Complaints Board accepted that as the product was a Christmas Tree the price comparison was made with the previous year as a reflection of the 'price drop' to the new everyday price, not an on-sale price. The Complaints Board noted the examples provided by the Advertiser which demonstrated the use of this type of pricing was a common industry practice and was of the view it was unlikely to mislead consumers.

The Complaints Board ruled the advertisement was not in breach of Rule 2 of the Code of Ethics and had been prepared with a due sense of social responsibility to consumers and society required by Basic Principle 4 of the Code of Ethics.

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

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## DESCRIPTION OF ADVERTISEMENT

The instore advertisements for the Warehouse promoted the new 2017 everyday 'price drop' price of Christmas Trees compared to their prices in 2016. One advertisement stated, in part:

"PRICE DROP  
Wonderland Luxury Glitter Green 210cm 1089 Tips  
\$120  
Was \$240 on 15/11/16"

The white ticket price also said the tree cost \$120.

## COMPLAINT FROM M VAUGHAN

All 3 of the trees display as being a "price drop" however hidden behind the price drop sign was the normal price, which was the exact same price as the price drop price. This is clearly false advertising of a sale price.

## 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 – THE WAREHOUSE LIMITED

We refer to your letter of 30 November 2017 and enclosures including a copy of the complaint received from M Vaughan.

We have reviewed M Vaughan's complaint in regards to our in-store advertisement and ticketing as shown in the images of M Vaughan's complaint.

M Vaughan notes that three Christmas Trees were displayed as being a "price drop", however behind the price drop tickets was the normal price ticket, which showed the same price.

We advise that these products are "seasonal" products and only come into our range at this time of year. When we put these products out on our store floors the advertising tickets for the product are put up at the same time, with the standard white ticket being ranged behind the promotional yellow "Price Drop" ticket. These are put up at the same time in order to make the most efficient use of our store staff's time, so that they then only have to remove the yellow Price Drop ticket when this is due to be removed. This saves many hours of staff time as they do not then have to go back through each area and re-ticket these products, and we are assured that the products have a relevant price shown at all times.

In regards to the price being the same on both tickets, a 'Price Drop' is not an 'on sale' product, but is a product where the everyday price has been dropped and the yellow 'Price Drop' ticket is used in order to let the customer know that this product has had the price

dropped permanently. Our protocol allows the Price Drop tickets to be used for a set period directly after the price has been dropped, These products will not rise in price as this new price point is their everyday price.

As this product is a "seasonal" product and is not In our stores on a year-round basis as it is specifically ranged only for this period in the lead up to Christmas, in order to tell the customer what the price drop on that product is we have noted what last year's price was. It is exactly the same product as last year, however as it only comes into our range in late October each year we are only able to show the value of the price drop when we show what our 2016 price was for that product.

We note that "price drop" or a similar mechanic is used frequently by other retailers across the market, with different lengths of time shown as the previous price date featured, as well as across a wide range of both seasonal and continuity products. Notably, we found many examples of Countdown using this comparison in their latest mailer, we have attached some examples. Many of their compare dates are from 2014, 2015 and 2016 on products that would appear to be standard stock items. Kmart also uses this method of showing value to customers, specifically In their Price Drop mailers, and again they refer to dates from previous years on their products.

It is not our intention to deliberately mislead our customers. In this instance we are trying to show our customers the value of the drop in price of this seasonal product between when we last ranged It and our current season range. As noted above, for workload efficiency for our store staff we put up both the standard and price drop tickets at the same time to ensure our product always shows a relevant price, making it easier both for customers and our staff. Both tickets show the same price as this product Is not 'on sale' and will not increase in price, but will remain at that same price going forward.