

<b>COMPLAINT NUMBER</b>	17/439
<b>COMPLAINANT</b>	B Weir
<b>ADVERTISER</b>	Flick Electric Co
<b>ADVERTISEMENT</b>	Flick Electric Co, Television
<b>DATE OF MEETING</b>	24 January 2018
<b>OUTCOME</b>	Not Upheld

## **SUMMARY**

The Flick Electric Co television advertisement shows a woman with a lightbulb over her head slowly changing her expression to one of outrage as the voiceover states “This is the very moment Audrey understood that more than 20,000 Kiwis were paying the actual wholesale price of their power, but she was still paying whatever fixed price her company felt like.” The advertisement ends with the wording ‘Pay the real wholesale price of power – Flick Electric Co – New Zealand’s fairest power deal... Are you getting it yet?’

The Complainant’s concern was the advertisement did not adequately advise potential customers of the risk factors associated with the wholesale electricity contract on offer.

The Advertiser said the advertisement was intended as an introduction to the brand and they provided customers with comprehensive information about the benefits and risks of the wholesale electricity market during the sign-up process and on an ongoing basis.

The Complaints Board accepted the short television advertisement was intended as an introduction and said the Advertiser was not required to highlight all aspects of its product on this platform.

The Complaints Board agreed there was sufficient information provided to potential consumers throughout the sign-up process to ensure they were adequately informed about the benefits and risks of the wholesale electricity market and spot pricing.

The Complaints Board found the advertisement was not misleading and had been prepared with a due sense of social responsibility to consumers and to society and therefore was not in breach of Basic Principle 4 or Rule 2 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 contained anything which, either directly or by implication, was likely to deceive or mislead the consumer and if it had been prepared with a due sense of social responsibility to consumers and to society.

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

#### **The Complaint**

The Complainant was concerned the advertisement did not adequately advise potential customers of the risk factors associated with the wholesale electricity contract on offer.

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

The Advertiser stressed its transparency in a highly regulated industry. It confirmed the advertisement was intended as an introduction to the brand, their point of difference and the benefits of the wholesale electricity market.

The Advertiser confirmed that potential customer are given comprehensive information about the benefits and risks as they progress through the sign up process via Customer Service Representatives, explanation videos, FAQ sections on the website, blogs and newsletters.

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

The Complaints Board said the likely consumer takeout of the advertisement would be that it is an introduction to the energy company's contract on offer. The Complaints Board confirmed that there was no obligation for Advertisers to highlight all aspects of its product within the limited timeframe of a television advertisement.

The Complaints Board was satisfied the sign up process contained numerous stages and opportunities for consumers to learn more about the details of the contract and the potential risks associated with the wholesale electricity market and spot pricing. Potential customers are given consistent information from Customer Service Representatives and price comparisons for 10 years of historical spot pricing was made available. The benefits and risks were also communicated to customers through videos, blogs, newsletters and the FAQ section of the website. Furthermore, the Complaints Board noted the Electricity Authority had processes in place to monitor that new customers were being warned about the risks of spot pricing.

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

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

## **DESCRIPTION OF ADVERTISEMENT**

The Flick Electric Co television advertisement shows a woman with a lightbulb over her head slowly changing her expression to one of outrage as the voiceover states "This is the very moment Audrey understood that more than 20,000 Kiwis were paying the actual wholesale price of their power, but she was still paying whatever fixed price her company felt like." The advertisement ends with the wording 'Pay the real wholesale price of power – Flick Electric Co – New Zealand's fairest power deal... Are you getting it yet?'

### COMPLAINT FROM B WEIR

The exact time may be incorrect but Flick Electric has a TV advert offering customers cheaper electricity by offering directly from the Wholesale Market. I do not believe they adequately advise how risky this offer is. The Wholesale market price can be very volatile and can be extremely risky. Only the most sophisticated customer could manage this.

I sent a previous complaint about this company offering electricity customers access to the wholesale market. I saw the same company advertise the same message but with a different person in the advert. It was on the channel and time detailed above. I do not believe this company fully informs potential customers how risky such an offering is. These offers need to be far more explicit that those joining could potentially face huge risks should electricity prices spike. History has shown this will happen at some stage.

### 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 – FLICK ELECTRIC CO

Contact person for advertising complaints	Jessica Venning-Bryan, CMO, Flick Electric Co.
Name and contact at creative agency	Scott Henderson, Principal, Special Ad Service
Name and contact at media agency	Matt McNeill, Co-founder, The Digital Café
A basic, neutral description of the advertisement	Series of four TV advertisements, promoting access to wholesale electricity through Flick.
Date advertisement began	9-22 October 2017 4-17 December 2017 8-21 January 2018
Where the	TV.

advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website	Please see media schedule for specific channels and slots.
Is the advertisement still accessible – where and until when?	Yes, until 21 January 2018. Please see media schedule for specific slots.
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?	Electricity consumers.
Clear substantiation on claims that are challenged by the complainant.	<p>We refer to your letter setting out the relevant section of the Advertising Codes of Practice:</p> <p><i>Code of Ethics – Basic Principle 4:</i></p> <p><i>All advertisements should be prepared with a due sense of social responsibility to consumers and to society.</i></p> <p><i>And Rule 2:</i></p> <p><i>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)</i></p> <p>Here at Flick, we are building our business based on transparency and delivering value to our customers. In our advertising (and indeed in our business actions generally) we act with an overriding sense of social</p>

	<p>responsibility.</p> <p>We operate in a highly regulated industry, in which we are a licensed participant under the Electricity Authority, and as such, carry ISO certification. We are NZ's only Consumer Trusted power company, electing to be externally audited for fair business practice that extends beyond the requirements of the Fair Trading Act. We are required to meet an extremely high standard of fair practice for both ISO and Consumer Trusted accreditation.</p> <p>The Electricity Authority also monitors our communications in regards to product risk and explicitly requires, and monitors, that we advise customers of the risk of spot pricing:  <a href="https://www.ea.govt.nz/operations/retail/retailers/spot-market-expectations-on-retailers/">https://www.ea.govt.nz/operations/retail/retailers/spot-market-expectations-on-retailers/</a>. Our practices in this regard were reviewed twice by the EA in 2017, who found no issues.</p> <p>They also require that we refer all new customers to the following information on their website at sign-up and annually thereafter:  <a href="https://www.ea.govt.nz/operations/wholesale/spot-pricing/">https://www.ea.govt.nz/operations/wholesale/spot-pricing/</a></p> <p>As with all products and services, our TVCs exist to introduce consumers to the Flick brand, our points of difference and the benefits. Through the purchase journey, and in other mediums where there is more time available to communicate with the audience, prospects are given deeper information about our offering, its benefits and risks.</p> <p>Throughout the sale and sign up process, there are a number of opportunities an applicant has to learn more about the wholesale electricity market and spot prices. We are upfront on our website, through social media channels and in 1:1 customer communications about the likelihood of higher prices.</p> <p>Due to the duration and visual format of TVCs, the risk of higher prices is not directly referenced, however other touchpoints applicants may have before signup include:</p> <ol style="list-style-type: none"> <li>1. Dialogue with a Customer Service Representative on the phone, email or through social media channels: Customer Service Representatives are trained to ensure that a prospect understands the wholesale market, using template responses and definitions for absolute consistency, including explanations of what affects the spot price and what a prospect can expect from spot prices in different seasons. Price comparisons are provided using the historical spot price average from the past ten years (7 cents per kWh), which is clearly communicated to the prospect.</li> <li>2. Explainer videos: We have two core video assets that describe how the Flick model works in detail, including that the wholesale price goes 'up and down'. These appear in multiple places on our website and social media, and many digital advertisements are</li> </ol>
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directed to these.

3. Flick Facts: On the homepage and FAQ page, an FAQ directly references higher spot prices and uses historical data to demonstrate how often prices 'spike' or are considered 'high'.

- a. 'What happens when spot prices spike?'

From time to time, spot (wholesale) prices do spike, but a spike usually lasts for one or two half hour periods. Along with exposure to the occasional price spike comes access to the low spot prices that we see 48.54% of the time, so we're confident you'll be better off in the long run with Flick.'

'We also have a suite of great tools to help you chase the low prices and avoid the high ones. The Flick mobile app will send you an alert when prices are rising, and you can dig into your energy usage and spend in your personalised customer dashboard.'

'Still worried? The more you understand how it works, the less scary it becomes. Read our blog [Price Spike 101](#) to find out more.'

<https://www.flickelectric.co.nz/ - q-price-spike>

4. Blogs and weekly newsletter: Our weekly newsletter that goes to customers and prospects regularly discusses market conditions. We also link directly to various blogs through numerous channels, providing more information on the wholesale market from social media content, website pages and in customer service responses. For example:

- a. 'What to do in a price spike.'

"...the following guide might give you an idea of what some common peak time appliances might cost during higher pricing periods." -

<https://news.flickelectric.co.nz/2017/07/14/what-to-do-in-a-price-spike/>

- b. 'Keep calm, it's just a price spike.'

"...the electricity industry is just like buying strawberries... That means that just like the price of strawberries at different times of the year, the spot market really does reflect the relative abundance or scarcity of electricity at different times." -

<https://news.flickelectric.co.nz/2016/09/19/keep-calm-its-just-a-price-spike/>

c. 'Dry Winter 2017: How bad was it?'

"Spot prices of electricity climbed to an average 13.88 cents per kWh this winter (ouch!). Prior to the onset of Dry Winter, Flicksters reaped the rewards of the wholesale market with an average spot price of 6 cents per kWh for the preceding 12 months. To put this into perspective, we estimate that the spot price needs to hit around 11 cents or more before you'll start paying more with Flick than you would with a traditional retailer." -

<https://news.flickelectric.co.nz/2017/09/07/dry-winter-2017-so-how-bad-was-it/>

5. Visual data: On various landing pages on our website and in FAQs, we use data to provide customers with historical information on wholesale market trend, including the distribution of spot prices:



6. Price forecasts: On our Pricing page, we provide a 3 month forecast of spot prices, including a historical average spot price (7 cents per kWh over the past ten years) and a threshold at which point we expect a customer might pay more with us than with another retailer (11 cents per kWh) for comparison:

We believe in complete transparency, so to help you make an informed decision about joining Flick, the forecast spot price for the next three months looks like this:

	SPOT PRICE FORECAST		
	December	January	February
Upper North Island	10.15 cents	7.53 cents	8.26 cents
Central and Lower North Island	10.0 cents	7.04 cents	7.32 cents
South Island	9.92 cents	6.87 cents	7.71 cents

Forecasts updated 15 December 2017

7. Social media: We address higher prices publicly through social media channels:

	<div data-bbox="549 212 1398 1176"> <p><b>Flick Electric Co.</b> July 12, 2017 · 🌐</p> <p>Hey Flicksters, We're seeing some very high prices at the moment. Keep an eye on the needle &amp; forecast price in your Choice app. If you're new to price spikes or just want a few more details about what to expect, check out this blog: <a href="http://bit.ly/pricespikes101">bit.ly/pricespikes101</a></p> <p><b>Price Spike 101</b> We've put together some information to help you understand price spikes, and what they mean for you. <a href="http://NEWS.FLICHELECTRIC.CO.NZ">NEWS.FLICHELECTRIC.CO.NZ</a></p> <p>👍 Like    💬 Comment    ➦ Share</p> </div> <p>In 2017, which included a period of sustained high prices over a 9 week period, Flick customers still saved an average \$199.38. On average over the year Flick customers paid 25.64 cents per kWh for electricity compared to the national average of 28.79 cents per kWh (MBIE).</p> <p>We also do not lock customers into fixed term contracts, so they are free to leave if they find the wholesale market is not suited to their needs.</p>
<p>The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact</p>	

the Complaints Manager if this is an issue.	
<b>For Broadcast advertisements:</b>	
A copy of the script	<p>TVC 1 :</p> <p>VO: [L] [SEP] This, is the very moment Audrey understood, that more than 20,000 Kiwis were paying the actual, wholesale price of their power... [L] [SEP] but she was still paying whatever fixed price her power company felt like!</p> <p>TVC 2:</p> <p>VO: [L] [SEP] As she lovingly packed sand into Lollipop, Alice realised, she could save hundreds... and hundreds on her power - without being trapped in a fixed term contract! [L] [SEP] And she could stay that way forever.</p> <p>TVC 3 :</p> <p>VO: [L] [SEP] You're watching, the instant Steve conceived that with a wholesale power price, no dodgy estimates, and an easy weekly bill... he'd never find a big hairy surprise in his letterbox, again. [L] [SEP] That's enough Steve.</p> <p>TVC 4:</p> <p>VO: [L] [SEP] In a moment of clarity, Louisa saw that while power companies offered her all sorts of free months, cash bonuses, and ultra-saver windings. She'd save more paying the actual wholesale price of her power.</p>
A copy of the media schedule and spot list	Please see attached.
CAB key number and rating	<ol style="list-style-type: none"> <li>1. FLK030001 - See Yr Savings</li> <li>2. FLK030002 – Transparency</li> <li>3. FLK030003 - No fixed term</li> <li>4. FLK030004 - Weekly Bill</li> </ol>
<b>For Digital advertisements:</b>	
What platform	

tools have you used to target your audience?	
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**RESPONSE FROM MEDIA,**

No response received from CAB