

COMPLAINT NUMBER	18/195
COMPLAINANT	L Roderick
ADVERTISER	Number One Shoes
ADVERTISEMENT	Number One Shoes, Addressed Mail
DATE OF MEETING	26 June 2018
OUTCOME	No Grounds to Proceed

Advertisement: The Number One Shoes email advertisement said “Nothing over \$40.” An asterisk at the bottom of the advertisement contained the following disclaimer: “Selected styles only. Discount is off the original retail price. Prices as marked. Available online and in store. Colours, sizes and styles will vary from store to store. Not in conjunction with any other offer. Excludes gift cards.”

The Chair ruled there were no grounds for the complaint to proceed.

Complainant, L Roderick, said: I find this promotional email / advertisement extremely misleading. The tag line ‘Nothing over \$40’ would give consumers the impression that NOTHING is priced over \$40 during this particular sale but underneath in small print it states ‘Selected Styles Only’. The advert should perhaps have read ‘Selected Styles \$40 and Under’. Nothing means nothing! Retailers should not be able to misuse words in order to bait their customers, this is false advertising in my opinion.

The relevant provisions were Code of Ethics - Basic Principle 4, Rule 2;

The Chair noted the Complainant’s concern the advertisement used a tag line “Nothing over \$40, but then qualified the statement by saying “Selected styles only” which was misleading.

The Chair said that despite the headline “Nothing over \$40”, the advertisement had clearly qualified the terms and conditions of the offer, in that it referred to “selected styles only”.

In considering the issue raised by the Complainant, the Chair took into account a precedent, Decision, 11/452, which considered a similar issue and said in part:

“...Noting the disclaimer at the bottom of the advertisement that advised customers about the items that were excluded for the sale, the Chairman said that the disclaimer was clearly visible to most consumers. She was also of the view that, given the disclaimer, most customers would understand that the statement “Nothing over \$20” had conditions and added that the Advertiser was entitled to group products in any way they wished as long as those items that were excluded from any promotion were clearly distinguished which she said, in the advertisement before her, they were... “

The Chair confirmed this Decision applied to the complaint before her and ruled the advertisement contained sufficient information for consumers so that they were unlikely to be misled.

The Chair acknowledged that the email format gave the consumer time to read and understand what was on offer.

The Chair ruled that the advertisement did not reach the threshold to breach Rule 2 of the Code of Ethics and it had been prepared with the due sense of social responsibility required to consumers and to society.

Accordingly, the Chair ruled there were no grounds for the complaint to proceed.

Chair's Ruling: Complaint **No Grounds to Proceed**

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.