

COMPLAINT NUMBER	19/021
COMPLAINANT	R Macnab
ADVERTISER	Resene
ADVERTISEMENT	Resene, Television
DATE OF MEETING	22 January 2019
OUTCOME	No Grounds to Proceed

Advertisement: The Resene television advertisement shows split screen images of various homes and said “When it’s time to change, change with Resene. Save the GST value on Resene premium paints, wood stains, wallpaper and decorating accessories. Big summer savings on now at Resene.”

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

Complainant, R Macnab, said: At 7:30pm on 11/1/2019 their ad appeared on TVNZ Channel One regarding a "Save the GST" sale, which NZ TV channels have broadcast over a number of years, and not just regarding this company. Such advertising is 'misleading' in terms of the Fair Trading Act as a GST registered person must return GST on all taxable supplies because GST must be charged on such supplies (see s 8 and 51 of the GST Act 1985). The real offer is a 15% discount, not a relief from NZ GST that must be charged by a GST registered entity.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b);

The Chair noted the Complainant’s concern the claim “save the GST” was misleading:

The Chair said using the GST value of 15% as a discount had been considered several times. The Chair referred to Decisions 14/005 and 01/329, which were ruled no grounds to proceed by the Chair of the Complaints Board.

Decision 14/005 said in part:

“The Chairman noted the concerns raised by Complainant. Similar complaints have been made to the Advertising Standards Complaints Board where GST was used to offer a discount. The Chairman considered the available precedents regarding GST free promotions and ruled the current complaint was consistent with 01/329, which stated:

“In the Chairman's opinion the claim was obvious hyperbole and identifiable as such, which in accordance with the Codes was not deemed to be misleading. Similarly claims of this nature were not considered uncommon in retail advertising when promoting a price reduction.”

“...The Chairman said it was hyperbolic in nature and had been designed to offer a 15% discount to purchasers. Accordingly, the Chairman was of the view that the advertisement did not reach the threshold to be misleading to the consumer and there was no apparent breach of the Advertising Codes.”

The Chair said the complaint before her raised the same concern as the precedents in referring to GST instead of a 15% discount. The Chair noted in the Resene advertisement the voiceover used the wording “Save the GST value”. The Chair said in her view the likely consumer takeout would be that this would be a 15% saving rather than the purchase would not be subject to GST.

The Chair said the advertisement did not reach the threshold to be considered misleading and was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

Therefore, the Chair said 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.