

<b>COMPLAINT NUMBER</b>	19/382
<b>COMPLAINANT</b>	R Collins
<b>ADVERTISER</b>	AdviceKiwi
<b>ADVERTISEMENT</b>	AdviceKiwi, Facebook
<b>DATE OF MEETING</b>	12 November 2019
<b>OUTCOME</b>	Upheld – Advertisement to be Removed

### **Description of Advertisement**

The Facebook advertisement for AdviceKiwi shows an image of three stacks of coins with miniature blue human figurines encircling the money and a pair of hands cupped around the circle. The wording says: “We know, we’ve harped on about this before, but the fact is, PHARMAC cannot afford to cover everything. Private Health Insurance will ensure you get the right medication, right when you need it.”

### **Summary of the Complaint**

The Complainant is concerned the advertisement is misleading to claim private health insurance will ensure you get the right medicine, right when you need it. This is due to caveats such as caps, exclusions and explicitly saying they cannot guarantee delivering treatment, which consumers may not be familiar with.

### **Issues Raised**

- Truthful Presentation

### **Summary of the Advertiser’s Response**

The Advertiser said private health insurance can ensure access to medication regardless of whether it is funded by PHARMAC or not.

The Advertiser said the ‘about’ section of its business Facebook page states that all content is the opinion of AdviceKiwi and should not be considered personalised financial advice. The Advertiser said it makes no guarantee about eligibility or that there won’t be exclusions and clients are made well aware of the facts, costs, disclosure obligations and any exclusions before a policy is finalised.

### **Summary of the Complaints Board Decision**

The Complaints Board upheld a complaint about an Advice Kiwi Facebook advertisement which said private health insurance will ensure you get the right medication, right when you need it. The Complaints Board said this was an absolute claim and the Advertiser had not substantiated it.

## Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following code

### CODE FOR FINANCIAL ADVERTISING

**Principle 2:** Advertisements should strictly observe the basic tenets of truth and clarity. Advertisements should not or should not be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated claim or hyperbole.

**Guideline 2 (a) Truthful presentation:** Advertisements shall be accurate and statements and claims able to be substantiated.

### Relevant precedent decision

In considering this complaint the Complaints Board referred to precedent Decision 18/299 Appeal 18/021 which was Upheld by the Appeal Board.

The full version of this decision can be found on the ASA website  
<https://www.asa.co.nz/decisions/>

**Decision 18/299 Appeal 18/021** concerned an advertisement for Seafood New Zealand which used the word “guarantees” in the sentence: “Our quota management system guarantees our fisheries stay sustainable...”

The Appeal Board was of the view that the use of the word “guarantees” creates a strong claim, more in the nature of a contractual provision. It implies much greater certainty than the words “helps keep” or “works to ensure” sustainability, as stated on the QMS and Fisheries New Zealand websites.

### Complaints Board Discussion

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was that it encouraged consumers to take out private health insurance in order to ensure access to healthcare including medication that may not be funded by PHARMAC.

#### *Is the advertisement misleading?*

The Complaints Board said the claim made in the advertisement “will ensure you get the right medication, right when you need it” is an absolute claim which required substantiation.

The Complaints Board said the statement gave a misleading impression about the services provided by health insurance. The Board said the wording “will ensure” made the claim absolute without qualification and the Facebook post was not saved by the disclaimer set out in the “About” section. The Complaints Board noted the Advertiser’s description of the advertisement in its response used the term “can ensure” but these were not the words used in the advertisement.

The Board agreed that although consumers would be likely to learn about a policy’s costs and exclusions during the purchasing process, the absolute claim in the advertisement could create unrealistic expectations from the outset.

The Complaints Board said the advertisement was likely to mislead some consumers and as such had not met the higher standard required of financial advertising. The advertisement was in breach of Principle 2 and Guideline 2(a) of the Code for Financial Advertising.

**Outcome**

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed and not used again in its current form.

**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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.

## APPENDICES

1. Complaint
2. Response from Advertiser

### Appendix 1

#### COMPLAINT FROM R COLLINS

I believe the claim "Private Health Insurance will ensure you get the right medication, right when you need it." is misleading because private health insurance:

- has caps that can prevent treatments being available
- has exclusions that allow the insurer to avoid paying for issues that arise as a side effect of a problem that existing when you sign up for the insurance
- explicitly do not make guarantees about delivering treatment - everything has to be approved by the insurer, and they can decline anything, after which you have to argue for it

All of which is in direct contradiction to the meaning of ensure: "make certain that (something) will occur or be the case."

I believe this violates guideline 2 (a) and 2(b) of the financial-advertising/ financial advertising codes as this is not an obvious untruth unless the viewer is already familiar with the details of how private health insurance companies operate, which many people I have met are not.

### Appendix 2

#### RESPONSE FROM ADVERTISER, ADVICEKIWI

A basic, neutral description of the advertisement	Private Health Insurance can ensure that you get access to the required medication regardless of whether it is funded by PHARMAC or not.
Date advertisement began	26/09/2019
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Our Facebook Business Page.  Our 'about' section clearly states "All content on this page is the opinion of AdviceKiwi and should not be considered personalised financial advice" and that a disclosure statement is available on request and free of charge.
Is the advertisement still accessible – where and until when?	Yes, on the company facebook page. The post drops down the page over time.

A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Attached.
Who is the product / brand target audience?	30-50 year old people who want to make sure they can get access to medical treatment in the private system, should they need it.
Clear substantiation on claims that are challenged by the complainant.	<p>PHARMAC does not cover all medications.</p> <p>The Private Health Insurance providers we use provide funding for MedSafe approved treatments, regardless of whether they are funded by PHARMAC</p> <p>It is not possible to sign up to any of our products/providers without first getting advice from us and citing a disclosure statement.</p> <p>Clients are well aware of all the facts, costs, their disclosure obligations, and any exclusions before a policy goes in place.</p> <p>The post makes no guarantee that the reader is eligible to get Private Health Insurance, or that there won't be exclusions to a policy based on the readers health history.</p> <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 the Complaints Manager if this is an issue.	
<b>For Broadcast advertisements:</b>	
A copy of the script	
A copy of the media schedule and spot list (Please remove all financial information)	

CAB key number and rating	
<b>For Digital advertisements:</b>	
What platform tools have you used to target your audience?	Facebook only