

<b>COMPLAINT NUMBER</b>	19/285
<b>COMPLAINANT</b>	D Wiseman
<b>ADVERTISER</b>	Naked Flame
<b>ADVERTISEMENT</b>	Naked Flame, Website
<b>DATE OF MEETING</b>	10 September and 10 December 2019
<b>OUTCOME</b>	Settled in Part Not Upheld in Part

### Description of Advertisement

The website advertisement for Naked Flame biofuel fires has a section headed “Running Costs. Biofuel Fireplaces. Average Cost \$1.93/h (based on the BK5 Burner). Gas Fireplaces. LPG Average Cost \$1.91/h. NG Average Cost \$1.67/h

Gas prices do not include bottle hire/replacement fees (\$340-\$420 a year) or connection fees (\$0.60-\$0.90/day). The average cost of LPG was calculated by finding the average price per mj amongst 3 gas providers per state. NG average cost source: energy.gov.au report; 2017.”

### Summary of the Complaint

The Complainant is concerned the quoted running cost of \$1.93 per hour compared against the cost of a natural gas fireplace at \$1.67 per hour is misleading and believes the true cost of Australian natural gas is 36c per hour. The Complainant also provides some New Zealand comparisons.

### Issues Raised

- Truthful Presentation

### Summary of the Advertiser’s Response

The Advertiser said the website consumption comparison was against an open fronted gas fire only and trying to compare it to other forms of heating is not relevant. The website does not suggest biofuel fires are a cheap form of heating, but rather an easier option for a fireplace than wood or gas.

The Advertiser says the Complainant is disputing the cost of natural gas in Australia. The Advertiser supplied the reference to the 2017 document quoted in the advertisement which has the cost source used to obtain the \$1.67 figure. The Advertiser also provided details of the five fireplaces used to calculate the running costs.

The Advertiser confirmed the figures quoted were in Australian dollars and agreed to amend the website to reflect this.

In response to the Complainant’s figures, the Advertiser queried how the Complainant arrived at their calculations. It said prices for fuel differed, depending on provider.

The Advertiser emphasised the website sells fireplaces, not heaters, with majority of consumers buying for aesthetic rather than heating reasons.

### Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about the website advertisement for Naked Flame biofuel fires. The majority of the Complaints Board said the running cost figures used in the advertisement had been substantiated and a disclaimer added about the currency used in the comparison. The majority of the Complaints Board said consumers were likely to purchase the high-end flame effect product for aesthetic purposes and did not consider consumers would be misled that the product's heating properties were superior to other forms of heating.

### Relevant ASA Codes of Practice

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

### ADVERTISING STANDARDS CODE

**Principle 2: Truthful Presentation:** Advertisements must be truthful, balanced and not misleading.

**Rule 2(b): Truthful Presentation:** Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

#### *Preliminary Matter*

The complaint was originally considered on 10 September 2019 then adjourned in order to seek the Complainant's response to the Advertiser's explanation and a clarification of the how the Complainant arrived at their figures. The Advertiser was also asked to clarify the currency being used in the rates on the website.

### Complaints Board Discussion

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was that the running costs of Naked Flame biofuel fires are comparable to that of equivalent gas fires.

#### *Has the running cost comparison been substantiated?*

The Complaints Board said the comparisons throughout the website make it clear the Advertiser is comparing biofuel fires with open fronted gas fires. The Board said the Advertiser had adequately demonstrated it had taken the average gas consumption figures for five open-fronted flame gas fireplaces and multiplied by the cost of gas to calculate the running costs per hour. The Board noted the figures used were Australian figures,

The Complaints Board said the focus of the advertisement was on flame and heat products. While the Complaints Board acknowledged the Complainant's concern that there are many other heating options which are more efficient forms of heating, it said the product being advertised was not compared with these.

#### *Is the pricing used in the advertisement clear?*

Following the Complaints Board's query about the currency used for the prices quoted in the advertisement, the Advertiser confirmed that all prices were in Australian dollars. The Advertiser agreed to add a disclaimer to this effect to the website page. The Complaints Board said given the Advertiser's co-operative engagement with the process and the self-

regulatory action taken in amending the advertisement to make the pricing clearer, this part of the complaint was settled.

*Are consumers likely to be misled by the advertisement?*

The majority of the Complaints Board said there were no claims made in the advertisement that the Biofuel fires are a cheap source of heating and the Advertiser has emphasised most consumers purchase the product for the aesthetic value.

The majority of the Board agreed that the risk of consumers being misled by the advertisement would be low given the unique, high-end nature of the product. When purchasing a product in this price range, most consumers would be likely to undertake a reasonable amount of research before making a purchase decision. Most consumers would be likely to look at the product itself and study the product specifications. The majority agreed that the comparisons being made in the advertisement were clear and did not consider consumers would be misled that the product heating properties were superior to other forms of heating.

For the majority of the Complaints Board the advertisement did not meet the threshold to breach Principle 2 or Rule 2(b) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said that in addition to the comparisons between the flame effect, the overall website made reference to the heat source benefits of the product. In this context the Advertiser was not using like for like products in terms of size and heat output when comparing the running cost of the Biofuel fires and open fronted gas fires. The advertisement was therefore misleading as the advertiser had not substantiated that its product was more heat efficient.

However, in accordance with the majority, the Complaints Board said taking into account context, medium, audience and product, the amended advertisement was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

**Outcome**

The Complaints Board ruled the complaint was **Settled in Part/Not Upheld in Part.**

No further action required

**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
  3. Additional responses from Complainant and Advertiser
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### Appendix 1

#### COMPLAINT FROM D WISEMAN

The business is sole importer of rather expensive Biofuel Fires, using ethanol as the energy source. Most of their claims for the product are true and it is of course up to the buyer to assess the basic value. However, running costs are not simple to assess but I am a chartered engineer and have done the calculations.

The attached screenshot (and similar verbal running cost claims made in-store) is the problem. They claim a running cost of \$1.93 per hour for their product, using biofuel at their prices. I agree with this. However, they compare it with a CLAIMED cost for natural gas of \$1.67 per hour.

They say this is based on an Australian document. I have done the calculation using the same document and I make the true cost with Australian natural gas 36c per hour. However, using New Zealand comparisons the true equivalent cost would be -

Natural Gas Heating 25c per hour  
Electric heat pump 30c per hour  
Very simple electric heating 60c per hour  
Compared to Biofuel 193c per hour

In other words they are falsely claiming economy for what is in fact an extremely expensive form of heating.

### Appendix 2

#### RESPONSE FROM ADVERTISER, NAKED FLAME

Please find supporting documentation, including completed complaint response.

All of our comparisons were related to open-fronted gas fireplaces; please see the attached document with the fireplaces used to calculate running costs and references for where the data was sourced.

The cost was calculated by comparing 5 leading open-fronted gas fireplaces between 850 and 1500 wide.

To calculate these running costs you simply multiply the cost per m/j by the m/j rating on the gas appliance, then divide that figure by 100 to get a dollar and cent price.

Please also follow this link to the entire page on our website that this complaint relates to, rather than just one small part of the web page - <https://nakedflame.nz/biofuel-fireplace/about/why-go-bio.htm>

Firstly I would like to respond to the opening statement from the complainant. They state that 'The business is the sole importer of rather expensive Biofuel fires'... We are not the sole importer, we do in fact have competition and offering products at a much lower price point.

Naked Flame just prefers to offer a higher end range of these products, and yes we do have exclusivity to some brands, but are bound by that brands set recommended prices.

I point out this opening statement from the complainant as clearly they have an issue about price.

The complainant does mention that they agree with our running cost claim in paragraph 4 of the complaint, so I don't see a real false claim here, other than that they are disputing the cost of natural gas in Australia.

At the top of the webpage that this relates to, it is comparing consumption to heat output against an open fronted gas fires, nothing else. So for the complainant to compare against other forms of heating is frankly ridiculous. There is also no mention from them on models or heat outputs, but a very generic representation of a heat pump, or electric heater, but yet a fixed running cost. How so? All heat pumps will have a differing running cost depending on heat output and the cost of power.

We do not ever suggest these as a cheap form of heating, but an easier option to a fireplace than wood or gas.

I am no expert on Australian or NZ gas prices, but I can say all fires burn different amounts of fuel, dependant on the heat output and design of the fireplace. The document referred to for these gas costs was found at [www.energy.govt.nz](http://www.energy.govt.nz) (2017), so I believed this to be a credible document. I would be interested to know how the complainant came up with their prices, and is this for the same heat output into a room?

With a fireplace, a large amount of heat for gas or wood fires can be lost out of the flue / chimney, which in the case of a BioFuel fireplace, we do not lose any heat as we do not require a flue or chimney, so apples need to be compared with apples.

I have also included further information on how we came up with the comparison of our BioFuel fire BK5 unit, vs the specific open fronted gas fires it was tested against.

Updated link provided by the Advertiser

[https://www.energy.govt.nz/sites/default/files/gas\\_price\\_trends\\_review\\_2017.pdf](https://www.energy.govt.nz/sites/default/files/gas_price_trends_review_2017.pdf)

Any questions, of course please feel free to let me know.

A basic, neutral description of the advertisement	Running Costs
Date advertisement began	Approx May 2019
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Website only
Is the advertisement still accessible – where and until when?	Yes. <a href="http://www.nakedflame.nz/biofuel-fireplace/about/why-go-bio.htm">www.nakedflame.nz/biofuel-fireplace/about/why-go-bio.htm</a>

A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Screenshots attached in reply
Who is the product / brand target audience?	Mostly retail fireplace customers
Clear substantiation on claims that are challenged by the complainant.	Yes
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.	Yes
<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?	Website only

#### **FURTHER INFORMATION SUPPLIED BY COMPLAINANT**

Here as requested are the calculations

##### 1. Costs of fuel

I agree with their figure of 2.9cents per MJ for Australian natural gas. this equates to 10.4 cents per kWh

New Zealand natural gas costs 6.9 cents per kWh

NZ electricity costs 17 cents per kWh

Naked Flame Biofuel \$4 per litre

##### 2. Power usage

For example, they claim that their model XL 700 produces 4kw of heat and uses 0.7 litres per hour of their fuel

A natural gas unflued convection heater produces 4kw of heat and uses 4kwh of gas per hour

A very inefficient heat pump produces 4kw of heat from 2kwh of electricity per hour (most are far more efficient)

3. Hence running costs per hour for the same 4kw of heat

Naked Flame XL700 0.7 X \$4 = \$2.80

Gas heater in Australia 4 X 10.4c = \$0.42

Gas heater here in NZ 4 X 6.9c = \$0.28

Heat pump here 2 X 17c = \$0.34

In other words, for example, the cost of running their heater is about ten times the cost of running a natural gas heater. So their claim, which looks like approximately the same cost for each is at least misleading, and frankly dishonest

#### **FURTHER INFORMATION SUPPLIED BY ADVERTISER**

Firstly, yes the \$1.93 running costs is in AUD. Unfortunately I do not have enough information and links to government websites in NZ etc, concerning gas prices in NZ. The exchange rate of AUD to NZD is very similar, so I doubt this would sway or mislead customers one way or another, and we actually sell the fuel for a lesser cost than our Australian neighbours, so the running costs would be very similar if not slightly less here. I am more than happy to add a disclaimer on the website that the prices quoted are in AUD though. Fair point.

In response to the complainant, in paragraph one of their response regarding fuel costs, how does the complainant arrive at those calculations and costs? There seems to be nothing backing their calculations which makes it difficult to counter respond. I don't think we can argue that a bottle of LPG at a service station is dearer than LPG in 50kg bottles supplied commercially to a restaurant, or even bulk supply for commercial use. Prices differ greatly for the same commodity. This includes electricity and natural gas. Different providers will charge differing prices based on consumption.

I will also point out, that as a customer of Naked Flame, when a fireplace is purchased from us, we do sell the fuel to that customer at a discounted rate of \$3 per litre in small 5l bottles, or \$2 per litre in 200l drums. This again brings the running costs down. The prices stated on our website are retail and for non fireplace customers of ours.

Secondly, power usage. Most of the fireplaces we sell do not require power, specifically the unit in question on our website which is what the running costs are based off. Or to compare a biofuel fireplace to an electric heater is pointless. I am not sure why the complainant is mentioning power costs or heatpumps.

Lastly, we sell Fireplaces, not heaters. The website is headed and states many times throughout, that we are Naked Flame Biofuel Fireplaces. Not heaters. While a byproduct of a fireplace is heat, many people buy and use fireplaces for aesthetic rather than heat. We never promote the fireplaces to be cheap to run or a main heat source, but compared to an - Open fronted gas fireplace' which is what this complainant should be focused on, then yes our options do stack up cost wise. If you contact a retailer of open fronted gas fireplaces, they will also advise that they too are not sold as a cheap form of heating. A wood fire for example will put out vast amounts more heat than a gas or biofuel fireplace will, and be cheaper to run than both, yet the complainant hasn't touched on wood fires, which is of as much relevance as a heat pump. Often a gas heater will be cheaper to run than a gas fireplace, but the heater has minimal aesthetic value.

Also worth noting, is that we are a retailer of international brands of these Biofuel Fireplaces, which are sold internationally. We do not have any burner units that are Naked Flame branded, and we do not manufacture our own burners here in NZ.

Ultimately it is the customers decision with which fireplace option they prefer, and we do make it very clear to all customers what the fuel cost is, the consumption of that particular fireplace, and a pretty accurate running cost. We are a very professional NZ small business and take pride in the fact that we have many happy customers, and our fuel sales are a testament to how many customers continue to use their fireplace regularly.

In summary, the complaint is regarding a paragraph at the bottom of the website page found here - <https://nakedflame.nz/biofuel-fireplace/about/why-go-bio.htm> . The heading of this page is 'Choosing between a Biofuel or Gas open flame fireplace'. Nothing else. Then if you read the entire page, you will see the pro's and con's to each.

"What was the criteria you used to choose the five open fronted gas fires for your running cost comparison. The Chair notes that comparative advertising requires like for like products to be used and would like your comment on whether the size and heat output (hence running costs) of the five examples is comparable to the BK5 Burner. "

We amended text as per below screenshot to show that prices are quoted in AUD. This amendment was made after your email on Monday 25<sup>th</sup>.

And yes as per the below, all cost comparisons are made using the BK5 burner. All burners convert fuel to heat, so my supplier EcoSmart fire just used this burner as an example.