

COMPLAINT NUMBER	19/307
COMPLAINANTS	W Prouse & 2 Others
ADVERTISER	OLA
ADVERTISEMENT	OLA, Television
DATE OF MEETING	10 December 2019
OUTCOME	Settled No Further Action Required

Description of Advertisement

The television advertisement for the OLA ride-share app shows a split-screen direct comparison between OLA and the largest ride-share company. The advertisement says in part: “Both companies have heaps of cars and probably the same drivers.” “But when you arrive why pay the usual when OLA works out way cheaper ... Download the OLA app and get 50% off rides for the first two weeks. The text disclaimer in the end shot says “Maximum discount valued at \$10 per ride. Excludes tolls/third party charges. See website for T&C’s

Summary of the Complaints

Three complaints about this advertisement consider it was misleading to claim a 50% discount when this is capped at \$10, meaning any ride over \$20 will not get 50% off. The Complainants are also concerned the disclaimer showing the limit of the discount was very small in comparison to the 50% off text and was only shown on the screen for a short time.

Issues Raised

- Truthful Presentation

Summary of the Advertiser’s Response

The Advertiser noted the key terms and qualifiers are displayed and an estimate fare is provided before any booking is made. As a gesture of good faith, the Advertiser proposed changes to the final frame of the advertisement with the qualifiers “for first 2 weeks and up to \$10” being much more prominent in position and font size.

The Advertiser confirmed the average OLA fare is in the \$15-\$18 range meaning a cap of up \$10 would mean a full 50% discount for a high proportion of fares.

Summary of the Media Response

The Commercial Approvals Bureau said that details of the offer are quoted in the commercial itself – so the terms of the deal are actually explicated in the advertisement.

Summary of the Complaints Board Decision

The Complaints Board settled three complaints about an OLA advertisement which offered a 50% discount on rides for customers joining its service for the first two weeks up to a value of \$10 per ride. The Advertiser amended the advertisement to make the disclaimer more prominent and provided substantiation showing the 50% offer would apply to a high proportion of fares.

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to precedent Decision 19/222, which was Upheld.

The full versions of this decision can be found on the ASA website

<https://www.asa.co.nz/decisions/>

Decision 19/222 concerned the same OLA television advertisement claiming that in comparison to the largest rideshare company, “OLA works out way cheaper”.

The Complaints Board was of the view that the Advertiser had not provided sufficient substantiation to support the strong claim and the qualifying statements were not clear. As a result of the Upheld Decision, the Advertiser amended the “way cheaper” statement in the advertisement to say, “could work out cheaper”.

Complaints Board Discussion

Preliminary Matter

The Complaints Board noted the three complaints for this advertisement were received prior to the outcome and advertisement amendments as a result of Decision 19/222.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was that there was a 50% discount on rides taken for the first two weeks after signing up to OLA. The Board said the disclaimer “Maximum discount valued at \$10 per ride”, which featured at the end of the advertisement was very small and could easily be missed by viewers.

Is the \$10 cap on the discount offer misleading?

The Complaints Board said that while it was not unusual for there to be conditions attached to discount offers, it considered the disclaimer on the advertisement complained about, stating that the offer was up to a maximum of \$10 per ride was too small, in comparison to the size of the headline offer of 50% off rides for the first 2 weeks. The Board noted the Advertiser had agreed to amend the final frame of the advertisement to read “50% off all rides. For first 2 weeks (max discount \$10) and make the conditions of the discount more prominent in terms of position and font size.

Is the 50% off rides claim misleading given the discount limit?

The Complaints Board acknowledged the response received from the Advertiser which clarified that the average OLA fare is in the \$15-\$18 range meaning a cap of up \$10 would mean a full 50% discount for a high proportion of fares. The Complaints Board considered this to be adequate substantiation to support the claim, in light of the amendment made to the advertisement of increased font size, alerting consumers to the qualifier. The Board also noted the risk of consumers being misled was low, given that a price for any fare is provided up front to the customer before a ride is undertaken.

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 disclaimers more prominent, the complaints were settled.

Outcome

The Complaints Board ruled the complaints were Settled.

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. 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. Response from Media
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Appendix 1

COMPLAINT FROM W PROUSE

Advert for Ola car rides, reads :

" 50% off rides for the first 2 weeks. " (in large font)

(Underneath in small font it states:)

" Maximum discount valued at \$10 per ride "

- 1) The second statement contradicts the first statement, if the ride is over \$20
- 2) Therefore the first statement is NOT entirely true!
- 3)The first statement should read: " 50% Discount if the ride is \$20 or under, for your first 2 weeks "
- 4) As the first statement is not entirely correct, it is misleading to the consumer, as they will think that they will get a 50% Discount on their rides for their first 2 weeks, as the other term is in much smaller font, and only on the screen for a few seconds.
- 5) I live in Papakura and a ride to the airport is around \$70 by Taxi, so thinking that I am going to get a 50% Discount off my first ride using Ola, instead of a Taxi is not true. The ride will probably cost around \$40, then deduct a \$10 Discount meaning that I only get a 25% Discount!, not the 50% as stated on TV.
- 6) So, if the wording is not 100% entirely correct then it should be amended, so that it is, and not misleading at first glance.

COMPLAINT FROM K SQUIRE

Ola advertises 50% discount, when it is only a maximum of \$10.00. so, any trip in excess of a short distance is not getting 50% discount, some people with a small or older TV would not be able to read the fine print under the 50% banner hence this advertising is misleading and untrue

COMPLAINT FROM S GRAHAM

Ola are advertising 50% off rides for the first 2 weeks after sign up. When you sign up, what is actually on offer is a 50% discount up to a maximum of \$10 per trip. Living in Auckland, that's hardly a 50% discount! It would be more accurate to advertise a discount of up to a max of \$10 per trip.

Appendix 2

INITIAL RESPONSE FROM ADVERTISER,

Ola does not make or run any advertisements with the intent to mislead anyone, nor does it believe that anyone would have been genuinely misled by the advertisement the subject of this complaint. We say this for a number of reasons, including the following:

- The key terms/conditions/qualifiers of the 50% offer are clear, clearly displayed, visible and easily understood.
- The fonts used for any text in the advertisement are of sufficient size and prominence.

- In addition, before any booking is made, the estimated fare is clearly provided, both before any relevant discount code is applied (if not automatically applied) and after any such discount code application.

Whilst we do not believe that the advertisement in question is misleading or likely to mislead, as a gesture of good faith and respect towards the public, and in particular to those members of the public who may disagree with Ola's views, Ola has decided to revise the advertisement in question with the view of addressing the matters raised in the complaints.

FURTHER ADVERTISER RESPONSE REGARDING PROPOSED CHANGES TO ADVERTISEMENT

The proposed change is to the last/end frame of the TVC in question. Please find **attached** an image of the proposed new end frame. As you will see, the qualifiers (for first 2 weeks and up to \$10.00) are now much more prominent, in terms of prominent position, larger/more prominent font size and overall.

I am told that the TVC in question is no longer on air, but is likely to go back on air sometime in the future, with the proposed new end frame, as attached.

FURTHER ADVERTISER RESPONSE

We note the Chair's earlier comments to the effect that the qualifiers are not as prominent as the 50% part and that the 50% discount would not be common.

In relation to the prominence or otherwise of different parts of the text, we strongly disagree. The qualifier text in the draft revised version of the ad is very prominent, so much so that it cannot be missed. To our knowledge, there is no requirement that all text in an ad be of the same size and it would be unreasonable, in our view, to effectively impose such a requirement on Ola and its ad/s

As for the comment to the effect that the 50% discount would not be common, we also tend to disagree and are not sure on what data such comment is based. The average Ola fare in New Zealand is in or around the NZ\$15.00 to NZ\$16.00 range. Consequently, based on those averages, even a cap of NZ\$7.5 to NZ\$8.00 would result in a 50% discount of average fare. Our cap is set at a higher level than that and would result in fares even significantly higher than the average fare (up to NZ\$20.00) effectively being discounted by full 50%. Consequently, it would be fairer and more accurate to say that the 50% discount is very common indeed, as opposed to not being common.

We trust that the Chair and the board will take all this into account when considering this matter.

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

COMPLAINT: 19/307 KEY: OLAWRIBNZB30 RATING: G

CAB approved this OLA commercial on 27/08/19 with a G classification.

Complainants list details of the offer presented in this commercial for the OLA rideshare app.

The details of the offer are quoted in the commercial itself – so the terms of the deal are actually explicated in the advertisement.

One feels that customers are not so much *misinformed* of the deal, than they are unsatisfied with the conditions of the offer – which is a consideration outside the remit of the complaints process.

Again, viewers may not *agree* with the terms, but they are set out very clearly and each of the duplicate complainants expresses a full understanding of those very terms. From this, we can tell that customers are neither misinformed, nor misled.