

<b>COMPLAINT NUMBER</b>	20/142
<b>ADVERTISER</b>	Outbrain
<b>ADVERTISEMENT</b>	Outbrain, Digital Marketing
<b>DATE OF MEETING</b>	6 May 2020
<b>OUTCOME</b>	Settled -advertisement removed

**Advertisement:** The Healthy Trends digital marketing advertisement promotes its 'NeckRelax' device. The advertisement shows the product with the words "New Zealand: People Are Relieving Their Neck Pain From The Comfort Of Their Homes". When the link is clicked, it takes the user to a web page which gives the reader further information and purchase details.

**The Chair ruled the complaint was Settled.**

**Complaint:** NZ Herald articles (including [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12316968](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12316968)) have been carrying an advert for the Healthy Trends NeckRelax. The Herald Advert claims that "People are relieving their neck pain" with the NeckRelax device. Unfortunately no evidence is given in the Herald advert or the NeckRelax website for these claims. As such, the advert appears to breach the ASA's Therapeutic and Health Advertising Code Rule 2(a). The advert also likely breaches Principle 2 of the code, as the claims are likely to be misleading to the many consumers who read the NZ Herald's articles online (or at least those who don't have an ad blocker enabled).

**The Publisher, NZME replied on behalf of the Advertiser, Outbrain, and said in part:**

"We write on behalf of NZME (the publisher) and Outbrain (the advertiser) in response to the above complaint regarding Outbrain advertising on nzherald.co.nz. The advertisement has been removed from the Outbrain "paid promoted content" section on nzherald.co.nz.

NZME immediately alerted Outbrain to the ASA complaint. Outbrain has responded as follows:

*Outbrain operates on the basis of Notice and Takedown. Following receipt of your complaint, and your correspondence in relation to such complaint, Outbrain has removed this relevant content from our network. Additionally, Outbrain has performed a thorough review to ensure this doesn't happen again on their end.*

Therefore, the ad which is the subject of this complaint is now not accessible on any Outbrain widgets in New Zealand. We understand similar content was also removed.

For clarity, NZME does not have the ability to preapprove paid promoted content via Outbrain. Outbrain is a Content Recommendation Widget, and advertising is automated. However, Outbrain engages efforts to moderate third party advertising, including:

- ads are automatically screened to check for malicious code or fraud;

- algorithms are also able to tell if a thumbnail image contains inappropriate images, and allows publishers to set what types of images they are happy to display;
- reviews of ads by an Outbrain team of approximately 30 people.”

**The relevant provisions were Therapeutic and Health Advertising Code - Principle 2, Rule 2(a);**

**Principle 2: Truthful Presentation:** Advertisements shall be truthful, balanced and not misleading. Advertisements shall not mislead or 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 or unrealistic claim or hyperbole.

**Rule 2 (a) Truthful presentation:** Advertisements shall be accurate. Statements and claims shall be valid and shall be able to be substantiated. Substantiation should exist prior to a claim being made. For medicines and medical devices, therapeutic claims must be consistent with the approved indication(s) (for medicines) or the listed intended purpose (for medical devices).

**The Chair** noted the Complainant’s concerns the advertisement made unsubstantiated therapeutic claims which could be misleading.

Given the Advertiser and Publisher’s co-operative engagement with the process and the self-regulatory action taken in removing the advertisement, the Chair said that it would serve no further purpose to place the matter before the Complaints Board. The Chair ruled that the matter was settled.

**Chair’s Ruling:** Complaint **Settled – advertisement removed**

#### **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 calendar days of receipt of this decision.