

<b>COMPLAINT NUMBER</b>	20/553
<b>ADVERTISER</b>	Chemist Warehouse
<b>ADVERTISEMENT</b>	Chemist Warehouse, Print, Out of Home
<b>DATE OF MEETING</b>	2 November 2020
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The Chemist Warehouse unaddressed mail advertisement states the Chemist Warehouse has free prescriptions. An asterisk qualifies this statement saying there is \$5 off the standard subsidised prescription charge. The advertisement shows pictures of multiple products with the price quoted and the word “each” following each price.

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

**Complaint:** The free prescription is not as advertised on print and their store signage. For my dentist prescription, it was charged \$15 even though the items are subsidised. Then they show me the smallest print condition, for elderly like myself - it was very hard to read. Then the pharmacist explained is not actually free provided by Chemist Warehouse. That the NZ public/government funds the 20 or more prescription regime that are free - even if you go to any pharmacies. They should make this clear.

Also the multiple items advertised, I went into the store and they told me is only for 1 bottle, When they brochure display 2 bottles. Even though it says each. But it implies the items displayed in the brochure as pictured as "each".

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

**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.

The Chair noted the Complainant’s concern the free prescription claim and using an image with multiple product items and a single product price were misleading.

In considering the Complainant’s issue about the free prescription claim, the Chair referred to precedent Decision 19/058, which covered a similar complaint about the same Advertiser. That decision said in part:

“The Complaints Board said the majority of consumers will be aware that many medicines in New Zealand are subsidised by the Government and only require the consumer to pay a fee of \$5 per item.

The majority of the Complaints Board considered doctors and pharmacists would alert consumers if their particular prescription fell outside the subsidised scheme. The Board said it was not misleading to use the word 'free' in the advertisement given that the vast majority of prescriptions are subsidised and waiving the \$5 surcharge does make the prescription free of charge to consumers.

The majority of the Complaints Board considered that the Advertiser had adhered to the guidelines for Principle 2, that disclaimers and other qualifying statements must be clearly visible and easily understood. The Board said the asterisk disclaimer was presented in an easy to read form."

The full version of the decision can be found on the ASA website:

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

The Chair said this precedent directly applied to the complaint before her and the Complaints Board had ruled it was acceptable for the Advertiser to use the word 'free' in the context of waiving the \$5 surcharge.

In terms of the second aspect of the complaint, the Chair said the advertisement clearly states the price of the product followed by the word "each". The Chair said this qualified the price was per bottle and the image of two bottles in the advertisement did not reach the threshold to be likely to confuse or deceive consumers.

The Chair ruled the advertisement was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

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