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| COMPLAINT NUMBER | 20/564 |
| ADVERTISER | Mitsubishi Motors New Zealand Limited |
| ADVERTISEMENT | Mitsubishi Motors, Television |
| DATE OF MEETING | 8 December 2020 |
| OUTCOME | Not Upheld No Further Action Required |

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a television advertisement for Mitsubishi Motors' new ASX range of vehicles. The Complaints Board said the Advertiser had included adequate qualifiers to explain the ASX features across the range of cars shown in the advertisement, and the advertisement was not likely to mislead or deceive most consumers.

Advertisement

The Mitsubishi Motors New Zealand television advertisement promotes the Mitsubishi ASX range. The advertisement shows the price as "New ASX from \$27,990 +ORC." The advertisement shows various snapshots and cuts of the Mitsubishi cars with disclaimers confirming the model type as well as text in small print along the bottom saying "PRICE LISTED IS FOR ASX LS. VRX MODEL SHOWN".

Summary of the Complaint

The Complainant was concerned the advertisement was misleading to show the luxury version of the VSX range whilst advertising the price of the basic model.

Issues Raised:

- Truthful Presentation

Summary of the Advertiser's Response

The Advertiser defended the advertisement and said it is common practice to advertise a product range showing the different features of products within the range and then display the entry price for that range. The Advertiser said it was clear and transparent by noting differences between models and what model the price is advertising. The Advertiser noted it ran disclaimers throughout the advertisement rather than waiting until the end. The Advertiser highlighted ASA precedents regarding the use of disclaimers.

Summary of the Media Response

The Commercial Approvals Bureau said the advertisement had a G rating and deferred to the Advertiser to explain the different makes and models of the vehicles shown.

Relevant ASA Codes of Practice

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

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 decision

In considering this complaint the Complaints Board referred to precedent Decision 16/389 which was Not Upheld.

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

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

Decision 16/389 concerned a television advertisement for Volkswagen which the Complainant said was misleading about the price and features of a particular model of vehicle.

The Complaints Board was of the view that the advertisement was saved from being misleading by the use of an asterisk which alerted consumers to the disclaimer that noted only the top model vehicles had the particular features and carried a higher price as a consequence.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was there is a new stylish ASX range of Mitsubishi vehicles priced from \$27,990 +ORC.

Is the advertisement misleading?

The Complaints Board said the advertisement was not likely to mislead or deceive consumers. This is because the advertisement, targeting the new car buyer market, includes disclaimers regarding model differences and which model the starting price refers to. The Complaints Board said the advertisement also has several indicators that there is a range of options available. The advertisement refers to "2 or 2.4 litres" options and also states the price of the range as being "from" \$27,990 which indicates consumers have a choice of models and price points.

The Complaints Board acknowledged the use of acronyms ASX VRX and ASX LS to identify both the model of car and the specifications of the model may be less clear for general consumers than more traditional car names. However, it noted new cars are a major purchase and consumers in the market for a new vehicle are likely to research additional information after seeing the advertisement and before making a purchase. The Complaints Board said the inclusion of the website address at the end of the advertisement was an additional aid for those consumers who wanted more information about the ASX range.

The Complaints Board unanimously agreed the Advertiser had included adequate qualifiers to show the range of ASX models and which model the starting price referred to, and it was not likely to mislead or deceive most consumers. The Board said the 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 **Not Upheld**.

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 calendar days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT

The ad shows the new luxury VSX model whilst advertising the price of the basic ASX model. Though it does say this in small writing at the bottom of the screen, we find it misleading. To show a more expensive, more luxurious model car, next to the cheaper model price - it is taking advantage of drawing the consumer in to believe that the luxury model is the advertised price, not the one in small writing.

Appendix 2

RESPONSE FROM ADVERTISER, MITSUBISHI MOTORS NEW ZEALAND LIMITED

Please find below our response to Complaint 20/564, regarding our ASX range TVC which last ran in October. The ad has been running for approximately 15 months with no prior issues. A link to the ad in question can be found below;

<https://www.youtube.com/watch?v=72G2aW8XPuc>

We were surprised that this complaint has proceeded as many complaints of a similar nature with the ASA have been ruled "No grounds to proceed".

While this TVC is unlikely to return to screens in the short term, we intend to dispute the complaint as Mitsubishi Motors NZ (MMNZ) takes great care in preparing our advertisements and in receiving the appropriate approvals (including TCAB) before proceeding to market. We would also like to retain the right to bring the TVC back to TV in the future if needed.

The complaint relates to the ASX VRX model variant that is shown during the ad and the fact that the range entry price of \$27,990 + ORC is displayed at the end. The \$27,990 price relates to the ASX LS model variant and many of the features shown during the ad are available across the range. Both model variants are shown below – as you can see visual exterior differences are minimal;

**ASX VRX****ASX LS**

Across industries whether companies are selling cars or banking services or running shoes, it is common place to advertise a product range, showing the different features of each product model within the range and then displaying the entry price for that range.

The important thing, is being open & transparent with consumers by clearly noting differences between models and what model the price is advertising. Over many years, MMNZ has ensured that we disclaim model differences at every point of the ad where they are shown. Where many brands wait until the final frame to run a full disclaimer, we run them throughout the ad and then once again at the end of the advertisement. We also ensure that they are easily read by the consumer by staying up on screen for enough time to read them – in this case 15 seconds.

The scene-by-scene breakdown below demonstrates the lengths MMNZ has gone to in disclaiming our TVC.

00:04 – 00:07

Opening shot, 'VRX Model Shown' clearly in bottom right of screen for 3 seconds



00:09 – 00:11

Interior Shot; “VRX Only” clearly in bottom right of screen for 2 seconds



00:12 – 00:14

Sun roof shoot; “VRX Only” clearly in bottom right of screen for 2 seconds



00:18 – 00:20

Safety Shot – ‘XLS AND VRX ONLY’ clearly in bottom right of screen for 2 seconds



Note; all other specification in the TVC not disclaimed above are standard across the range.

00:20 – 00:26

Pack Shot

This screen contains the most relevant information to the complaint at hand.



First, the price is clearly stated as 'New ASX **From** \$27,990+ORC' which indicates that the range starts from \$27,990 – a term that consumers are accustomed to. If the price stated was;

- 'New ASX **Just** \$27,990 + ORC' or
- 'New ASX **Only** \$27,990 + ORC', then this would indicate to the consumer that all specification shown in the ad was available at the \$27,990 price and could potentially be misleading.

Second, the disclaimer below runs at the bottom of the ad;

"Price listed is for ASX LS. VRX model shown. Price Excludes on Road Costs of up to \$550 which includes WoF, Registration and a full tank of fuel. Visit mmnz.co.nz for Diamond Advantage terms and conditions."

The above disclaimer runs for a full 6 seconds at the end of the ad. In addition to clearly stating which model the price is for, as well as which model is shown, the disclaimer provides the web address to discover more information about the ASX range and the offer advertised.

MMNZ is of the belief that our ad complies with all consumer laws and is no way misleading to the consumer. It is extensively disclaimed throughout the ad where specification differs between model variants and most importantly, the ad is for the ASX range and the price advertised is clearly noted as 'from' – indicating a range entry price point.

Precedents

The use of disclaimers in vehicle marketing has clear precedent from the ASA in a number of their decisions. One example in particular is complaint **15/235**. This featured the advertiser (Mazda) clearly advertising a 'from' price for their Ute range. The only difference here, is that the 'From' price Mazda advertised didn't include GST, a fact consumers could only find when reading the terms and conditions of the ad. The ruling from the ASA here was 'No grounds to proceed'.

Complaint **16/154** was also not upheld by the ASA because *"the word from indicated that the price listed was not the final price."* The ASA board went on to mention that because the website encouraged the customer to make an enquiry, the customer could also then get a firm quote before committing to the purchase. There is obvious synergy here with the ability in our case, for a customer to reach out and make an enquiry via our website with a dealer and receive a firm quote on the final price of their vehicle before purchasing. All of the information about our ASX range and pricing is available on our website and there is no element of online sales.

There is also precedent from a number of vehicle commercials that have run on NZ TV (without incident) over the past 12 months. An example of which are shown below;

<https://www.youtube.com/watch?v=ACTSEUr7srY>

A disclaimer here is shown stating 'overseas model shown' throughout the ad. The model shown, and the price advertised, are for two different models. A 'from' price is clearly noted and well disclaimed on the final frame advertising the entry point to the range..

https://www.youtube.com/watch?v=X0K3TdW_ygc

A disclaimer here is shown stating 'Limited AWD model shown' throughout the ad where appropriate. The model shown, and the price advertised, are for two different models. A 'from' price is clearly noted and well disclaimed on the final frame advertising the entry point to the range.

Thank you for your time in considering our response. Please let me know if I can be of any further assistance to the process.

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVAL BUREAU

Complaint 20/564 Key: MMNZ 30 2001 Classification: G

We have been asked to comment on a complaint of a breach of the Advertising Code of Standards regarding truthful presentation.

CAB approved this Mitsubishi commercial on 17/06/20 with a 'G' general classification.

The commercial features a model of car within a series, notifying via on-screen graphics the differences between each given model variant. A complainant feels misled with regards to other quoted data including price. The issue seems to be confusion between what information matches with the displayed car model.

This is essentially an issue of technical product detail, so CAB will defer to the advertiser for precise information on the makes and models of vehicle, and the extent to which they differ.

CAB supports the advertiser's response and looks forward to a positive outcome.