

COMPLAINT NUMBER	21/428
ADVERTISER	A+ Burgers
ADVERTISEMENT	A+ Burgers website
DATE OF MEETING	23 August 2021
OUTCOME	No Grounds to Proceed

Advertisement: The website advertisement for A+ Burgers showed a photo of a burger with the text "A+ Burgers". Under the photo was the text "BEST FOOD IN DUNEDIN".

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

Complaint: Advertiser makes a bold claim about being the "best food in Dunedin";no source is stated and its not puffery either; its a brash, misleading statement.

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 advertisement was misleading.

The Chair referred to two precedent decisions, 19/283 and 17/284. Decision 19/283 concerned a Complaints Board decision regarding a Wilson Parking billboard advertisement for the parking app Parkmate which said: "Download & save with NZ's best parking app!" The following is an excerpt from that decision:

The Complaints Board discussed the use of the word 'best' in the context of the advertisement. It said the advertisement had not used the word 'best' in a definitive statement with regard to specific product qualities such as 'best value', which would require robust evidence to substantiate the specific claim. The Board agreed the word 'best' within the context of the advertisement before it was a subjective term which was open to interpretation depending on what consumers prioritised as important in a parking app.

Decision 17/284 concerning a No Grounds to Proceed ruling for a complaint about an advertisement for Fruitline Hong Kong Desserts which described the Mango Mein Mein Ice as "the best tasted ice flakes on earth". The following is an excerpt from that decision:

"The Chair... ruled the advertisement was a case of obvious hyperbole, as no one would expect that every ice dessert in the world had been tried as a comparison."

The Chair said both precedent decisions were relevant to the complaint presently being considered.

The Chair said noted the advertisement was for a Burger restaurant in Dunedin. She said the phrase "Best food in Dunedin" was a subjective, hyperbolic term and the average consumer would not expect that *every* item of food available in Dunedin had been tasted in order to make this claim.

The Chair said the advertisement was not likely to mislead or confuse consumers and therefore did not meet the threshold to breach 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. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.