

COMPLAINT NUMBER	17/373
COMPLAINANT	S Stone
ADVERTISER	Orcon
ADVERTISEMENT	Orcon, Digital Marketing
DATE OF MEETING	14 November 2017
OUTCOME	Not Upheld

SUMMARY

The Orcon Facebook news feed posting said “We’ve got the cheapest and best-performing fibre in the country according to TrueNet’s latest report.”

The Complainant said the advertisement was making a false claim the Advertiser had the cheapest fibre in the country, when price comparisons showed there were cheaper options available.

The Complaints Board agreed the advertisement made a clear statement about the relative price and speed of its fibre service, based on the third party analysis of the TrueNet’s August 2017 Urban Broadband report.

The Complaints Board said there was nothing misleading in the advertisement which had specified both price and performance were used in the TrueNet report’s analysis.

The Complaints Board said the advertisement had been prepared with a due sense of social responsibility and ruled there had been no breach of Basic Principle 4 or Rule 2 of the Code of Ethics.

The Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rule 2 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement contained anything which, either directly or by implication, was likely to deceive or mislead the consumer and if it had been prepared with a due sense of social responsibility to consumers and to society.

The Complaints Board ruled the complaint was Not Upheld.

The Complaint

The Complainant said the advertisement was making a false claim the Advertiser had the cheapest fibre in the country, when price comparisons showed there were cheaper options available.

The Advertiser's Response

The Advertiser said the advertisement clearly states that, according to TrueNet's latest report, Orcon has the cheapest and best performing fibre. It said the substantiation for this statement was the linked report from TrueNet. – <http://bit.ly/2wDNaRp>

The Complaints Board Discussion

The Complaints Board said the consumer takeout from the Advertiser's Facebook news feed post was that according to the latest TrueNet report, its fibre service was the fastest and cheapest in comparison to other products surveyed in the third party comparison report.

The Complaints Board agreed the reference to the August 2017 Urban Broadband Report from TrueNet as being the 'latest' report was accurate in that the August 2017 report was published in September 2017 and the Facebook post was created in October 2017, making the report the latest available.

The Complaints Board said the Complainant may have misunderstood that the statement made in the TrueNet report, and replicated in the advertisement, was based on performance and price, rather than a stand-alone price comparison.

The Complaints Board said there was nothing misleading in the advertisement and it had been prepared with a due sense of social responsibility. The Complaints Board ruled the advertisement was in breach of Basic Principle 4 or Rule 2 of the Code of Ethics.

Accordingly, the Complaints Board ruled to not uphold the complaint.

DESCRIPTION OF ADVERTISEMENT

The Orcon Facebook news feed posting says "We've got the cheapest and best-performing fibre in the country according to TrueNet's latest report. Now that's a killer combo..."

COMPLAINT FROM S STONE

Orcon is claiming they have the cheapest fibre in the country, backed up by a linked report. This report is flawed and contradictory. The part of the report linked claims that Orcon is the cheapest, but by clicking through to the prices surveyed, it is immediately very clear that there are cheaper options for fibre than Orcon. This is misleading to viewers of the ad and should be corrected. By following the URLs in the attached pictures, one can find all the details necessary.

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 2: Truthful Presentation - Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation,

abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

RESPONSE FROM ADVERTISER, - ORCON

Contact person for advertising complaints	Emily Acland, NZ Senior Corporate Counsel, Vocus Group
Name and contact at creative agency	N/A – not involved, done in-house
Name and contact at media agency	N/A – not involved, done in-house
A basic, neutral description of the advertisement	Promoted Facebook post highlighting the findings of TrueNet's then-latest regular broadband report showing Orcon had the fastest and cheapest fibre offering.
Date advertisement began	4/10/17
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Facebook News Feed
Is the advertisement still accessible – where and until when?	The advertisement no longer has any media spend behind, however, it is still visible on Orcon's public Facebook Page as a page post here: https://facebook.com/Orcon/posts/10155757030398620/ (users would have to seek out Orcon posts to see it).
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	https://facebook.com/Orcon/posts/10155757030398620/
Who is the product / brand target audience?	The advertisement was targeted at Orcon customers, as well as a Lookalike Audience which targeted Facebook users similar to Orcon customers.
Clear substantiation on claims that are challenged by the complainant.	The Orcon advertisement is based on the following statement in the latest report from TrueNet:

	<p>Home / August 2017 Urban Broadband Report</p> <h2>August 2017 Urban Broadband Report</h2> <h3>More Bang for your Buck</h3> <p>Price is sometimes related to quality, and this is true with internet services over an ordinary telephone line. Search our interactive Table 1 for VDSL or ADSL and you will find when it is sorted by Surfing NZ, the column "Prices" is almost high to low, ie the highest price has the highest speed.</p> <p>Price is not always related to quality however! Try typing Fibre into the Search box and prices are definitely not in order, in fact the lowest price is Orcon, which is also the fastest.</p> <p>If you are interested in Latency comparisons (NZ, International and Gaming sites), then use the Dropdown menu above, labeled "ISP Performance", these are updated a few days after the report is published.</p> <hr/> <h4>August 2017 Performance Summary by ISP & Technology</h4> <p>Try typing in the search bar to filter by your interest</p> <p>Show 10 entries Search: fibre</p> <table border="1"> <thead> <tr> <th>Technology</th> <th>ISP Name</th> <th>Surfing NZ #</th> <th>Surfing Intl</th> <th>Peak Speed Ratio</th> <th>Price</th> </tr> </thead> <tbody> <tr> <td>Fibre 100</td> <td>Orcon</td> <td>21.2 Mbps</td> <td>32.2Mbps</td> <td>94%</td> <td>\$79.0</td> </tr> <tr> <td>Fibre 100</td> <td>Trustpower</td> <td>38.2 Mbps</td> <td>21.5Mbps</td> <td>99%</td> <td>\$114.0</td> </tr> <tr> <td>Fibre 100</td> <td>Slingshot</td> <td>38.1 Mbps</td> <td>27.1Mbps</td> <td>95%</td> <td>\$80.0</td> </tr> <tr> <td>Fibre 100</td> <td>Vodafone</td> <td>37.0 Mbps</td> <td>28.0Mbps</td> <td>90%</td> <td>\$91.0</td> </tr> <tr> <td>Fibre 100</td> <td>2Degrees</td> <td>36.2 Mbps</td> <td>24.1Mbps</td> <td>97%</td> <td>\$95.0</td> </tr> <tr> <td>Fibre 100</td> <td>Spark</td> <td>31.9 Mbps</td> <td>27.3Mbps</td> <td>98%</td> <td>\$105.0</td> </tr> <tr> <td>Fibre 100</td> <td>Voyager</td> <td>31.4 Mbps</td> <td>23.7Mbps</td> <td>91%</td> <td>\$79.0</td> </tr> </tbody> </table> <p>Showing 1 to 7 of 7 entries (filtered from 21 total entries) Previous Next</p> <p><small>See Glossary for websites. Peak speed shows variation in speed evening over morning Source: TrueNet • Created with Datawrapper</small></p>	Technology	ISP Name	Surfing NZ #	Surfing Intl	Peak Speed Ratio	Price	Fibre 100	Orcon	21.2 Mbps	32.2Mbps	94%	\$79.0	Fibre 100	Trustpower	38.2 Mbps	21.5Mbps	99%	\$114.0	Fibre 100	Slingshot	38.1 Mbps	27.1Mbps	95%	\$80.0	Fibre 100	Vodafone	37.0 Mbps	28.0Mbps	90%	\$91.0	Fibre 100	2Degrees	36.2 Mbps	24.1Mbps	97%	\$95.0	Fibre 100	Spark	31.9 Mbps	27.3Mbps	98%	\$105.0	Fibre 100	Voyager	31.4 Mbps	23.7Mbps	91%	\$79.0
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<p>The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.</p>	<p>Accepted.</p>																																																
<p>For Digital advertisements:</p>																																																	
<p>What platform tools have you used to target your audience?</p>	<p>Facebook Adverts Manager</p>																																																

SECRETARIAT NOTE:

Orcon was asked whether they had permission to use TrueNet's reports in their advertising and replied:

"No specific consent was obtained however we have an ongoing informal understanding with TrueNet that we publish the results of their reports from time to time."

RESPONSE FROM MEDIA, FACEBOOK

Our content review team have investigated this matter and have advised that we did not detect any violations of our policies at the time of investigation.