

COMPLAINT NUMBER	18/265
COMPLAINANT	M Van Dinther
ADVERTISER	American Express
ADVERTISEMENT	American Express, Digital Marketing
DATE OF MEETING	11 September 2018
OUTCOME	Not Upheld

SUMMARY

The website advertisement for the American Express Airpoints Platinum Card and its affiliate, Upgrade Collective's Facebook advertisements offer the chance to earn 'Airpoints Fast' when you apply, are approved and spend \$1,500 on your new card in the first 3 months.

The Complainant's concern is the advertisements do not make it clear the offer of Airpoints is only for new American Express Platinum card holders.

The Advertiser said the Facebook advertisement promoted through The Upgrade Collective NZ clearly states the Airpoints offer is only available for new customers. It said this was also stated on the American Express website page.

The Complaints Board agreed The Upgrade Collective NZ Facebook advertisement was clear that the offer was for new customers by stating "For a limited time, new card members receive 400 bonus Airpoints." The Facebook advertisement was not in breach of the Code for Financial Advertising.

The Complaints Board said the advertisement on the American Express website was not as clear that the offer was not open to existing card holders. However, the Board said there was a clear link through to the terms and conditions on the website which did state that existing card holders were not eligible for the promotion.

The Complaints Board said the link to the clear terms and conditions meant the website advertisement did not meet the threshold to mislead or deceive consumers and was not in breach of Principle 1 or Principle 2 of the Code for Financial Advertising.

Accordingly, 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 1 and Basic Principle 2 of the Code for Financial Advertising.

Basic Principle 1 required the Complaints Board to consider whether the advertisement had observed a high standard of social responsibility particularly as consumers often rely on such products and services for their financial security.

Principle 2 required the Board to consider whether the advertisement was truthful and clear and did not mislead, deceive or confuse customers or abuse their trust, exploit their lack of knowledge or unjustifiably play on fear. This includes by implication, omission, ambiguity, exaggerated claim or hyperbole.

The Complaints Board ruled the complaint was Not Upheld

The Complaint

The Complainant said the advertisements do not make it clear that the offer of Airpoints was only for new American Express Platinum card holders.

The Advertiser's Response

The Advertiser said the Facebook advertisement promoted through The Upgrade Collective NZ clearly states the Airpoints offer was only available for new customers. It said this was also stated on the American Express website page.

The Complaints Board Discussion

The Complaints Board viewed the advertisement featured on the Upgrade Collective Facebook page and the American Express website. The Board agreed The Upgrade Collective NZ Facebook advertisements were clear that the offer was for new customers by stating "For a limited time, new card members receive 400 bonus Airpoints."

The Complaints Board did not consider the advertisement on the American express website was as clear that the offer was not available to existing card holders. The Board said the references to 'new card' as opposed to 'new members' could create confusion for consumers. The Board said it would have been helpful if the advertisement had stated the offer was for new members only when referring to eligibility.

However, the Complaints Board said there was a clear link through to the Terms and Conditions page on the website where it explicitly states "*Offer only available to new American Express Card Members who apply online and spend \$1500 on their new Card in the first 3 months from Card approval date. Card Members who currently hold or who have previously held any other Card product offered by American Express International (NZ), Inc in the preceding 18 month period are ineligible for this offer.*"

The Board said applying for an American Express card was a detailed process and the website advertisement clearly signalled that terms and conditions applied to the offer. The terms and conditions stated current American Express card-holders were ineligible.

The Complaints Board said the website and Facebook advertising had observed a high standard of social responsibility as required by the Code for Financial Advertising and were not in breach Principle 1 or Principle 2 of the Code.

Therefore, the Complaints Board ruled the complaint was Not Upheld

DESCRIPTION OF ADVERTISEMENT

The website advertisement for the American Express Airpoints Platinum Card and its affiliate, Upgrade Collective's Facebook advertisements are offering the chance to earn 'Airpoints Fast' when you apply, are approved and spend \$1,500 on your new card in the first 3 months.

COMPLAINT FROM M VAN DINTHER

At no point in all advertisements does it mention that you must be a NEW member to American Express.

This is particularly important when we review the American Express eligibility section (bottom of page). In that list it never states you must be a NEW card member. Should this not be more transparent to existing customers?

CODE OF PRACTICE

CODE FOR FINANCIAL ADVERTISING

PRINCIPLE 1: Financial advertisements should observe a high standard of social responsibility particularly as consumers often rely on such products and services for their financial security.

PRINCIPLE 2: Advertisements should strictly observe the basic tenets of truth and clarity. Advertisements should not or should not 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 claim or hyperbole.

RESPONSE FROM ADVERTISER, AMERICAN EXPRESS

Thank you for bringing this to our attention. We have investigated the issues raised and our responses are as follows.

The advertising content which is the subject of this complaint was published on our website and by an affiliate. The content on our proprietary website www.americanexpress.co.nz was created by American Express in conjunction with our creative agency Ogilvy. Our Account Manager is Arianne Catacutan. The content used in the Facebook advertising campaign was created by Adele Eliseo operating as The Upgrade Collective under a commercial relationship established under our affiliate program. The affiliate program is administered on our behalf by our media agency, Mindshare. Our Account Manager at Mindshare is Alicia Vlahos

The advertisements offered 400 bonus Air New Zealand Airpoints for new American Express Air New Zealand Airpoints Platinum Card Members who applied online and spend \$1500 on their new Card in the first 3 months from Card approval date. Existing Card Members who held or who had previously held any other Card product offered by American Express International (NZ), Inc in the preceding 18 month period were ineligible for the offer. The offer was available from 1 to 31 July 2018 and was not applicable or valid in conjunction with any other advertised or promotional offer.

The advertisements appeared online at www.upgradecollective.co.nz and posted on The Upgrade Collective's Facebook page at <https://www.facebook.com/Upgrade.Collective.NZ/> The advertisements and posts linked through to our proprietary website at <http://www.americanexpress.com/nz/content/credit-cards/airpoints-platinum-card/>

The posts of 2 July and 30 July 2018 are still accessible on The Upgrade Collective's website and Facebook page. The 2 July 2018 post describes the 400 Airpoints offer as being available for a limited time. The 30 July 2018 advertisement states that the offer ends on 31 July 2018. If a consumer was to see those advertisements and click through to on the Upgrade Collective's website, the current 200 Airpoints bonus offer will be displayed.

Please refer to **Attachment 1** of this email for copies of digital media files of the advertisements. The target audience for the product are adults in full-time employment with a salary ranging from \$65,000 to \$100,000 per annum. Typically, American Express Air New Zealand Airpoints Platinum Card members travel frequently and prefer a credit card that enables them to maximise their ability to earn Airpoints on all purchases.

The complainant has claimed that it is not clear that the bonus Airpoints offer made via our affiliate The Upgrade Collective was available to new Card members only. We have reviewed the collateral used to promote the offer by the Upgrade Collective as well as the product specific advertising on our proprietary website and are confident that the offer requirements are clear and transparent. We do not believe that the average reader could be misled or deceived by the offers.

The Facebook posts dated 2 July clearly states that the offer is for new Card members. Both Facebook posts link to The Upgrade Collective website. The offer on their website reads in part:

"You won't find this offer anywhere else – you must apply directly via our exclusive link. The offer is available when you apply by July 31, are approved and spend \$1,500 on your new Card in the first 3 months."

This clearly states that the Card must be new. More specifically, when referring to eligibility, under headings such as "**Annual fee and eligibility**", the offer explicitly states the following:

"To be eligible for the 400 bonus Airpoints Dollars, you must not have held a card directly issued by AMEX New Zealand in the past 18 months."

This information, i.e. that the Card must be new, is repeated on our proprietary website <https://www.americanexpress.com/nz/content/credit-cards/airpoints-platinum-card/> where the first reference to bonus Airpoints is disclaimed as follows:

"Offer only available to new American Express Card Members who apply online and spend \$1500 on their new Card in the first 3 months from Card approval date. Card Members who currently hold or who have previously held any other Card product offered by American Express International (NZ), Inc in the preceding 18 month period are ineligible for this offer."

The complainant also referenced the eligibility section of our online application, and we confirm that this section does not mention bonus offers. This is intentional as this section serves a wholly different purpose. It discloses how American Express NZ intends meets its obligations as a responsible lender under the CCCFA as well as telling potential applicants what criteria they must meet before submitting an application. This section is not designed to repeat the terms of bonus offers covered else on the page.

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 days of receipt of this decision.