

COMPLAINT NUMBER	19/050
COMPLAINANTS	A Allcock and C Pringuer
ADVERTISER	Exuberant Limited
ITEM	Quinovic Te Aro Google and Facebook Reviews
DATE OF MEETING	11 March 2019
OUTCOME	No Jurisdiction

ITEM: Google and Facebook reviews for Quinovic Te Aro Management made positive statements about the company.

The Chair ruled the Complaints Board did not have jurisdiction to consider the complaints.

Complainant, A Allcock, said:

A recent article on Stuff news detailed how google reviews for Quinovic Te Aro are likely paid advertisements and false and misleading in regards to user experience of their service. This is cross platform as the same has been admitted and proven on their facebook reviews as well. This is likely to mislead and deceive potential users of this service in to believing people have better experiences using this service or is of a higher quality than is accurate or truthful. I will provide link to the relevant article for context:
<https://www.stuff.co.nz/business/110085573/quinovic-admits-facebook-reviews-fake-after-google-reviews-from-new-york-pawn-shop-fans-emerge>

Complainant, C Pringuer, said: I found these reviews by Quinovic Te Aro are fake earlier this week and concluded they have been paid for and created by somebody to give a false impression of the business to potential customers.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b), Rule 2(f).

The Chair accepted the complaints and requested a response from the Advertiser.

Counsel for Quinovic Property Management said:

1. We act for Quinovic Property Management Limited.
2. Your email and letter of 12 February 2019 to Mr Khera (together with your follow-up email of 18 February) have come to our client's attention.
3. We note that the complaint has been made against the franchisee, Exuberant Limited, and we will forward to the solicitors acting for Mr Khera.

Counsel for Exuberant Limited said:

1. I refer to your letter dated 12 February 2019.
2. Firstly, we would like to make clear that whilst not within the control of Mr Khera or Quinovic Te Aro, the reviews forming the basis of this complaint have been removed.

3. As suggested in your letter, we believe this resolves the issue at the centre of this complaint.
4. As the ASA is unable to impose sanction outside of requesting that the offending material be taken down, we cannot see the benefit that would be achieved by advancing this issue any further.
5. Secondly, we doubt whether this complaint rightfully falls within the jurisdiction of the ASA.
6. Advertising is defined within the Advertising Standards Code as:
“Advertising and Advertisement(s)” means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.
7. The Code further goes on to:
The Code does not apply to content not controlled by the advertiser...
8. The content which the ASA has been notified of is not with the control of Mr Khera or Quinovic Te Aro, either directly or indirectly. Neither Mr Khera or Quinovic Te Aro have the ability to control the content of reviews left on a third-party website such as Google or Facebook.
9. Thirdly, even if the Code were to apply here, the content is not likely to deceive or mislead consumers.
10. As stated in ASA complaint number 15/524 dated 10 December 2015, reviews are subjective in nature and cannot be used to assess the validity of the claims made in an advertisement.
11. This issue has been resolved and there is neither need nor grounds to proceed further.

The Chair reviewed the complaints, the Google and Facebook reviews and the responses from Counsel.

The Chair confirmed the ASA definition of advertising states:

“Advertising and Advertisement(s)” means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

The Chair said Advertiser control is a key requirement in whether the Advertising Standards Authority has jurisdiction to consider the content or placement of an advertisement.

The Chair noted Google and Facebook have their own rules relating to this content.

These include:

https://support.google.com/contributionpolicy/answer/7400114?hl=en&ref_topic=7422769

“Your content should reflect your genuine experience at the location and should not be posted just to manipulate a place’s ratings. Don’t post fake content, don’t post the same content multiple times, and don’t post content for the same place from multiple accounts.”

<https://www.facebook.com/help/434605260012677> and

https://www.facebook.com/help/439579999521224?helpref=faq_content

“You can report Recommendations that don’t follow our Community Standards or don’t focus on the product or service offered by the business. We’ll review your report and may remove Recommendations that don’t follow our standards.”

The Chair said, in her view, the content of Google Reviews and Facebook Recommendations is not controlled by the Advertiser and only the platforms have the ability to remove them if reported.

The Chair ruled the content subject to the complaints before her was not advertising and the Complaints Board did not have jurisdiction to consider the matter further.

The Chair noted confirmation from the Advertiser the posts had been removed.

Chair's Ruling: Complaint: **No Jurisdiction**

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.