

COMPLAINT NUMBER	19/106
COMPLAINANT	R Tomes
ADVERTISER	1-day.co.nz
ADVERTISEMENT	Animal/Pest Repeller, Digital Marketing
DATE OF MEETING	20 March 2019
OUTCOME	Settled – advertisement removed

Advertisement: The 1-day.co.nz website advertisement promotes a Animal/Pest Repeller product and says in part: “Banish pesky backyard pests without chemicals or nasty sprays thanks to this Solar Pest Repeller...Pests and rodents are sent scrambling via a flurry of ultrasonic frequencies....It also features several different modes to target pests.”

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

Complainant, R Tomes, said: The advertiser makes unsubstantiated claims about the product, namely the Animal/Pest Repeller advertised by 1-day.co.nz on 4 March 2019. See attached screenshots of the pages.

The advertiser claims to be able to Banish pesky backyard pests without chemicals or nasty sprays thank to this Solar Pest Repeller! and that Pests and rodents are sent scrambling via a flurry of ultrasonic frequencies and Ultrasonic frequencies deter pests & rodents.

These are unsubstantiated claims of efficacy. All the studies I can find relating to ultrasonic pest repellents show that these ultrasonic devices are in fact ineffective at deterring pests, even though the burden of proof is not upon me to show it does not work. I believe the advertisement is misleading or deceptive, contrary to Advertising Code of Ethics Basic Principle 3.

It should be noted that there have been upheld complaints already about an almost identical device called Pestrol. The ASA database search function does not go back this far, however, an alternative search engine <http://www.nzlii.org> shows 4 ASA results for complaints in 2011, 2012, and 2013, all of which were listed as upheld or settled.

The Advertiser, 1day, said in part:

...”Upon reviewing the wording used by our team, it appears that the benefit of the product is that it does in fact banish pests. However, as pointed out by R Tomes, these types of products have not been proven as 100% effective on pests, although some tests have shown they are effective on some pests, dependant on the product used.

In this instance the definitive nature of the wording used by our team was unfortunate. Our Content team writes descriptions for many products and, although they use the information they have from our supplier and from other sources available to them for the product type, they may not necessarily fully understand the nature of the product or any of its limitations.

It was not our intention to mislead customers in relation to this product or its potential efficacy, we were simply attempting to advise customers what this product’s general purpose is.

As part of our review we have noted that, as part of our process, we need to ensure the content produced for our products is correct and doesn't make claims that may not be fully substantiated.

In order to ensure this issue does not occur in future we will review and update our process for on-boarding products such as this one, alongside some further training currently being organised for both our Merchandise Buyers and Content creators around the Fair Trading Act and Advertising Standards...”

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

The Chair noted the Complainant's concern the advertisement was making unsubstantiated claims related to the efficacy of the product which were misleading.

The Chair acknowledged that the nature of the advertisement meant that it no longer existed on the 1-day platform. The Chair noted the Advertiser intended to review its advertising process and arrange for staff training around the Fair Trading Act and Advertising Standards codes.

Given the Advertiser's co-operative engagement with the process and the self-regulatory action being put in place by the Advertiser to ensure future advertisements are not misleading, the Chair said that it would serve no further purpose to place the matter before the Complaints Board. The Chair ruled that the matter was settled.

Chair's Ruling: Complaint **Settled – advertisement removed**

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.