

COMPLAINT NUMBER	19/048
COMPLAINANT	C Birdsall
ADVERTISER	NZ Compare
ADVERTISEMENT	NZ Compare, Digital Marketing
DATE OF MEETING	9 April 2019
OUTCOME	Not Upheld

SUMMARY

The NZ Compare website, www.broadbandcompare.co.nz, is a price comparison website for third party broadband and power plans. Users can enter details and select filters to get information on the best deals. In a search for unlimited broadband and no contract, an option from Contact is promoted and says “Unlimited broadband from \$59.99/month. On our Broadband Bundle plan. Price includes GST. Ts & Cs apply. Like others we have a fair use policy. Find out more.”

The Complainant is concerned the website is misleading because they searched for the cheapest broadband provider using the search criteria ‘unlimited’ and ‘no contract’. The options provided included Contact with the ‘best price’ but it was part of a bundled offer.

The Advertiser said all three examples provided by the Complainant are clearly bundled plans and it was clear to the consumer that they would need to purchase other services to benefit from the advertised price.

The Complaints Board agreed the Advertiser and the third party providers had been clear about what was on offer in relation to the listed price and the advertisement could not be considered misleading for not meeting the search criteria expectations of the Complainant.

The Complaints Board said the advertisement had been prepared with a due sense of social responsibility. The Board said the advertisement did not meet the threshold to be likely to mislead or deceive the consumer and were not in breach of Rule 2 or Basic Principle 4 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.

Basic Principle 4 required the Complaints Board to consider whether the advertisement had been prepared with a due sense of social responsibility to consumers and to society.

Rule 2 required the Complaints Board to consider whether the advertisement contained 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.

The Complaints Board ruled the complaint was Not Upheld

The Complaint

The Complainant is concerned the website is misleading because they searched for the cheapest broadband provider using the search criteria 'unlimited' and 'no contract'. The options provided included Contact with the 'best price' but it was part of a bundled offer.

The Advertiser's response

The Advertiser said all three examples provided by the Complainant clearly show they are bundled plans and that the average consumer will be aware that they may need to purchase other products to benefit from the advertised price.

Complaints Board Discussion

Consumer Takeout

The Complaints Board began by discussing the likely consumer takeout of the advertisement, the Complainant saw when they searched the NZ Compare website. The Board agreed the takeout was there an unlimited broadband offer on a bundle plan from \$59.99 per month available from Contact and there are terms and conditions with the offer.

Is the advertisement misleading?

The Complaints Board understood the Complainant used the words 'unlimited' and 'no contract' as their search criteria. This resulted in a range of plans some bundled with other services and some broadband only.

The Complaints Board noted the telecommunications industry is a competitive environment. It said comparison sites such as NZ Compare are research tools and results will be impacted by the search criteria and how these are applied by the website. The Complaints Board acknowledged the Complainant did not want a bundle plan option, but the search criteria did not appear to offer an option to search for broadband only plans.

The Complaints Board agreed the Advertiser and the third party providers had been clear about what was on offer in relation to the listed price and the advertisement could not be considered misleading for not meeting the search criteria expectations of the Complainant.

The Complaints Board said the advertisement had been prepared with a due sense of social responsibility. The Board said the advertisement did not meet the threshold to be likely to mislead or deceive the consumer and were not in breach of Rule 2 or Basic Principle 4 of the Code of Ethics.

Therefore, the Complaints Board ruled the complaint was Not Upheld

DESCRIPTION OF ADVERTISEMENT

The NZ Compare website, www.broadbandcompare.co.nz, is a price comparison website for third party broadband and power plans. Users can enter details and select filters to get

information on the best deals. In a search for unlimited broadband and no contract, an option from Contact is promoted and says "Unlimited broadband from \$59.99/month. On our Broadband Bundle plan. Price includes GST. Ts & Cs apply. Like others we have a fair use policy. Find out more."

COMPLAINT FROM C BIRSALL

I was searching for the cheapest broadband provider with a specific search of "unlimited" and "no contracts" through the website: <https://www.broadbandcompare.co.nz/unlimited> and it states Contact is the cheapest, but when you go into the Contact website and click on the \$59.99 deal it states you only get this discount of \$30 when you have power/gas.

I found this quite misleading as I was specifically looking for a specific criteria. I find this type of marketing/advertising very misleading and feel contact need to be a bit more specific when advertising

CODES OF PRACTICE

CODE OF ETHICS

Basic Principal 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, NZ COMPARE

Background

By way of background, NZ Compare is a New Zealand based free-to-use suite of price comparison websites that started with Broadband Compare ("**BBC**") in 2016. We make available on our website the majority of the third party broadband plans available in New Zealand and, for a number of them, we also make available to the customer exclusive details that are not available to them direct from the third party broadband providers. More recently we expanded into power plan comparison through Power Compare. We also have ambitious plans to expand into additional comparison verticals to empower the New Zealand public to search and purchase the best products and services for their needs.

Complaint

We refer to your letter dated 25 February 2019 regarding the complaint you received from C Birdsall (the "**Complaint**"). The Complaint attached three pieces of collateral / information taken from our website or a third party website, which we explain as follows:

Collateral 1 – this banner appears on BBC's trigger email, that is, the email that is sent to the customer when they leave their contact details with us. On this banner you can clearly see that this deal is a bundled deal.

Unlimited broadband from \$59.99/month

On our Broadband Bundle plan. Price includes GST. Ts & Cs apply. Like others we have a fair use policy.

[Find out more](#)

Collateral 2 – this banner appears on BBC’s website and specifies that the deal is only available as a bundled plan, including, highlighted in yellow – “requires power”, using our yellow Power Compare colour.

Price: low to high | Price per month | (1-20)/95 plans shown

requires power ★ 91 **Unlimited Fibre 100** / Bundle Broadband + Electricity + Gas and get a \$30 discount

contact. 100/20 Mbps Speed (Fibre) Unlimited Data

Contract options	Included features	Available features	from
no contract	Router free	BYO Router allowed	\$59.99 /mo
Connection fee \$0	Router delivery fee free	Voice \$10/mo	
	Power variable		SELECT
	Gas variable		

Collateral 3 – this third image is taken from the website of Contact Energy (“Contact”). Contact is an independent third party provider and we have no control over their website. However, we note that they also clearly state that the plan is bundled.

Broadband Bundle

BROADBAND from \$59.99 per month

Monthly Discount
Up to **20%**
discount on your bill



No fixed term
No break up fees

Bundle Broadband + Electricity + Gas and you’ll get \$30 off the standard monthly cost of broadband. That’s just **\$59.99/mth** (incl. GST) for Fast Fibre, VDSL and ADSL connections.

Bundle Broadband + Electricity and you’ll get \$25 off the standard monthly cost of broadband. That’s just **\$64.99/mth** (incl. GST) for Fast Fibre, VDSL and ADSL connections.

- No fixed term contract
- No break fees
- Free modem and shipping
- Unlimited data

With this plan, you can also get up to 20% discount on your monthly energy bill:

-  18% prompt payment discount when you pay on time
-  2% discount if you are a DualEnergy™ customer

Code of Ethics – Basic Principle 4, Rule 2

While we understand that this rule has been retired, we wish to comment. This rule states “*all advertisements should be prepared with a due sense of social responsibility to*”

consumers and to society". As a business that exists to bring transparency to New Zealand consumers we feel our motivation is the same as the Advertising Standards Agency. Please see below for our response.

Response

Collateral 1 is a high-level banner with limited details but it already makes it known to the consumer that this is a bundled plan so we believe the average consumer will be aware that they will need to purchase other product(s) to benefit from this competitive price.

Collateral 2 then tells the consumer that the bundle would need to include, specifically, broadband, power and gas. We have no comments to make in relation to Contact Energy's advert but we note that they also provide a level of detail on what is included/excluded. On this basis we do not believe that the average consumer will be confused by BBC's advertising particularly given that over 50,000 consumers visit the NZ Compare suites each week and this letter from ASA is very unusual for us.

We also note that within the Complaint, C Birdsall comments "*contact* need to be a bit more specific when advertising" hence the complaint is about Contact Energy, not BBC.

We considered whether we need to liaise with Contact Energy on this matter as part of our continuous improvement initiative but we are reluctant to do so on the basis of C Birdsall's complaint which, on the face of it, has no factual basis.

As a business that exists to bring transparency to New Zealand consumers we feel our motivation is the same as the Advertising Standards Agency. If you feel there is anything we can do to improve our website, please let us know.

Contact person for advertising complaints	Jaya Prasannan
Name and contact at creative agency	N/A
Name and contact at media agency	N/A
A basic, neutral description of the advertisement	Adverts for a Contact Energy bundled plan made available on Broadband Compare website
Date advertisement began	9 January 2019
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper)	www.broadbandcompare.co.nz and

Website	www.powercompare.co.nz
Is the advertisement still accessible – where and until when?	Yes, until Contact Energy removes the promotion – both websites
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Please note this is not a paid for advertisement but a listing on a comparison website Already held by ASA
Who is the product / brand target audience?	New Zealand public
Clear substantiation on claims that are challenged by the complainant.	Please see attached letter
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.	Acknowledged
For Digital advertisements:	
What platform tools have you used to target your audience?	For this particular advert we used www.broadbandcompare.co.nz and www.powercompare.co.nz .

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.