

<b>COMPLAINT NUMBER</b>	19/110
<b>COMPLAINANT</b>	S Viskovic
<b>ADVERTISER</b>	ANZ
<b>ADVERTISEMENT</b>	ANZ Television
<b>DATE OF MEETING</b>	9 April 2019
<b>OUTCOME</b>	Not Upheld No further action required.

### **SUMMARY**

The television advertisement for ANZ Kiwisaver shows a father and son in the living room of the house they share. The son is relaxing on the sofa with a bowl of cookies, reading his tablet. He asks his father “When ANZ talk about their KiwiSaver Scheme being actively managed, what does that actually mean? The father replies “Actively managed? It means your money’s not lying on your couch eating all your biscuits.”

The Complainant was concerned the advertisement was misleading because it misrepresents the investment outcomes of active and passive funds.

The Advertiser said the advertisement uses a simple metaphor to explain the concept of active investment management, that is, not lying on your couch eating all your biscuits. The Advertiser said they don’t make any claims about investment performance and simply ask the viewer to consider the importance of investment philosophies.

The Complaints Board agreed the advertisement was not misleading. The Complaints Board said the advertisement was attempting to convey complex ideas about the different types of investment in a brief television advertisement, using a simple metaphor.

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1, Principle 2 and Guideline 2(a) of the Code for Financial Advertising.

The Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

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

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### **COMPLAINTS BOARD DECISION**

The Chair directed the Complaints Board to consider the complaint with reference to Principle 1, Principle 2 and Guideline 2(a) of the Code for Financial Advertising.

Principle 1 of the Code for Financial Advertising required the Complaints Board to consider whether the advertisement observed a high standard of social responsibility.

Principle 2 of the Code for Financial Advertising required the Complaints Board to consider whether the advertisement was 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.

Guideline 2(a) of the Code for Financial Advertising required the Complaints Board to consider whether the advertisement was accurate and made any statements or claims which were unable to be substantiated.

### **The Complaints Board ruled the complaint was Not Upheld.**

#### **The Complaint**

The Complainant was concerned the advertisement was misleading because it misrepresents the investment outcomes of active and passive funds.

#### **The Advertiser's response**

The Advertiser said the advertisement uses a simple metaphor to explain the concept of active investment management, that is, not lying on your couch eating all your biscuits.

The Advertiser said some active managers will beat the market and some may not. The advertisement doesn't make any claims about investment performance and simply asks the viewer to consider the importance of investment philosophies.

#### **Complaints Board Discussion**

##### *Consumer Takeout*

The Complaints Board agreed the consumer takeout for the advertisement was there are different kinds of Kiwisaver funds, some are actively managed and some are passively managed.

##### *Is the advertisement misleading?*

The Complaints Board agreed the advertisement was not misleading. The Complaints Board said the advertisement was attempting to convey complex ideas about the different types of investment in a brief television advertisement, using a simple metaphor. The concept of passive management is conveyed using the image of the son (or your money) lying on the couch eating biscuits.

The Complaints Board said the advertisement doesn't try and explain the differences between active and passive management. The advertisement encourages the viewer to find out more about this for themselves.

##### *Is the advertisement socially responsible?*

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1, Principle 2 and Guideline 2(a) of the Code for Financial Advertising.

The Complaints Board ruled the complaint was Not Upheld.

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## **DESCRIPTION OF ADVERTISEMENT**

The television advertisement for ANZ Kiwisaver shows a father and son in the living room of the house they share. The son is relaxing on the sofa with a bowl of cookies, reading his tablet. He asks his father "When ANZ talk about their KiwiSaver Scheme being actively managed, what does that actually mean? The father replies "Actively managed? It means your money's not lying on your couch eating all your biscuits."

## **COMPLAINT FROM S VISKOVIC**

TV3 7 sharp 2019-02-26 7:16 approx

Complaint Details:

<http://www.campaignbrief.co.nz/2018/07/dad-and-son-discuss-love-and-l.html>

This was the specific ad, it correctly characterizes passive fund managers as lying on the couch.

<https://youtu.be/A5R-lcZ9mfl>

My objection is that being lazy in investing gives greater rewards than lying on a couch or being active in investing. In fact when buying index funds you get the research of active managers for free - inasmuch as they still control the majority of funds into financial markets. Active management cannot beat the market whilst it is the market.

If ANZ kiwisaver funds, net of fees have consistently beaten passive funds then the ad is accurate otherwise it is fraudulent in that it knowingly misrepresents the investment outcome of their funds.

At some point, if everyone switched to passive funds active management would become useful again. That would mean a much smaller funds management industry.

ANZ should come to terms with that and should not be allowed to misinform the public and lie about the prospects for their clients/investors.

## **CODES 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.

#### **Guideline 2 (a)**

Advertisements shall be accurate and statements and claims able to be substantiated.

### **RESPONSE FROM ADVERTISER, ANZ**

Thank you for giving ANZ the opportunity to respond to complaint 19/110 regarding our KiwiSaver advertising campaign.

We would like to refute the points raised on the following basis:

- The advert is designed to promote one of the key points of difference for ANZ's KiwiSaver proposition – we are an active fund manager.

- The advert uses a simple metaphor to explain the concept of actively choosing investments.
- In the case of ANZ we have an Investment Management team of 38 professionals who make decisions on which securities our member's KiwiSaver funds are invested in. We believe this is our competitive advantage.
- In contrast passive management tracks the market index. Passive managers do not make daily decisions around stock choices. It is a hands-off approach that relies on the market index determining performance.
- The advert depicts the contrast between these 2 strategies with the help of a relatable metaphor. Passive investment is akin to sitting back and watching the market happen. Active management is the opposite.
- The advertisement does not make any claim of investment performance or direct inference of superior returns. It asks the viewer to consider the importance of investment philosophies only.
- The complainant makes the assertion that "active management cannot beat the market when it is the market". By definition active managers will have different returns to the market index. Some, or many, active managers will beat the market. Some may not. It is not accurate to say an active manager cannot beat the market.

A basic, neutral description of the advertisement	Advertisement promoting ANZ KiwiSaver referencing active management
Date advertisement began	15 July 2018
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV
Is the advertisement still accessible – where and until when?	The ad is scheduled to run again in April 2019.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	See attached
Who is the product / brand target audience?	KiwiSaver customers – broad targeting
Clear substantiation on claims that are challenged by the complainant.	<ul style="list-style-type: none"> <li>• ANZ is an active investment manager.</li> <li>• We have an Investment Management team of 38 staff responsible for actively selecting stocks to protect and grow our clients' investments.</li> </ul>

	• Refer full details (above)
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**RESPONSE FROM COMMERCIAL APPROVALS BUREAU**

We have been asked to respond to this complaint under the following codes:

Code for Financial Advertising – Guideline 2(a), Principle 1, Principle 2;

CAB approved this ANZ Kiwisaver commercial on 28/06/18 with a G classification.

It has played uninterrupted for nine months to present.

The commercial uses the metaphor of sitting on a couch to describe passive fund management. Active funds management is described as 'not eating all the biscuits'.

That's the full extent of the commercial: A simple metaphor, without exaggerated or implied claims of financial performance.

For details of the service itself, CAB will defer to the advertiser's expertise.

**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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.