

COMPLAINT NUMBER	19/216
COMPLAINANT	M Sweet
ADVERTISER	Harvey Norman
ADVERTISEMENT	Harvey Norman, Website
DATE OF MEETING	9 July 2019
OUTCOME	Settled No Further Action Required

Description of Advertisement

The website advertisement for Harvey Norman promoting Panasonic cordless phones shows pictures of phones with *before cashback* and *after cashback* prices and states "That's 25% off".

Summary of the Complaint

The Complainant is concerned the advertisement is misleading as the cashback discount is \$20 which is not 25% of the original price.

Issue Raised

- Truthful Presentation

Summary of the Advertiser's Response

The Advertiser said that 3 offers were running concurrently.

Two of the offers, 25% off and \$20 cashback via redemption have caused the confusion

The Advertiser acknowledged its messaging of multiple offers has caused confusion but does not agree any deception has occurred. It said it will review the layout of similar offers in future advertising.

Summary of the Complaints Board Decision

The Complaints Board ruled a complaint about a Harvey Norman website advertisement for cordless telephones was Settled. The Complaints Board said that the format of the advertisement, with multiple offers listed, was likely to cause confusion for consumers. Given the Advertiser's acknowledgement that the three offers promoted concurrently had created confusion and its commitment to review the messaging and layout of future offers, the Complaints Board considered the complaint was Settled.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following code:

Advertising Standards Code

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(b): Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to a precedent decision, Decision 18/296 which was Upheld in Part.

Decision 18/296 concerned a Smith City website advertisement for a Fisher & Paykel fridge/freezer in which the Complainant questioned the advertised savings being promoted in the advertisement. The Complaints Board said the Advertiser had not provided substantiation to support the savings claim made and the advertisement was likely to mislead consumers.

Complaints Board Discussion of Complaint 19/216

Consumer Takeout

The Complaints Board said the likely consumer takeout of the advertisement was the offer of a discount and cash back when purchasing a Panasonic phone. The Complaints Board agreed it was difficult to understand what the “25% off” offer was referring to.

Is the advertisement misleading

The Complaints Board said the Complainant’s confusion was likely the result of the combination of offers on display in the advertisement. The Board said the advertisement did not include the original Recommended Retail Price (RRP) for the product, which meant consumers would not know how the “25% off” figure had been calculated. The Board noted the advertisement did not explicitly state a dollar figure for the cash back offer, which meant the advertisement’s calculations lacked transparency. The Complaints Board said that without the benefit of the additional information provided to the Board by the Advertiser, it would be difficult for consumers to calculate the savings on offer.

The Complaints Board agreed the Advertiser was not intentionally trying to mislead or deceive consumers and that the savings were genuine. However, the Board said that Rule 2(b) of the Advertising Standards Code stipulates that advertisements “must not be likely to mislead, deceive or confuse consumers”. The Complaints Board said the advertisement before it had the potential to confuse consumers.

The Complaints Board noted the Advertiser had acknowledged that three offers promoted concurrently had caused some confusion and had agreed to investigate its messaging and layout of similar offers for future advertising.

The Complaints Board said that given the self-regulatory action taken by the Advertiser to address this issue in future advertising, the Complaints Board unanimously ruled the complaint was Settled.

Outcome

The Complaints Board ruled the complaint was Settled.

No further action required.

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.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT FROM M SWEET

In each case, where the page claims that the price after cashback is "25% off", it is incorrect. In every case, the cashback discount is only \$20, and in no case is the \$20 discount equal to 25% of the original price.

I noticed this specifically on the one page I visited and cannot confirm if the deceit is prevalent site-wide.

Appendix 2

RESPONSE FROM ADVERTISER, HARVEY NORMAN

Contact person for advertising complaints	Rachelle Smith
Name and contact at creative agency	N/A
Name and contact at media agency	N/A
A basic, neutral description of the advertisement	A web page advertising cordless phones
Date advertisement began	29/5/19
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Website www.harveynorman.co.nz
Is the advertisement still accessible – where and until when?	No. Ended 3/6/19
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	
Who is the product / brand target audience?	General consumers
Clear substantiation on claims that are challenged by the complainant.	The complainant has claimed that our advertised discount of '25% off' was deceptive as it was

	only a \$20 saving.
<p>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.</p>	<p>Thank you for bringing this to our attention. Harvey Norman holds itself to high standards and never wants to mislead our valued customers.</p> <p>On this occasion we recognise that our messaging of multiple offers has caused some confusion but do not agree that any deception has occurred.</p> <p>There were 3 separate offers running concurrently on these 4x Panasonic cordless phones.</p> <ol style="list-style-type: none"> 1. Earn Triple AirPoints Dollars™ 2. 25% off 3. \$20 Cash back via redemption <p>The confusion has come from the way offers #2 & #3 have been displayed on our web site. However all offers have been applied.</p> <p>For example the Panasonic KX-TGD322NZZ has a normal ticket price of \$149.99 which has been discounted to \$112.49. This is 25% off & is the price consumers would pay Harvey Norman to purchase the product. We have not exaggerated the saving.</p> <p>The customer can then apply for the \$20 cashback via redemption which brings the price down further to \$92.49.</p> <p>The after cash back price is not considered in the 'That's 25% Off!' statement as it is up to the customer to redeem the cashback offer after taking possession of the product.</p>

This table below outlines the pricing of the relevant products to this complaint.

Model	Normal Ticketed Price	Advertised 25% Off	Cash Back	After Cash Back
KX-TGD322NZD	149.99	112.49	\$20	\$92.49
KX-TGD312NZB	119.99	89.99	\$20	\$69.99
KX-TGH223	249.99	187.49	\$20	\$167.49
KX-TGH222AZB	179.99	134.99	\$20	\$114.99

See Attached SAP export as proof of our normal ticketed price for these models.

We will investigate changes to our messaging/layout of similar offers in future.