

<b>COMPLAINT NUMBER</b>	20/060
<b>ADVERTISER</b>	Specsavers New Zealand Limited
<b>ADVERTISEMENT</b>	Specsavers, Website
<b>DATE OF MEETING</b>	12 May 2020
<b>OUTCOME</b>	Settled in Part, Not Upheld in Part No Further Action Required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about a website advertisement for Specsavers. The Complaints Board said the use of the word 'including' was not misleading. The Complaints Board acknowledged the Advertiser's pricing error and settled this element of the complaint as the advertisement was amended.

### **Description of Advertisement**

(Offer One)

The website advertisement for Specsavers offers complete glasses from \$39 and complete glasses from \$69 that includes standard single vision lenses.

(Offer Two)

The Website advertisement for Specsavers promotes an offer for 2 pairs of glasses for \$169 and says you can choose 2 styles from the \$169 range and get prescription sunglasses as your second pair, including standard single vision lenses.

### **Summary of the Complaint**

The Complainant is concerned the advertisements containing several offers are misleading. In Offer One the range says it starts at \$39, however there are no glasses listed at that price.

The Complainant said the use of the word "including" is ambiguous as it implies there are other lens types on offer when there are actually only single vision lenses available. The 2 for 1 price does not state it is for one type of lens until the Terms & Conditions section.

### **Issues Raised:**

- Truthful Presentation

### **Summary of the Advertiser's Response**

The Advertiser acknowledged the error made in Offer One stating, "from \$39" and provided confirmation this has been amended to read "from \$69".

The Advertiser disagrees the other offers are misleading and said all offers are price complete (meaning frames and lenses). The offer includes standard single-vision prescription lenses with other lenses such as progressives and bifocals being an extra. Therefore, the entry price of \$69 is inclusive of single vision lenses. With the 2 for 1 offer the advertisement informs consumers the entry price for two styles from the \$169 range is inclusive of standard single vision lenses and there is the option of prescription sunglasses in the second style.

The Advertiser says the Terms and Conditions are clear and readily accessible to consumers and clarify that lens upgrades are available at an extra cost.

## Relevant ASA Codes of Practice

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

### 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.

### Complaints Board Discussion

#### Offer One

##### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement is you can buy a range of glasses with single-vision lenses from Specsavers for \$39.

The Complaints Board noted the Advertiser had acknowledged an error had been made on the mobile version of the webpage, promoting complete glasses for \$39 when the offer should have said \$69. The Board said the advertisement pricing has been amended to only refer to the price of \$69 and the self-regulatory action taken by the Advertiser meant this element of the complaint was settled.

The Complaints Board agreed the amended section of the advertisement was Settled.

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

The Complaints Board noted the advertisement referred to “glasses from just \$69 and that includes single vision lenses”. The Complaints Board said the advertisement made it clear that the offer was for “complete glasses” which meant the frames and lenses as opposed to purchasing the frame and lenses separately. It was clear the lenses on offer were single vision lenses.

The Complaints Board unanimously ruled the offer was not misleading and had not breached Principle 2 or Rule 2(b) of the Advertising Standards Code. The Complaints Board said this part of the advertisement was Settled in Part and Not Upheld in Part.

#### Offer Two

##### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement is that two complete sets of glasses with single-vision lenses are on offer for \$169, with the option of one pair being sunglasses.

##### *Is the use of the word “including” in the advertisement misleading?*

The Complaints Board noted the Complainant considered the word ‘including’ implied something extra was on offer. However, the Complaints Board unanimously agreed the most likely interpretation of the term ‘including’ was ‘with’. The advertisement made it clear the offer was for ‘complete glasses’ which meant the frames and lenses as opposed to purchasing the frames and lenses separately. The Complaints Board said purchasing glasses could be a complex process and not every detail can be included in the advertisement. The Advertiser

had attempted to qualify what was being offered. The Complaints Board did not find the Terms and Conditions to be ambiguous and agreed these were easily accessible and clearly stated that lens upgrades such as progressives and bifocals would incur additional costs.

The Complaints Board unanimously ruled Offer Two was not misleading and had not breached Principle 2 or Rule 2(b) of the Advertising Standards Code. The Complaints Board this part of the advertisement was Not Upheld.

**Outcome**

The Complaints Board ruled the complaint was **Settled in Part, Not Upheld in Part.**

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

## APPENDICES

1. Complaint
  2. Response from Advertiser
- 

### Appendix 1

#### COMPLAINT

The wording is misleading in most of the advertised specials. The use of the word "including" means that \*Other\* product is also part of the offer - but when reading the T&C is states only one type of product.

The use of different prices eg \$39 / \$69 - yet no example of \$39 frames are in the advert or mentioned again.

The 2 for 1 price advert does not state it is for only one type of lens, this is not clear til one reads T&C.

The grammatical use of the word "including" implies there are other lens types included in the offers - when in fact, there are not.

The grammar used is ambiguous and causes confusion to those who read and act upon the advertising "at face value" - thereby causing misleading understanding, and possibly wasting the consumer's time and costing them more than they intended to spend - because people get embarrassed and either cannot pay or get into debt because they're embarrassed about speaking up and saying "but your advert said..."

The adverts should state clearly "For ....." (type of prescription) Not "including"  
And, if advertising \$39 frames, they have to include an example of that priced frame in the advert, and there is none.

The T&C section is also ambiguous in wording.

### Appendix 2

#### RESPONSE FROM ADVERTISER, SPECSAVERS

Further to your letter dated 10 March and our subsequent correspondence, please find below our response to complaint 20/060 for due consideration by the Ad Standards Complaints Board.

The complaint relates to two offers published on the mobile version of our website, <https://www.specsavers.co.nz/special-offers>. As such, we have responded to the complaints made about each offer separately, noting that where it appears the same complaints appears to have been made about both offers, we have responded accordingly.

**Offer 1:** "Complete glasses from \$39" and "Complete glasses from \$69 with standard single-vision lenses"

**Offer terms and conditions:** Price complete with standard single vision lenses with scratch resistant coating. Progressives and bifocals also available at an extra cost. Extra options not included.

URL of offer: <https://www.specsavers.co.nz/special-offers/complete-glasses-69>

### Response to complaints made about Offer 1:

1. **Complaint:** *“The use of different prices eg \$39 / \$69 - yet no example of \$39 frames are in the advert or mentioned again”.*

#### Specsavers Response:

- We acknowledge that there was an error published on the mobile version of this webpage showing complete glasses from \$39 and apologise for this error and sincerely regret any concern or inconvenience caused to consumers.
- Upon becoming aware of this error on 31 March 2020 during our review of the complaint, we immediately amended the webpage. Please see URL above to amended webpage showing that “Complete glasses from \$39” has been amended to “Complete glasses from \$69”.

2. **Complaint:** *“The use of the word "including" means that \*Other\* product is also part of the offer - but when reading the T&C they state only one type of product” and “The grammatical use of the word "including" implies there are other lens types included in the offers - when in fact, there are not”. The grammar used is ambiguous and causes confusion to those who read and act upon the advertising "at face value" - thereby causing misleading understanding and possibly wasting the consumer's time and costing them more than they intended to spend - because people get embarrassed and either cannot pay or get into debt because they're embarrassed about speaking up and saying "but your advert said..."*

#### Specsavers Response:

- We are always open to feedback from consumers about our offers, but we disagree with these comments from the complainant.
- All of our offers are priced complete (meaning frames and lenses). This offer, includes standard single-vision prescription lenses in their entry price. Other lens types (progressives and bifocals) and lens options are available at an extra cost.
- In this instance,
  - the use of the word “from” in the offer informs consumers that complete glasses are available at varying price points; and
  - that the entry price of \$69 is inclusive of single vision lenses.
- The accompanying terms and conditions of the offer, located in a readily accessible location for consumers on the same webpage as the offer, inform consumers that other lens types, such as bifocals and progressives, and lens options, are also available to consumers at an extra cost.

**Offer 2:** “Choose two styles from our \$169 range and get prescription sunglasses as your second pair, including standard single-vision lenses”.

**Offer terms and conditions:** In store only. Single-vision lenses only. Lens upgrades available at an extra cost. Both pairs must have the same prescription. Final price is based on price of higher value pair and any lens upgrades. Use with other offers restricted

URL of offer: <https://www.specsavers.co.nz/special-offers/2-pairs-from-169>

### Response to complaints made about Offer 2:

1. **Complaint:** *"The 2 for 1 price advert does not state it is for only one type of lens, this is not clear til one reads T&C".*

#### Specsavers Response:

- As per Offer 1, this offer informs consumers that the entry price for two styles from our \$169 range is inclusive of standard single vision lenses. In particular, consumers are informed that that the entry price for two styles from the \$169 range is inclusive of single vision lenses in both styles and the option of prescription sunglasses in the second style.
  - The offer does not mention any other lens types as being included in the entry price. However, the terms and conditions of the offer explain to consumers that the entry price is inclusive of single vision lenses only and that lens upgrades are available at an extra cost.
2. **Complaint:** *"The use of the word "including" means that \*Other\* product is also part of the offer - but when reading the T&C they state only one type of product" and "The grammatical use of the word "including" implies there are other lens types included in the offers - when in fact, there are not". " The grammar used is ambiguous and causes confusion to those who read and act upon the advertising "at face value" - thereby causing misleading understanding and possibly wasting the consumer's time and costing them more than they intended to spend - because people get embarrassed and either cannot pay or get into debt because they're embarrassed about speaking up and saying "but your advert said..."*

#### Specsavers Response:

- As per our responses above, we disagree with these comments from the complainant. This offer informs consumers that single-vision prescription lenses are included in the entry price point, with the terms and conditions of the offer further specifying that other lens types are not included and available at an extra cost.

### Additional Relevant Information (as per Appendix 1 of Accepted Advertiser Letter 10 March 2020)

3. **A digital media file copy of the advertisement**
  - As noted in the complaint and our response above, this complaint relates to offers published on our website. URL's to the relevant pages on our website have been provided above.
  - Please note that the screenshots provided by the complainant have been taken on a mobile phone (whilst viewing the mobile version of our website). The URL's provided above work for the both the mobile and desktop versions of the website.
4. **Is the advertisement still accessible? Where and until when?**

- Both offers referenced in the complaint are part of our everyday range of offers that are available to consumers. Both offers will continue to be available on our website and in our stores until further notice.
5. **List all media where the advertisement is placed**
- In addition to being live on our website and in stores, we periodically highlight the availability of these offers to consumers through additional forms of media.
  - Most recently, Offer 2 (two styles from \$169 range including prescription sunglasses) had national media coverage from 6 February – 26 February 2020 via TV, radio, press, digital, social media and our website. Please see relevant assets attached.
  - There have been no other recent forms of media used recently to promote Offer 1.
6. **A copy of the script for broadcast advertisements**
- Please see attached a copy of the radio script, TV script (SPS196530NZ), media schedule
  - CAB number for SPS196530NZ: #00106003 (approved 6 Jan 2020)
7. **Target audience for the product and service and tools or data used to target this audience**
- Both being everyday value offers, they're intended to be accessible and appealing to the general public of all ages.
  - In regard to the recent media coverage for Offer 2, this had a slightly more targeted audience of the general public over the age of 30.

I again thank you for the opportunity to respond to this complaint and trust this response is sufficient to enable your assessment to be undertaken