

COMPLAINT NUMBER	20/256
ADVERTISER	Dunedin City Council
ADVERTISEMENT	Dunedin City Council, Facebook
DATE OF MEETING	1 June 2020
OUTCOME	Settled- advertisement removed

Advertisement: The Dunedin City Council Facebook advertisement encourages Dunedin city dog owners to register their dogs. The advertisement shows an image of a dog with the text "Register Online - Save Time! Dog Registration". The body text states "It's time to re-register your dog by 31 July. Do it online today - it's quick, easy, and ensures you avoid any late penalty fees". The text at the end of the advertisement states "Have you re-registered your dog yet?".

The Chair ruled the complaint was Settled.

Complaint: The Dunedin City Council is purportedly advertising the ability to register dogs online to avoid late penalty fees. It does so by asking if dog owners have paid "yet" as if dog owners who had not done so were laggardly, states they should do it "today" (11 June 2020) and claims that will ensure they avoid late penalties.

The advertisement is not truthful, is misleading and calculated to cause distress

1. To re-register a dog the DCC requires dog owners provide a number that is generated each year. The number is on a form the DCC posts to dog owners and it refuses to allow a dog owner to register a dog without the number. The DCC is notoriously late in generating the number and posting the forms, and in 2016 failed to do so until after the commencement of the registration year, forcing all dogs owners to breach of their legal obligation to register before the year started.

As of 11 June the DCC knew it had not posted the forms and therefore knew dog owners would not be able to re-register on that day. That is obvious from the comments of people reporting they had still not received their forms on Monday 15 June.

On 16 June the DCC openly stated the forms had not yet been sent (see picture "Admission")

2. That picture includes a comment by a dog owner expressing their distress about the situation. The post generated comment in other private dog groups with similar concerns expressed. It is directly relevant that many people remain affected by the distress of covid-19. The DCC is able to reduce the dog registration fees, defer the date they must be paid, and adjust the amount and date penalties will be charged (including imposing no penalty). Other Councils have adjusted their fees, especially deferring the date for payment.

I monitor Councils dog control arrangements nation-wide, and the DCC is unique in dealing with covid-19 in that it made no adjustments, actually delayed setting the fees, then adopted its usual habit of delaying sending out the notices so people had the least possible time before they had to pay, while refusing to allow payment until the person could produce the required for, *and* subjecting them to social media posts implying the dog owners were delaying paying and telling them they could remedy that by registering online in full knowledge they could do no such thing. That behaviour can never occur for good reason, and the distress it would cause immediately after the catastrophic impact of covid-19 is entirely predictable: The emotions expressed in that post are shared by many in Dunedin.

Further, it is clear the DCC had no regard for that distress: Reading the post confirms that it made no response to that comment. earlier on Tuesday 16 June 2020 @ 1:02 am) I made a

post identifying the issues in polite terms, and even suggested solutions. The DCC did not acknowledge that post either: Clearly it lacked any regard for the issues. On combination of the predictability of the distress the absence of response to posts expressing distress and identifying the issues gives the behaviour the unsavoury appearance of being intentional.

3. The statement "Its time to re-register your dog by 31 July" is false and dangerously misleading:

s36(1) of the Dog Control Act 1996

(<http://www.legislation.govt.nz/act/public/1996/0013/latest/link.aspx?id=DLM375150>)

requires dogs to register their dogs not later than the first day of the registration year. The registration year is the local government financial year. That requires dog owners register their dogs by 1 July. The statement dogs be registered by 31 July is false.

Pursuant to s42 of the Act failing to register a dog is a criminal offence, liable on conviction to a fine not exceeding \$3,000. The territorial authority may enter the property and seize, impound and even destroy the dog.

In addition the DCC may impose an infringement fine of \$300 which is simply and easily charged to any dog owner who registers their dog after 1 July and before 31 July.

Dog owners with selected owner status enjoy fees reduced by 40%. That status is lost for late registration. A selected owner is expected to have a superior knowledge of the Dog Control Act, but there will be some who are confused by that statement. A selected owner may not re-apply for that status for 2 years, and must also pay another inspection/testing fee when they do.

By comparison the late payment penalty is a mere 50% of the ordinary fee. For an ordinary dog owner that is \$53.

Overall the DCC obtains significant financial benefits if dog owners are misled into not registering by 1 July by the false statement that is not required until 31 July. The DCC is fully aware that undisclosed financial windfall for it will be substantially more than the late payment penalty it has misleadingly represented as the only consideration.

There is no good reason for any agency to make false or misleading statements about legal obligations. However it is significantly worse for a territorial authority to use advertising about an online service as a platform for falsely state the date by which a dog must be registered in full knowledge of the extensiveness of its own powers and the financial gains if that false information successively lures trusting dog owners into registering late.

4. The DCC employs several in-house legal Counsel. If dog control staff were too ignorant of the Dog Control Act and Dog Control Policy and Bylaw obligations to respond to queries about the wording of the post from the social media team, any of the legal Counsel ought to have been able to do so during the course of Monday and Tuesday. Not only did the DCC ignore the issues being raised, make not attempt to correct the false, misleading and distressing information, as pic #3 confirms,

it was still not possible to register a dog online 6 days after the DCC made its false statement dog owners could do it on 11 June.

The Advertiser, Dunedin City Council, said: The Dunedin City Council wishes to settle the above complaint. I confirm that this advertisement has been removed and undertake that the advertisement referred to in that complaint will not be used again.

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

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.

The Chair noted the Complainant's concern the advertisement was misleading by giving deadline dates for dog registrations which were impossible to meet.

The Chair acknowledged the Advertiser had taken action by removing the advertisement and giving assurances the advertisement will not be used again.

Given the Advertiser's co-operative engagement with the process and the self-regulatory action taken in removing the advertisement, the Chair said it would serve no further purpose to place the matter before the Complaints Board.

The Chair ruled the complaint 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 calendar days of receipt of this decision.