

COMPLAINT NUMBER	20/303
ADVERTISER	Vapourium
ADVERTISEMENT	Stratus, Digital Marketing
DATE OF MEETING	27 July 2020
OUTCOME	No Grounds to Proceed

Advertisement: The Vapourium digital marketing advertisement for the Stratus vaping product on the Newshub app includes a photo of a Stratus vaping device and the following text: "Stratus by Vapourium - Stratus is the most affordable alternative to smoking... 18+ adults only" accompanied by a "click here to learn more" button.

The Chair ruled there were no grounds for the complaint to proceed.

Complaint: Add claims to be cheapest alternative to smoking which not true as quitting is cheaper and sipping water or going for a walk or eating sunflower seeds are all valid

The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(h), Rule 2(b);

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.

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 to claim to be the cheapest alternative to smoking.

The Chair noted the Complainant's view that the use of the superlative "most affordable" was misleading because it implies that of all the possible alternatives to smoking, including "not smoking", vaping is the cheapest alternative.

The Chair said the statement that vaping is "the most affordable alternative to smoking" is not misleading. This is because the likely consumer takeout of the advertisement is when compared to similar products, particularly cigarettes, vaping is more affordable. The Chair noted that vaping is generally cheaper than smoking.

The Chair said the average consumer would view this advertisement in the context of a promotion for a commercial product, and not see it as a public health message. The Chair said it is currently legal to advertise vaping products and this advertisement did not meet the threshold to undermine the health and well-being of individuals.

The Chair ruled the advertisement was not misleading and had not breached Principle 1, Principle 2, Rule 1(h) or Rule 2(b) of the Advertising Standards Code.

The Chair ruled there were no grounds for the complaints to proceed.

Chair's Ruling: Complaint **No Grounds to Proceed**

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.