



COMPLAINT NUMBER	21/096
ADVERTISER	The NZ Herald
ADVERTISEMENT	The NZ Herald Print
DATE OF MEETING	8 March 2021
OUTCOME	No Grounds to Proceed

Advertisements: There were two New Zealand Herald print advertisements advertising subscriptions to the New Zealand Herald newspaper. The first advertisement said: "Subscribe to the Herald for only \$19.80 per week* and get a Sunbeam Tower Fan for free...Free gift worth \$219.99." The second advertisement said: "Subscribe to the Herald for only \$2.83 per day* and get a Sunbeam Wok for free... Free gift worth \$259.99".

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

Complaint: The NZ Herald has regular subscription advertisements offering a free gift for which it states what it is worth. In December it was advertising a saucepan set worth \$299.95, when it was readily available at Briscoes for \$79.99. I complained to the paper but they did not respond. This formal complaint relates to its February promotion.. It is advertising ts 7 day subscription with a Sunbeam 121cm tower fan" free gift worth \$219.99. I have regularly checked what this on many days in Feb. 2021 is available on line at established retailers, and it varies between \$117 and \$149.see these links ...

<https://pricespy.co.nz/product.php?p=3416393>

<https://www.lx2001.co.nz/products/sunbeam-fa7550-super-slim121cm-tower-fan-with-night-mode>

<https://www.heathcotes.co.nz/products/fa7550-sunbeam-superslim-121cm-tower-fan-with-night-mode> My complaint is that this is a false inducement with a gift inducement that is NOT worth anything like the advertised value, but considerably less. I have corresponded with the Herald and they justify the stated value because it is the RRP. I submit a suppliers RRP is not its worth unless at the time of the promotion this is the retail cost. The true worth is the retail cost during the period of the advertising promotion.. I have suggested to the Herald after their 8 Feb. 2021 that if they replaced the word WORTH with RRP, then this would be a more honest statement. WORTH is not . The 17 Feb. advertisement is unaltered from the 8 Feb. advertisement

Additional information from Complainant:

Please refer to my complaint of 23 Feb. 2021 where the NZ Herald ran an advertisement promoting its subscription service with a "free gift worth \$219.99" inducement. I believe this is false advertising in that it states the worth of the inducement at an amount considerably in excess of its retail selling price at numerous retail sources. I am making this further complaint for the same reason because the Herald in March is advertising on 2 and 3 march 2021 (and probably throughout March) an electric SUNBEAM Wok with a stated worth of \$259.99. A google search quickly reveals 6 retail outlets with prices \$169, \$185, \$189, \$199, \$229 and \$259. There's also an internet trader Catch.co.nz with them for \$102. I believe , as shown on the priceme website graph of past and present price trends for this,, that it is simply 2 NOT WORTH \$259, with only one supplier pricing it at this amount (It's RRP says the Herald). I believe the continuing policy of the Herald in using RRP is incorrect . Fair market price would more appropriately be the legal worth...or perhaps what are the best prices at the time of advertising its promotion. All previous three Herald Gift inducement advertised values have

been greatly in excess of these figures. I believe RRP is does not define WORTH and use of this figure is misleading advertising.

Additional information from Complainant:

This complaint refers to the issue of my 23 Feb.2021 complaint relating to misleading advertising of the worth of the subscription Heralds gift inducement . March has a new "gift" with the same issue. Scan is attached as above It is for a SUNBEAM ELECTRIC WOK with a stated WORTH of \$259.99. A google search on 3 3 2021 shows 6 retailers with prices as follows: \$169, \$189, \$185, \$199, \$229 and \$259. In addition there is an internet site catch.co.nz with it at \$109. The price me site has a graph of price trends for it over the last 6 months and its predominantly below \$199. Clearly RRP of \$259 is not a statement of its WORTH. Fair market price below \$199 or the best prices at the period of the advertising, would be a more correct statement of WORTH. I believe the Heralds statement of worth is misleading and wrong.

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 "worth" of the gifts referred to in the advertisements was misleading.

The Chair said the likely consumer takeout of the terms "Free gift worth \$219.99" or "Free gift worth \$259.99", as used in the advertisements, was these products are available for purchase at these prices.

The Chair noted the response from the Advertiser, which was provided by the Complainant, which included the following:

"I can confirm that the value of the gifts that we include in our advertisements is the Recommended Retail Price (RRP) that is provided from the suppliers when we purchase the products. These prices are a full retail, non-sale price. As we run our promotions for several weeks the purchase price that is available on any given day at retail level may differ, as retailers are free to set their own sales prices, based on their own promotion schedule... We are not able to influence the price that retailers discount these products to when they put them on sale, we are guided by the RRP's that the suppliers set for their products and provide to us when we set our promotions."

The Chair confirmed that it was reasonable for the Advertiser to use the Recommended Retail Price (RRP) in the advertisements, when stating the worth of the free gifts. This does not mean they cannot be purchased elsewhere for different prices.

The Chair said the advertisements were not likely to mislead or confuse consumers and therefore did not meet the threshold to breach Principle 2 or Rule 2(b) of the Advertising Standards Code.

The Chair ruled there were no grounds for the complaint 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.