

<b>COMPLAINT NUMBER</b>	21/310
<b>ADVERTISER</b>	Brand Developers
<b>ADVERTISEMENT</b>	TEVO Heater, Television
<b>DATE OF MEETING</b>	6 July 2021
<b>OUTCOME</b>	Not Upheld No Further Action Required

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

The Complaints Board did not uphold a complaint about a Brand Developers television advertisement for the TEVO indoor/outdoor heater. The Complaints Board said the Advertiser had provided adequate substantiation for the cost comparison claim made in the advertisement. The majority of the Complaints Board said the claim the heater could heat your entire home referred to the ability to relocate the heater to any room in the house.

### **Advertisement**

The Brand Developers television advertisement for the TEVO Indoor/Outdoor heater shows the heater being used outside. The advertisement states it is “the fastest, warmest heater you’ll ever own.” The advertisement compares the TEVO heater to a regular gas heater and says, “This standard outdoor gas heater costs around \$3.50 per hour to run, but the energy efficient TEVO instant heater only costs around 45 cents per hour to run. That’s a saving of over \$3.05 per hour and it never runs out of gas at the wrong time. With just normal use it can pay for itself in just three months.” The advertisement also shows how the heater can be used indoors and says, “Not only can you make your outdoor summers last longer, but when it gets really cold you can take it indoors to create summer in your bedroom or your bathroom. TEVO heater is an affordable and efficient way to heat your entire home.”

### **Summary of the Complaint**

The Complainant was concerned the advertisement is misleading to state the heater will pay for itself in a set amount of time without stipulating it is only if consumers use an outside heater. The Complainant said it is misleading to say it will heat your home when it only warms people.

### **Issues Raised:**

- Truthful Presentation

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

The Advertiser defended the advertisement saying the heater is shown being used both indoors and outdoors. The cost comparison compares the costs of running a TEVO heater and a gas heater and concludes the TEVO is cheaper to run and consumers will understand the “it will pay for itself” claim. The Advertiser provided substantiation for the claim. The Advertiser said the heater is shown being used in four different rooms as well as outdoors and specially heats the people in those spaces. The reference to “heat your entire home” is fair and true.

### **Summary of the Media Response**

The Commercial Approvals Bureau said the advertisement primarily focuses on extending the opportunity to entertain outdoors and said a home is not restricted to 4 walls and a roof. It said a very clear comparison of costings against using a standard gas outdoor heater is made.

## 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.

### Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/392 which was Not Upheld and 19/027 which was ruled No Grounds to Proceed.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

**Decision 18/392** concerned a Brand Developers television advertisement for an Instachill cooler which showed a cost comparison against an air conditioning unit. The Complaints Board said the Advertiser had provided sufficient substantiation for the efficiency comparison claims made and said the advertisement was unlikely to mislead consumer.

**Decision 19/027** also concerned Brand Developers television advertisement for an Instachill cooler. The Chair of the Complaints Board said the Complaint's concerned had been addressed in Decision 18/392 and that consumers were unlikely to be confuse a small portable cooling unit as having the same purpose or capability as a full air conditioning unit. The Chair of the Complaints Board ruled there was no grounds for the complaint to proceed.

### Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
  - Context: A Brand Developers marketing advertisement
  - Medium: Television
  - Audience: Television audience
  - Product: A radiant indoor/outdoor heater which heats people and objects rather than air space.

*Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was that the weatherproof radiant TEVO heater is cheaper to run than a standard outdoor gas heater. Based on the usage quoted by the Advertiser, the TEVO would pay for itself in three months.

*Has the advertisement made factual claims which require substantiation?*

The Complaints Board said the advertisement had made factual claims which required substantiation. The Board looked at each claim challenged by the Complainant in turn:

**Claim 1: “With just normal use it can pay for itself in just three months.”**

The Complaints Board said the advertisement was clear it was using a cost comparison with a standard outdoor gas heater. The Board agreed that based on the information provided by the Advertiser there was sufficient substantiation to support the level of claim made that the heater would pay for itself in three months.

The Complaints Board unanimously agreed this claim was unlikely to mislead or deceive consumers and was not in breach of Principle 2 or Rule 2(b)

**Claim 2: “TEVO is an affordable and efficient way to heat your entire home.”**

The majority of the Complaints Board said consumers were likely to understand the broad concept of how radiant heaters function by warming objects rather than air space.

The majority of the Board accepted the Advertiser’s substantiation that the TEVO heater can also be used inside in any room in the house, meaning the heater is capable of heating the entire house, albeit not all rooms at the same time. The majority of the Complaints Board also noted the heater turned itself off when a room was vacated, which supported the cost-effective claim.

A minority of the Complaints Board disagreed and said there could be confusion for consumers who may take a literal interpretation of the “entire home” claim if they were not aware how of radiant heating worked.

For the minority of the Complaints Board this could misled consumers and therefore was in breach of Principle 2 and Rule 2(b) of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board said the advertisement was unlikely to mislead or confuse consumers and was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

**Outcome**

The Complaints Board ruled the complaint was **Not Upheld**.

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
  3. Response from Media
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### Appendix 1

#### COMPLAINT

The ad says the product will pay for itself in a set amount of time but it will only do this if the customers uses an outside heater. This is not made clear. They product is advertised to heat your home, but as it is a radiant heater, it doesn't...it just warms people.

### Appendix 2

#### RESPONSE FROM ADVERTISER, BRAND DEVELOPERS

RE: ASA Complaint 21-310 – TEVO Heater Key Number Z120TEV02TY

To Whom It May Concern

A copy of the advertisement is being sent with this response.

The Complainant has written: *“The ad says the product will pay for itself in a set amount of time but it will only do this if the customers uses an outside heater. This is not made clear. They product is advertised to heat your home, but as it is a radiant heater, it doesn't...it just warms people.”*

A careful reading of the complaint gives us to understand that the complainant has two complaints.

We will address each separately:

1. “The ad says the product will pay for itself in a set amount of time but it will only do this if the customers uses [sic] an outside heater. This is not made clear.”

The advertisement is for the TEVO Indoor/Outdoor heater. It is a two-minute advertisement and the heater is shown being used both indoors and outdoors. The cost comparison at 00:33 – 00:37 compares the costs of running a TEVO heater and a gas heater. The comparative costs are given on-screen and the conclusion is that the TEVO heater is cheaper to run.

The claim at 00:46 that “with just normal use it [TEVO Heater] can pay for itself in just three months” it based on the cost comparison just given and holds for both indoor and outdoor normal use of the heater where the TEVO heater is being used in place of the more expensive form of heating. Our view is that the viewers will understand this “will pay for itself” claim in the context of the advertising story.

2. “They [sic] product is advertised to heat your home, but as it is a radiant heater, it doesn't...it just warms people.”

This second statement by the complainant, where the complainant appears to be claiming that heating your home is different to heating the people in the home, borders, in the advertiser’s view, on pendency and should not need to be addressed. However, in the advertiser’s defence, the TEVO heater is being advertised as at 1:10 as an “affordable and efficient way to heat your entire home”. It is a heater that can be put up in any rooms of a home (see 1:08; 1:09; 1:15; and 1:18 where four different rooms are portrayed) as well as outside, and because of its particular functionality it does not unnecessarily heat empty air, but specifically heats the people in those spaces. The reference to “heat your entire home” is fair and true.

We submit that the advertisement should be allowed to continue to be put to air without any amendments.

#### **FURTHER RESPONSE FROM ADVERTISER**

Further to our 22 June 2021 Response we have been asked for additional information with respect to the claim that the TEVO heater will pay for itself in 3 months. This claim is based on the cost savings in running the TEVO heater instead of the Gas heater shown in the advertisement.

- The price of a TEVO Heater is \$500.
- The cost of a 9kg Kiwi Swap LPG gas bottle from Mobil Takapuna is \$39.99 (see attached receipt).
- The gas heater used in the advertisement burns up to 850g per hour (see attached)
- $9000\text{g} \div 850\text{g} = 10.3$
- $\$39.99 \div 10.3 = \$3.88$
- You will see that we put the running costs of the gas heater below \$3.88, at \$3.50 per hour.

We considered that anything upwards from 14 hours per week usage could fall into the “normal” range. We therefore give comparisons for 14 hours usage of the gas heater and the TEVO heater. You will see that even only substituting the TEVO heater for the gas heater for 14 hours per week, the savings add up to more than what the TEVO heater costs.

Type of heater	Running cost per hour	Cost of 14 hours per week	Cost over 12 weeks based 14 hours per week usage
Gas heater	\$3.50	\$49.00	\$588.00
TEVO indoor/outdoor heater	\$0.45	\$6.30	\$75.60
Savings from using TEVO indoor/outdoor heater			\$512.40 saving over 12 weeks

We trust this satisfies the Board and that the advertisement can continue to be aired without any changes.

#### **Appendix 3**

#### **RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU**

**Complaint 21/310  
TEV02TY**

**Brand Developers  
Classification - G**

**Z 120**

The TEVO advertisement focuses primarily on extending the opportunity to entertain outdoors and how this product is totally weatherproof. It is not affected by rain, wind or even snow. In both the voiceover and graphics, the viewer is informed that the radiant heatwaves heat you directly. This point is again demonstrated in the short indoor focus of the product having motion sensors which only activate when someone is in that particular space. Radiant heaters provide a concentrated beam of heat which is absorbed by clothes, skin and furniture so they warm you up quickly. They heat occupants and objects, not a room or larger area directly, so can be an excellent energy efficient option.

A very clear comparison of costings against using a standard gas outdoor heater is made. A gas heater such as that shown would not be used indoors. The heater is promoted as a rapid cost-effective appliance providing direct heat to a required person or object, while not wasting the heating of unoccupied spaces.

This advertisement highlights the opportunity of prolonging outdoor entertaining at home not just inside the house. A home is so much more than the restriction of four walls and a roof. It is the entire place or property where family and friends can gather.

There appears no reason to uphold the complaint.