

COMPLAINT NUMBER	21/355
ADVERTISER	Kāinga Ora Homes and Communities
ADVERTISEMENTS	Our New Auckland content on Oneroof.co.nz, Digital Marketing
DATE OF MEETING	3 August 2021
OUTCOME	Decline to Adjudicate

Advertisements: Content hosted under the Our New Auckland tab on www.oneroof.co.nz included articles entitled “When the gamble pays off: What to look for when buying in a new suburb”; “How much house do Kiwis really need? Here’s what the experts think”; and “Owning a home in a Kāinga Ora-led development” amongst others, and included promotional content about new Kāinga Ora housing developments in Auckland.

The Chair declined to adjudicate on the complaint.

Complaint: “This complaint concerns the page "Our New Auckland" hosted on oneroof.co.nz, paid for by Kāinga Ora, and the 64 news articles contained on this page which Kāinga Ora have paid to have published. I am seeking a finding from the Advertising Standards Authority ("ASA") that Kāinga Ora's sustained actions here are misleading under Rule 2(a) of the Advertising Standards Code. The ASA's Guideline Note on Identification of Advertisements states that "all parties to the advertisement (e.g. advertiser, agency, media, influencer) are responsible for ensuring the audience is aware they are engaging with an advertisement".

Background

These 64 'articles' date from August 2019 up until June 2021 ("the time period"), when reporting by stuff.co.nz resulted in them adding advertiser identifications.

Parliamentary Written Question 22848 (2021) returned to us on the 14th of June 2021 states that Kāinga Ora pay \$25k to a media outlet per month to, among other things, "host the page 'Our New Auckland' on oneroof.co.nz" which includes "editorial content generation".

Before the stuff.co.nz story on the 17th June 2021, there was no indication at all on oneroof.co.nz that any of the content was provided by or created in partnership with Kāinga Ora. Now, there are disclaimers on the website which either read "This content was created in partnership with Kāinga Ora", or "This content was supplied by Kāinga Ora".

The articles formerly had either a by-line from a journalist, or a by-line saying "Our New Auckland". Now all articles have a by-line which reads "Sponsored by Kāinga Ora". On the main page, all articles are now tagged as "Advertorial", whereas this was not formerly the case.

Misleading to consumers

The ASA must conclude that these actions from Kāinga Ora were misleading under Rule 2(a) and Rule 2(b) of the Advertising Standards Code, to deter and discourage future (or current) misleading conduct of this kind by government agencies and departments.

Due to the length of time over which this misleading behaviour occurred, it can be reasonably assumed that not only was Kāinga Ora aware of this misleading content being published without the appropriate disclaimers, but that they intended for this to be the effect.

Multiple articles published on oneroof.co.nz across the time period presented to potential buyers what appeared to be independent advice on the purchasing of homes, encouraging home buyers to consider Kāinga Ora homes. In fact, this content was not independent at all, but was made to look as such, and the advice was either written entirely, or partially supplied, by Kāinga Ora as paid advertising.

One article is titled "Why buy in a Kāinga Ora-led development?", and includes advice such as: "For people looking to purchase a new-build home, buying in a Kāinga Ora-led development could be a smart move. Not only is Kāinga Ora delivering high quality homes in existing neighbourhoods, the developments are carefully planned for the big picture of Auckland's future".

Another article is titled "Owning a home in a Kāinga Ora-led development?", and includes advice such as: "Buying in a Kāinga Ora-delivered development could offer a better lifestyle for Aucklanders looking to make their next move. A mix of homes are available at fixed prices in great neighbourhoods like Mangere, Roskill, Tamaki, Northcote and Hobsonville Point. Kāinga Ora-led developments are delivering high quality, architecturally designed homes in great Auckland neighbourhoods".

Another article is titled "Buying 'off the plan': The smart move to get great value in NZ's housing market", and includes advice such as " Kāinga Ora aims to give buyers confidence by only working with builders with a proven track record of delivering high-quality homes... The new homes in Kāinga Ora developments are seen as good value for money as they're well-built using quality, durable materials, and in desirable locations, close to public transport and local amenities".

The consumer takeout from these articles is that Kāinga Ora is a safer, superior, and smarter property investment. It is not obvious to the average consumer that this advice was being given by Kāinga Ora themselves.

Rule 2(a) of the Advertising Standards Code states that "content controlled, directly or indirectly, by the advertiser must not be disguised as something other than an advertisement. It must be obvious to, and well understood by, the audience that they are engaging with an advertisement regardless of the form the advertisement takes or the platform where it appears". Rule 2(b) says that "advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge". I submit that both of these standards have been breached by Kāinga Ora.

I submit that this advertising by Kāinga Ora misleads consumers significantly, over a sustained period of time. These articles were disguised as genuine news and/or opinion, and not as advertisements. It was deceptive and confusing to consumers, who were reading these articles seeking independent advice on the purchase of property. Many New Zealanders go to oneroof.co.nz for news and advice on real estate, and Kāinga Ora as the advertiser has taken advantage of that.

This complaint is of significant public interest. Consumers have been misled by a government agency over a period of nearly 2 years, which has potentially impacted and influenced consumers decisions on the purchase of one of the most significant assets they will ever own: a house.

I ask the ASA to make clear that behaviour of this sort is misleading, reiterate that there is responsibility on the advertiser to ensure their material is being presented in a way that is not deceptive to consumers, and order Kāinga Ora to cease advertising without disclaimers in future.”

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2 (a) and Rule (b).

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(a) Identification: Advertisements must be identified as such.

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.

Chair's Ruling

The Chair declined to adjudicate the complaint. The Chair confirmed the Advertising Standards Code requires that all advertising should be identifiable as such. The Chair also confirmed that in the ASA's process, the Advertiser, the Advertising Agency (if relevant) and the Media organisation are responsible for compliance with the ASA Codes of Practice.

The Chair noted the information provided by the Complainant that the content had been changed to include labelling to confirm a commercial link between the Advertiser and the Media organisation, prior to the complaint being made.

In the ASA process, if a complaint is upheld, the ASA requests the Advertiser, and the Media remove or amend the advertising to make it compliant with the ASA Codes of Practice. As the content was amended to include labelling prior to the complaint being lodged with the ASA, the Chair declined to adjudicate on the matter.

Chair's Ruling: Decline to Adjudicate

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.