

COMPLAINT NUMBER	21/516
ADVERTISER	SmileDirectClub
ADVERTISEMENT	SmileDirectClub, Television
DATE OF MEETING	15 November 2021
OUTCOME	No Grounds to Proceed

Advertisement: The 15-second SmileDirectClub television advertisement promotes the Nighttime Aligners. The advertisement shows the product hovering above an index finger, a "before/after" image of a female customer, and a woman getting into bed. The voiceover highlights the transformation happens "while you sleep" and that the cost is "Up to 60% less than braces". Fine print on the bottom of the screen states, "Price comparison between treatment with SmileDirectClub aligners [single payment of \$3335] and orthodontic treatment median cost \$8750" and includes a web address for more details. The advertisement ends by showing the product name, the SmileDirectClub logo, and the website for more information.

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

Complaint: The advertising campaign is '60% less than braces'. However, the treatment cannot achieve the results of braces. It can only achieve a moderate shift, as opposed to more with braces. There is also no physical appointment with an orthodontist so there is a range of other things that cannot be achieved. Surely the company cannot then advertise that they are 60% cheaper than a treatment they cannot match/achieve. Any comparison to braces is misleading.

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

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.

Rule 2(d) Comparative advertising: Comparative advertisements, or advertising that identifies a competing product or service, must be factual, accurate, make clear the nature of the comparison, must not denigrate competitors and must be of 'like' products or services available in the same market.

The Chair noted the Complainant was concerned the advertisement was misleading to make comparisons with orthodontal treatment which have a much more dramatic results.

The Chair carefully reviewed the advertisement and said the likely consumer takeout was that the Advertiser's aligner system could provide some teeth correction services for a cheaper price than traditional orthodontic braces.

The Chair said the advertisement contained a super which defines the parameters of the "up to 60% cheaper" claim made. The advertisement also directs the viewer to the Advertiser's website, <https://smiledirectclub.co.nz/en-nz/claims/>, where the price comparison is explained more fully.

"60% less" claim is based on SDC SinglePay vs. median cost for orthodontic treatment. Treatment with SmileDirectClub clear aligners can cost as little as \$3,335. Median cost for orthodontic treatment is \$8750. Source (https://www.milforddentists.co.nz/fastbraces_orthodontics.html)."

The Chair said the advertisement visuals showed a mild to moderate spacing tooth condition. In order to proceed with the treatment advertised, a consumer would be assessed by a registered dentist or orthodontist then a customised treatment plan made. The consumer would have an opportunity to compare various treatment options before purchase.

The Chair said the advertisement was unlikely to mislead or deceive consumers and did not reach the threshold to breach Principle 2 or Rules 2(b) and 2(d) 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 with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.