

COMPLAINT NUMBER	22/071
ADVERTISER	Foodstuffs NZ
ADVERTISEMENT	PAK'nSAVE, Television
DATE OF MEETING	7 March 2022
OUTCOME	No Grounds to Proceed

Advertisement: The television advertisement for PAK'nSAVE shows a "shop-off" between PAK'nSAVE Westgate and an "unnamed competitor". It compares the price of a trolley-load of groceries from PAK'nSAVE Westgate with that of a competitor store in Westgate. The advertisement shows a pixelated blur which is incorrectly positioned so that the name "COUNTDOWN" is visible. PAK'nSAVE wins the shop-off by a saving of \$29.34. The advertisement concludes saying, "our policy still New Zealand's lowest food prices" with small print on screen stating, "Groceries selected by Fleur. Equivalent (not exact) shops conducted. Weighted products and pack sizes equalised. Check out the shopping list and other benefits received at paknsave.co.nz".

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

Complaint: Please note time is approximate.

The complaint is that this competitor comparison advertising is unfair to the average consumer as Pak"N"Save is not comparing pricing against New World, the other main competitor in the marketplace, I understand that both P"N"S & NW are supplied by Foodstuffs under a co-operative arrangement, but the stores are Owner Operated whereas Countdown is corporately owned.

If the comparison also showed NW, then the average consumer would see where real savings are and would help force the retailers to reduce prices.

The relevant provisions were Principle 2, Rule 2(d) of the Advertising Standards Code.

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not 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's concern that the price comparison between PAK'nSAVE and Countdown is unfair as it does not include New World, the other main competitor in the supermarket industry.

The Chair reviewed the advertisement and said the likely consumer takeout was that PAK'nSAVE has lower prices than Countdown as demonstrated by one real-world shop off.

She confirmed that the parameters of the comparison were made clear to the viewer. The two stores were identified as being in Westgate, Auckland, the date of the comparison was stated as 17th February 2022, and she noted the advertisement contained small print that said “Equivalent (not exact) shops conducted. Weighted products and pack sizes equalised”.

The Chair noted the small print confirmed the shopping list was available at paknsave.co.nz.

The Chair said the advertisement made a clear comparison between two supermarkets in the same area. She said the advertiser was not required to include any or all other supermarkets in its comparison.

The Chair referred to a precedent Decision 20/025 about another advertisement comparing a shopping basket at PAK’nSAVE in Kilbirnie, Wellington, with a similar basket at Countdown in Newtown, Wellington. The Decision did not uphold the complaint as the Complaints Board found it made a factual, accurate and clear comparison between two supermarkets.

“...the comparison presented in the advertisement was fair and clear and sufficient detail about the methodology that was used was available. The Board noted that while the advertisement was on air full details about the “shop-off” could be found on the PAK’nSAVE website.”

The Chair said the advertisement was socially responsible and was not in breach of Principle 2 or Rule 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.