

COMPLAINT NUMBER	22/258
ADVERTISER	Elegant Furniture
ADVERTISEMENT	Elegant Furniture, FaceBook - Marketplace
DATE OF MEETING	13 September 2022
OUTCOME	Not Upheld No Further Action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a Facebook Marketplace advertisement from Elegant Furniture. The Complaints Board said the Advertiser was indicating there were a range of bed price options available and had included a disclaimer which meant the advertisement was unlikely to mislead or deceive most consumers.

Advertisement

The Elegant Furniture advertisement on Facebook Marketplace promotes the Gaslift Storage Bed. The advertisement has an image of a bed illustrating its bottom storage compartment. The advertisement is priced at \$1, under the details of the product it states, “**Price is not \$1**”.

Summary of the Complaint

The Complainant was concerned the advertisement was misleading to list the price for the product as \$1 when that is not true.

A copy of the complaint is in Appendix 1.

Issues Raised:

- Truthful Presentation

Summary of the Advertiser’s Response

The Advertiser defended the advertisement and clarified that they only put \$1 in the price space when they advertise a product which comes in different sizes as there is no facility on Marketplace to list different prices in the price space. They confirmed that they always mention in the description that the item is not \$1 and to contact them for specific pricing. The Advertiser said this is not an uncommon practice on this platform.

A copy of the Advertiser’s response is in Appendix 2.

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 Precedent Decision 17/130 Decision which was ruled No Grounds to Proceed.

The full versions of this decision can be found on the ASA website:

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

Decision 17/130 concerned a website advertisement for Vodafone promoting a range of broadband packages, including the Ultrafast Broadband, Fibre X plan. The Complainant was concerned the advertisement was misleading to advertise a price and then amend it when customers entered their personal details.

The Chair of the Complaints Board ruled there were no grounds for the complaint to proceed. The Chair said the advertisement was unlikely to mislead consumers due to references to about location limitations which made it clear that the pricing and services available were dependent on the customer's address.

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: Buy and sell platform which requires a price to be posted
 - Medium: Facebook Marketplace
 - Audience: Facebook Marketplace users
 - Product: Storage bed

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was that Elegant Furniture has a storage bed for sale with a listed price of \$1, which was a technique which signalled to consumers that this was unlikely to be the actual price. This takeout was confirmed by the Advertiser in the details section of the advertisement by stating, "Price is not \$1."

Is the advertisement likely to mislead, deceive or confuse consumers?

The Complaints Board agreed the advertisement was unlikely to mislead or deceive consumers. The Board noted the Advertiser's response regarding the range of pricing options it had available, and that the Marketplace platform required the price field to contain a figure. They said that presented challenges for sellers who had multiple items/prices or who were giving away items for free.

The Complaints Board noted that sellers used a range of methods as a work-around for the platform's pricing policy, such as quoting \$1 or entering random figures such as \$123456 to indicate a non-standard price applied. The Complaints Board said that while it was not ideal for an advertisement to list a figure which did not reflect the actual price, most Marketplace users were likely to be familiar with the way sellers used the platform.

In this case, the Complaints Board took into account there was a clear disclaimer in the advertisement about the pricing not actually being \$1 as soon as a consumer looked for more details on the products for sale.

The Complaints Board said the advertisement did not reach the threshold to breach Rule 2(b) of the Advertising Standards Code.

The Complaints Board said the advertisement was Not Upheld given that it was unlikely to mislead most 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. 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.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

The advertiser is advertising the bed as \$1, however when you click onto the ad, it says the bed is not \$1. It's possible to advertise the full price in the listing however I believe the advertiser is using a bait and hook technique, or similar to mislead and deceive consumers, possibly to attract more attention. Seen on Facebook on August 18, 2022 at 6:20pm

Appendix 2

RESPONSE FROM ADVERTISER, ELEGANT FURNITURE

Thanks for your email.

My name is Yuvraj and I am a Director of Elegant Furniture. I would like to take this opportunity to defend this complaint and I will explain as follows.

We have been advertising on social media especially on Facebook since 2021 and not all of our ADS have \$1 price.

We only put \$1 in price space when we advertise a product which comes in different sizes because FB price space doesn't allow us to put all the different prices in that space so we just put \$1 but we always mention in the description that the item is not for \$1 and private message us to know the price.

99.9% people understand that thing and just message us to know the price and if they have more questions.

Few people asked us in the past that why we advertised with \$1 when the item is not for \$1. When we explained them the same reason so they understood and appreciated us.

We sell beds and headboards and you may know that they come in different sizes from Single to California king size so it's impossible to put the price for all the sizes in that space until Facebook allows.

Below is our website link for the same product where you'll see we have created an option for our customers to choose and view prices for different sizes.

<https://elegantfurniture.co.nz/product/storage-bed-base-with-gaslift/>

I have also noticed that most of the other retailers are advertising their products on Facebook with same way so that proves we're not doing anything different or wrong because our products come in different sizes.

Moreover, more than 200 people message us to know the price for the size they need and every day we chat with more than 200 people through our Facebook marketplace advertisement.

Please let me know if you need a screenshot of those chats or have any questions.