

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Derek Govender
Advertiser	Jobplacements.com
Consumer/Competitor	Consumer
File reference	Jobplacements.com – Derek Govender – 08-01-19
Outcome	Upheld
Date	18 February 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Derek Govender against the email advertising of Jobplacements.com.

Description of the advertising

The advertisement takes the form of an email that list a number of jobs based on search criteria that the Complainant has specified.

Complaint

The Complainant alleges, in essence, that the advertised jobs have either expired or are non-existent. He pointed out the challenges faced by job seekers in accessing the internet, and the frustration experienced when advertised jobs turn out to be unavailable.

Response

Despite all reasonable efforts, the advertiser did not respond to the complaint.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Misleading claims – Clause 4.2.1 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Jurisdiction

The Directorate notes that the Advertiser has not responded to the complaint.

The Directorate will therefore work on an assumption that the Advertiser does not consider itself bound by the ARB. In this regard we note as follows:

The Memorandum of Incorporation of the ARB states:

“3.3 The Company has no jurisdiction over any person or entity who is not a member and may not, in the absence of a submission to its jurisdiction, require non-members to participate in its processes, issue any instruction, order or ruling against the non-member or sanction it. However, the Company may consider and issue a ruling to its members (which is not binding on non-members) regarding any advertisement regardless of by whom it is published to determine, on behalf

of its members, whether its members should accept any advertisement before it is published or should withdraw any advertisement if it has been published.”

In other words, if you are not a member and do not submit to the jurisdiction of the ARB, the ARB will consider and rule on your advertising for the guidance of our members.

The ARB will, however, rule on whatever is before it when making a decision for the guidance of its members. This ruling will be binding only on ARB members and on broadcasters in terms of the Electronic Communications Act.

The ARB will therefore proceed to consider this matter for the guidance of its members.

Merits

Clause 4.2.1 of Section II requires that advertising “should not contain any statement . . . which directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer.”

The Complainant has submitted that the advertising contains jobs that are not necessarily available.

In a situation like this, the Directorate would expect that Advertiser to provide proof that the advertised jobs are indeed always current listing that it has sourced; or an explanation as to what happens and how the service works; or any other defence in relation to the allegations.

In this case, the Directorate has nothing before it except the complaint. We therefore have no choice but to conclude that the complaint is correct and that the advertised jobs are not actually available.

Given this, we also have no choice but to conclude that the advertising is misleading and in breach of Clause 4.2.1 of Section II.

Sanction

Members of the ARB are instructed not to accept the advertising complained of for placement or dissemination until such time as they have provided proof that is acceptable to the ARB of the availability of the advertised jobs.