

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Mr. Ryan Whittaker
Advertiser	Onedayonly (Pty) Ltd
Consumer/Competitor	Consumer
File reference	144 – Onedayonly-Ryan Whittaker
Outcome	Upheld.
Date	4 April 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Mr Whittaker against a website advertisement by OneDayOnly that was accessed on the following link:

<https://www.onedayonly.co.za/stereo-car-hands-free-bluetooth-aux-audio-receiver-2.html>

Description of the advertising

The website advertises a sale of a Car Hands-Free Bluetooth Aux Audio Receiver and states the following regarding the price:

“SAVE 63%

Selling price is R149.00

Retail price R400.00”

Complaint

The Complainant submitted that OneDayOnly is making false claims on marked down prices for the Car Wireless Bluetooth Aux Audio Receiver Hand Free product. The website sells the advertised product at R149 which is a 63% mark down. However, when the Complainant searched other websites selling the same item, he found that the same product was sold for R112 at www.takealot.com and on www.greenleafhome.co.za it was sold at R149.

Response

The Respondent submitted that it is not members of ARB, nonetheless it wishes to respond to the complaint. It stated that the comparative retail price quoted is checked by its Buying Team by conducting comparative research before listing a retail price. It also submitted that its supplier provided a comparative retail price of R400 for the product being offered.

Furthermore, it indicated that at the time that the product was on promotion, the following comparative offers were reviewed by the buyer in judging the reasonability of the retail price supplied by the supplier:

- Quoted normal retail R450, selling at R379
https://www.takealot.com/techcollective-aux-to-bluetooth-3-0-audio-receiver-with-mic/PLID52687922?utm_source=rtbhouse&utm_medium=retargeting&utm_campaign=rtbhouse-retargeting;

- Quoted normal retail R429, selling at R379 <https://www.takealot.com/techadvantage-aux-to-bluetooth-3-0-audio-receiver-with-mic/PLID52539550>;
- Quoted normal retail R500, selling at R179 <https://www.takealot.com/rechargeable-car-bluetooth-hands-free-audio-receiver/PLID48439702>; and
- Selling at R522 <https://pmlinkshop.com/products/zforce-bt-aux-001-e-wireless-car-bluetooth-receiver-3-5-mm-aux-audio-stereo-music-hands-free-home-car-audio-adapter?variant=11855736766508>.

Based on the above, the Respondent argued that its buyer was happy that the quoted retail price of R400 was reasonable and the comparative retail was approved for use. The Respondent also submitted that the reality is that this is a fairly generic product that does present various importers with the opportunity to undercut the current retail pricing.

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.

Clause 4.2.1 of Section II of the Code deals states, *inter alia*, “Advertisements should not contain any statement or visual presentation which, directly or by implication,

omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer.”

The question before the Directorate is whether it is misleading for the advertisement to claim “save 63%” and to cross out R400, implying that it is the normal retail price.

The Respondent submitted evidence in support of its submissions, it provided the sources of the comparative research. The research shows that other companies selling the product in question claim different selling prices that range between R429 and R522.

The Directorate notes that it is not sufficient to support the price if other companies list it as a retail price, but *in fact* sell it at a discount. What the Directorate requires is that the product is in fact sold at some outlets at the listed normal retail price. The Takealot offers – which rather confusingly fluctuate from R139 to R500 as the normal selling price on the same product – are therefore not sufficient evidence of a normal retail price.

Putting other discounted offers aside, the Directorate finds itself torn. On one hand, the one link supplied by the Advertiser does indeed show what appears to be the same product marketed for R522. However, this was for an imported version of the product.

On the other hand, the Directorate was also able to find the product for R72 (https://dealnshare.co/products/bluetooth-car-audio-receiver?variant=26237846192192&utm_campaign=gs-2019-02-26&utm_source=google&utm_medium=smart_campaign&gclid=Cj0KCQjw1pblBRDSARIsACfUG12u-lp_GqAr4j4CmyzvlZCRYmMNUkboxmXlE7G3Fn6NfpvvmHAcLRXkaAu-9EALw_wcB) and R37,84 (https://www.gearbest.com/fm-transmitters-players/pp_009722694207.html?wid=1433363¤cy=ZAR&vip=2373337&gclid=Cj0KCQjw1pblBRDSARIsACfUG10xqRBhbhwLNxQwbq-0au9AUOxwG4tJPgIJUhKNULy899gD35JN4v0aAmAmEALw_wcB) and R150,30 (https://www.gearbest.com/chargers-cables/pp_1542953.html?wid=1433363¤cy=ZAR&vip=2373337&gclid=Cj0KCQjw1pblBRDSARIsACfUG12kuuUB1AQKI_cnjnu9CUYu91eebdxJg1HE-C_J33tMdMRhriLJEqkaAubnEALw_wcB) and R149

(https://www.bidorbuy.co.za/item/397526053/Smugg_Bluetooth_Receiver_and_Hands_Free.html?gclid=Cj0KCQjw1pblBRDSARIsACfUG10FNCLhRRTvObr4w9E0QOaBk7256qgQACS3TrcXqqwQVHkBSHH1ka4aAriQEALw_wcB).

In the circumstances, it would appear that the only time at which the product has a retail price of R400 or over is if it is imported directly for that sale.

The Directorate therefore agrees that the retail price of R400 is misleading and in breach of Clause 4.2.1 of Section II.

Sanction

The offer in question has in fact expired and no further steps are therefore necessary at this point. The Advertiser is advised to use this decision as guidance for future price sourcing.