

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Nicholas Shabangu
Advertiser	Safair Operations (Pty) Ltd
Consumer/Competitor	Consumer
File references	119 – FlySafair – Nicholas Shabangu – 18 – 02 - 19
Outcome	Dismissed
Date	12 March 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint by Nicholas Shabangu against the email advertising for the Respondent’s Wednesday’s Rush Hour Sale.

Description of the advertising

The advertising states “Today’s Rush Hour Sale! You have 1 hour to book a seat on flight FA 200, departing on 17 February AT 05:55 between Joburg and Cape Town for R399*.

Tickets are going to fly fast so you’ve got to act quickly!

Ready to rush? Click the button below to book now.”

Sale Terms and Condition states that:

- *“This sale takes place between 13:00 PM and 14:00 PM on Tuesday the 13th of February 2019*
- *The R399 one way offer is only applicable to JHB to CPT Flight FA 200 departing on the 17th of February 2019 at 05:55...”*

Complaint

The Complainant submitted that he always sees the Respondent advertising such good pricing, but when he goes into the respondent’s website he never see the advertised prices. The experience happened immediately after receiving communication from the Respondent.

Response

The Respondent submitted that the Complainant attempted to book the flight at 12:52 on the day in question. The advertising clearly stated that the special starts at 13:00 and ends at 14:00. The Complainant should have been to see the special on the respondent’s website when he visited the website again at 13:25.

It is therefore not true that the Respondent’s advertised special prices are not reflected or cannot be found on Respondent’s website.

The Respondent submitted to the Directorate a spreadsheet illustrating all sales made on the 13th of February for the particular departure (FA200 17 February 2019). The Respondent argued that perhaps Mr Shabangu failed to read the communication properly to seek the correct flight.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Misleading Claims - Clause 4.2.1 of Section II

Non – availability of advertised products – Clause 31 of Section III

Decision

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

The Complainant's submission is based on the allegation that the advertised price of R399 does not reflect on Respondent's website and this conduct constitutes false advertising.

The Directorate, having perused the spreadsheet provided by the Advertiser, is convinced that indeed the Advertiser sold tickets on the advertised special for R399 via its website. It is therefore apparent that the advertised special offer was available and accessible on Respondent's website at relevant times i.e between 13:00 – 14:00. In fact, it appears that some consumers were able to secure the advertised price after 14h00.

In the circumstances, the Directorate finds that the advertising is not misleading in terms of Clause 4.21 of Section II of the Code of Advertising Practice.

As the special offer was available on Respondent's website at relevant times, the Respondent's advertising is not in contravention of Clause 31 of Section III of the Code.