

## Decision of the ADVERTISING REGULATORY BOARD



Complainant	Nathan Pillay
Advertiser	Zando.co.za
Consumer/Competitor	Consumer
File reference	605 – Zando – Nathan Pillay
Outcome	Dismissed
Date	3 January 2020

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Nathan Pillay against online advertising for Adidas Caflaire shoes sold by Zando.

### Description of the advertising

The only version of the advertisement provided to the Directorate is the following:

ZANDO / MEN / SPORTS / SPORTS SHOES / COURT SHOES / CAFLAIRE SHOES

**ADIDAS PERFORMANCE CAFLAIRE SHOES**

**R 549**  
eB 7 190

CHOOSE SIZE

6 7 8 9 10 11 12

**ADD TO CART**

ADD TO WISHLIST

**\* FREE DELIVERY ON ORDERS IN SOUTH AFRICA**

**DETAILS**

Sleek and simple. Smooth leather and suede detailing give these shoes a clean, streamlined look for everyday wear.

## Complaint

In essence, the Complainant submitted that while the shoes were advertised for R549, and when he added them to his cart they were R549, an hour later they had gone up to R719. He believes this was because of his interest in purchasing the item.

## Response

Despite attempts, the ARB was unable to secure a response from the Advertiser.

## 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 Advertiser has not responded in this matter and the ARB will therefore assume that it does not consider itself bound by the ARB and the Code of Advertising Practice.

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

This is one of those matters where a lack of response from the Advertiser leaves the ARB Directorate in a position of having to piece together what happened in what may in fact have been a very simple situation.

The original version of the advertisement that the Complainant saw is not before the Directorate, and the Directorate does not know whether the version provided below by the Complainant is what was reflected all along, or if it changed.

The Complainant has shown that when he first selected the item, the price was R549:

### Cart

ITEM	SIZE & QUANTITY	PRICE
 <p><a href="#">Caflaire Shoes</a>  <i>5-7 Days Delivery</i>  In Stock!</p>	Size: 8 Qty: 1	R 549 eB 5 490

### Summary

<b>Subtotal</b>	R 549
<b>Standard Delivery</b> More Options	<b>Free</b>
<b>Total</b> Including all taxes	<b>R 549</b>

+ Do you have a **discount** code?

**SECURE CHECKOUT**

Continue Shopping

**Hassle-Free & Helpful Service**

FREE DELIVERY\*  
FREE RETURNS\*

**Multiple, Secure Payment Methods**



MasterCard, VISA, eB, EFT, COD, VISA Checkout

**Verified & Trusted Security Systems**

MasterCard SecureCode, Verified by VISA, AMERICAN EXPRESS SafeKey

However, by the time he captured the advertisement, it looked like this:

ZANDO / MEN / SPORTS / SPORTS SHOES / COURT SHOES / CAFLAIRE SHOES

### ADIDAS PERFORMANCE CAFLAIRE SHOES

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**DETAILS**

Sleek and simple. Smooth leather and suede detailing give these shoes a clean, streamlined look for everyday wear.

The first thing that the Directorate notes is that while it is true that the price advertised in this version is R549, the advertisement also reflects an eBucks price of 7190, which is the equivalent of R719, the price that the Complainant was eventually charged.

The second thing that the Directorate picked up is that when the Complainant initially started the checkout process, while the price reflected R549, the total reflected R719. Then, when he went to pay a bit later, the price reflected as R719 consistently:

3
Confirm your order



CAFLAIRE SHOES

1 x 549 = 549.00

Size: 8

Color: black

Quantity: 1


**Delivery #1**  
Choose a shipping method  
Standard (5 to 7 business days, FREE)

Please note that we are unable to offer any of our express delivery options during our Black Friday sale.

Add Discount Code(s)

Subtotal	R 719
Delivery 1 (Standard)	Free!
<b>Total</b>	<b>R 719</b>

3
Confirm your order



CAFLAIRE SHOES

1 x 719 = 719.00

Size: 8

Color: black

Quantity: 1

**Delivery #1**  
Choose a shipping method  
Standard (5 to 7 business days, FREE)

Please note that we are unable to offer any of our express delivery options during our Black Friday sale.

Add Discount Code(s)

Subtotal	R 719
Delivery 1 (Standard)	Free!
<b>Total</b>	<b>R 719</b>

It would therefore appear to the Directorate that one of two things happened in this matter.

The first is that the issue in this matter arose from a technical error or mistake, that was subsequently corrected. The price was, in fact, always R719, but for some reason the advertisement reflected the cash price (but not the eBucks price) incorrectly.

The second possibility is that the Complainant's time delay coincided with an update to the website, and that the series of changes seen in the screenshots reflects the various steps that occurred as the information was updated.

In the absence of a response, the Directorate has no way of knowing which of these, if either, are what actually occurred.

Finally, the Directorate notes that the product is no longer for sale on the Advertiser's website.

The main objective of the Advertising Regulatory Board is to protect consumers from advertising that contravenes the Code of Advertising Practice. In the vast majority of instances where advertising is found to contravene the Code, the ARB will require the advertising to be withdrawn or amended.

This matter seems to have potentially arisen out of an error or situation that was corrected; and the advertising no longer appears on the website.

The ARB Directorate is therefore satisfied that the matter has been resolved.