

1 June 2021

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

Official Information Act #20.203 – Magnamail Pty Limited

1. We refer to your request received on 5 May 2021 for:
 - 1.1 The degree the Commerce Commission (**Commission**) looked into [REDACTED] complaint (ENQ0552244) about Magnamail Pty Limited (**Magnamail**); and
 - 1.2 Details of complaints received by the Commission about Magnamail.
2. We have treated this as a request for information under the Official Information Act 1982 (**OIA**).

The Commission's complaints screening process

3. To provide context, we have outlined the Commission's complaint screening process below.
4. When a consumer contacts the Commission with a complaint about a trader, this is logged in the Commission's complaint database.
5. The Commission receives thousands of complaints every year. Each complaint is initially assessed by the Enquiries Team on the basis of the information available at the time. When conducting this initial assessment, the Enquiries Team considers:
 - 5.1 the likelihood of a breach of the relevant legislation (the Fair Trading Act 1986, Credit Contracts and Consumer Finance 2003, and the Commerce Act 1986);

- 5.2 the Commission's Enforcement Response Guidelines¹, and;
- 5.3 the Commission's strategic priorities and resourcing constraints.
6. The Commission has the power to act on complaints but is not required to take action in relation to all possible breaches of the legislation that we enforce.
7. If a report is deemed to meet certain criteria, it is reviewed by a panel of managers and subject matter experts from within the relevant Branch. The panel decides which reports are to be prioritised for further consideration by the Branch.
8. This process enables us to identify reports that best reflect our current enforcement priorities.² The outcomes of the process are not final and we may revisit any report at a later stage, should we wish to reconsider the issues it presents.

Our response

9. We have decided to grant your request.
10. We have provided the Commission's assessment of the complaint below:

ENQ0552244 17.03.2021
<p>Thx [trader history]: Many similar. Recent complaints all NFA [No Further Action].</p> <ul style="list-style-type: none"> - The issue has been to screening before. Most recently addressed at screening on 6/08/19 and was closed NFA due to limited detriment and a need to balance resources available - Closed project (14617) resulting in CAL [Compliance Advice Letter] for similar conduct - issued 21/04/2014. <p>Assessment: The complainant alleges the trader took advantage of their [REDACTED] vulnerability and sent fake mail for prize offers and mail-order bargains. The complainant also says they used aggressive sales tactics and would call if their [REDACTED] failed to make an order. Following this the complainant's [REDACTED] then received similar mail claiming they had won a prize.</p> <p>The complainant has included mail addressed to their [REDACTED]. The mail contains several representations to the affect as seen below.</p> <ul style="list-style-type: none"> - "You have definitely won" - "A prize valued up to \$20,000 cash is on hold for [REDACTED]"

¹ Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/>

² For further information, see: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-criteria/>

- "Guaranteed winner"

The letter tells the recipient to claim your prize you must return the attached form and place an order.

Trader history shows that recipients have not won a prize or may only be placed in a draw to win a prize.

There has been 7 further complaints on this issue since it was last raised at screening. Recommend that this go to screening for visibility but NFA H [Limited detriment], W [Other priorities/need to balance resources available] along with previous reports.

Recommendation: For screening assessment, NFA, H, W

Screening Panel

13.04.2021

NFA, H, W

11. We have received 71 complaints about Magnamail.³ We have provided details of these complaints at **Attachment A**. We have not included [REDACTED] complaint in this list.
12. Please note the Commission will be publishing this response to your request on its website. Your personal details and the complainant's details (ENQ0552244) will be redacted from the published response.
13. Please do not hesitate to contact us at oa@comcom.govt.nz if you have any questions about this request.

Yours sincerely

Mary Sheppard
OIA Coordinator

³ At 17 May 2021.

Attachment A – Summaries of complaints about Magnamail

Key	
Outcome	
NFA	No Further Action
CAL	Compliance Advice Letter
Enforcement Criteria	
G	Conduct is unclear/unlikely breach
W	Other priorities/need to balance resources
H	Limited detriment
V	Issues may not be timely
C	No or limited trader history
Q	Appropriate for other agency or private action

Details	Key issue	Outcome
Number: ENQ0270959 Date: 11/01/2012	Failure to deliver within the specified timeframe Lack of communication	NFA
Number: ENQ0271150 Date: 19/01/2012	Prize revoked due to technical error	NFA
Number: ENQ0272353	Misleading consumers by stating they have won a prize	NFA

Date: 2/03/2012	Misleading consumers about the amount that must be spent on goods in order to redeem prize	
Number: ENQ0272996 Date: 27/03/2012	Misleading consumers on the quality of prizes	NFA
Number: ENQ0273378 Date: 12/04/2012	Misleading consumers on the nature and quality of prizes Misleading consumers by stating they have won a prize	NFA
Number: ENQ0273559 Date: 18/04/2012	Targets elderly and vulnerable consumers Misleading consumers by stating they have won a prize when instead they have been entered into the draw to win	NFA
Number: ENQ0276151 Date: 26/07/2012	Product and/or prize not received	NFA
Number: ENQ0277852 Date: 4/10/2012	Advertised products not in stock	Investigated, NFA
Number: ENQ0277863 Date: 5/10/2012	Misleading consumers by stating they have won a prize	NFA

Number: ENQ0278652 Date: 6/11/2012	Notified that product is out of stock after purchase Failure to refund full amount	Investigated, NFA
Number: ENQ0280574 Date: 31/01/2013	Falsely advertising products	NFA
Number: ENQ0283084 Date: 16/05/2013	Misleading consumers by stating they have won a prize	NFA
Number: ENQ0283388 Date: 29/05/2013	Misleading consumers by stating they have won a prize	NFA
Number: ENQ0283950 Date: 24/06/2013	Targets elderly and vulnerable consumers Ethical concerns regarding business practice	NFA
Number: ENQ0284427 Date: 12/07/2013	Misleading consumers by stating they have won a prize	NFA, W

<p>Number: ENQ0285390</p> <p>Date: 26/08/2013</p>	<p>Misleading consumers by stating they have won a prize</p>	<p>NFA</p>
<p>Number: ENQ0286501</p> <p>Date: 10/10/2013</p>	<p>Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win</p>	<p>NFA W</p>
<p>Number: ENQ0286670</p> <p>Date: 18/10/2013</p>	<p>Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win</p>	<p>Investigated, CAL</p>
<p>Number: ENQ0288644</p> <p>Date: 10/01/2014</p>	<p>Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win</p>	<p>Investigated, CAL</p>
<p>Number: ENQ0289722</p> <p>Date: 19/02/2014</p>	<p>Misleading customers by offering 12 month money back guarantee without stating that postage is payable for returned goods</p>	<p>NFA</p>
<p>Number: ENQ0291730</p> <p>Date: 30/04/2014</p>	<p>Misleading consumers by stating they have won a prize</p> <p>Concern about fine print</p> <p>Misleading as to the value of products and/or prizes</p>	<p>Investigated, CAL</p>
<p>Number: ENQ0291778</p>	<p>Different prize received</p>	<p>Investigated, CAL</p>

Date: 1/05/2014		
Number: ENQ0293872 Date: 7/07/2014	Misleading consumers by stating they have won a prize	Investigated, CAL
Number: ENQ0294750 Date: 31/07/2014	Allegation of misleading and deceptive conduct	Assessed by Screening Panel, NFA
Number: ENQ0296394 Date: 25/09/2014	Allegation of misleading and deceptive conduct	Assessed by Screening Panel, NFA, G
Number: ENQ0296754 Date: 7/10/2014	Misleading consumers to believe prize has been won	NFA
Number: ENQ0296794 Date: 8/10/2014	Misleading consumers to believe prize has been won Unsolicited mail	Assessed by Screening Panel, NFA, V
Number: ENQ0296955 Date: 14/10/2014	Allegations of receiving misleading promotional material	Assessed by Screening, NFA, V

Number: ENQ0303657 Date: 19/05/2015	Delayed delivery of products and/or prizes	Assessed by Screening, NFA, G, W
Number: ENQ0304032 Date: 28/05/2015	Misleading consumers by stating they have won a prize	Assessed by Screening, NFA, G
Number: ENQ0304105 Date: 29/05/2015	Misleading consumers by stating they have won a prize Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win	NFA
Number: ENQ0304214 Date: 3/06/2015	Concern that goods are not worth the amount charged	NFA
Number: ENQ0304993 Date: 26/06/2015	Misleading consumers by stating they have won a prize Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win	Assessed by Screening Panel, NFA, G, W
Number: ENQ0305614 Date: 16/07/2015	Misleading consumers by stating they have won a prize	Assessed by Screening Panel, NFA

<p>Number: ENQ0306530</p> <p>Date: 18/08/2015</p>	<p>Misleading consumers by stating they have won a prize</p> <p>Concerns about fine print</p>	<p>NFA</p>
<p>Number: ENQ0309552</p> <p>Date: 17/11/2015</p>	<p>Misleading consumers by stating they have won a prize</p> <p>Lack of communication</p> <p>Targets elderly and vulnerable consumers</p>	<p>NFA</p>
<p>Number: ENQ0311427</p> <p>Date: 26/01/2016</p>	<p>Misleading consumers by stating they have won a prize</p> <p>Failure to refund full amount</p> <p>Unsolicited mail</p> <p>No communication from trader</p>	<p>NFA, Q</p>
<p>Number: ENQ0312705</p> <p>Date: 9/03/2016</p>	<p>Misleading consumers by stating they have won a prize</p>	<p>Assessed by Screening Panel, NFA, G, Q</p>
<p>Number: ENQ0313822</p> <p>Date: 19/04/2016</p>	<p>Misleading consumers by stating they have won a prize</p>	<p>NFA, V, W</p>
<p>Number: ENQ0314939</p> <p>Date: 26/05/2016</p>	<p>Misleading consumers by stating they have won a prize</p>	<p>NFA</p>

Number: ENQ0316020 Date: 4/07/2016	Unsolicited mail	NFA, G
Number: ENQ0316091 Date: 6/07/2016	Misleading consumers by stating they have won a prize Targets elderly and vulnerable consumers	NFA, Q
Number: ENQ0318227 Date: 20/09/2016	Misleading consumers by stating they have won a prize	NFA
Number: ENQ0318999 Date: 14/10/2016	Misleading consumers to believe they have won a prize when instead they have been entered into a draw to win	Assessed by Screening Panel, NFA, G, W
Number: ENQ0321898 Date: 1/02/2017	Product and/or prize not received	NFA
Number: ENQ0501714 Date: 29/05/2017	Product and/or prize not received Notified that product is out of stock after purchase	NFA, C
Number: ENQ0502097	Unsolicited mail	NFA, V

Date: 12/06/2017		
Number: ENQ0502944 Date: 3/07/2017	Failure to deliver within the specified timeframe	NFA, G
Number: ENQ0503896 Date: 27/07/2017	Unsolicited mail Misleading consumers by stating they have won a prize	NFA, G
Number: ENQ0503989 Date: 31/07/2017	Targets elderly and vulnerable consumers Misleading consumers by stating they have won a prize	NFA, G, V
Number: ENQ0504683 Date: 21/08/2017	Failure to stop sending unsolicited mail after being asked to Misleading consumers by stating they have won a prize	NFA, G
Number: ENQ0505181 Date: 5/09/2017	Unsolicited goods sent to consumer to be purchased or sent back at the customers expense	Assessed by Screening Panel, NFA, G
Number: ENQ0505298 Date: 8/09/2017	Misleading consumers by stating they have won a prize	Assessed by Screening Panel, NFA, G

<p>Number: ENQ0507019</p> <p>Date: 1/11/2017</p>	<p>Misleading consumers by stating they have won a prize</p>	<p>Assessed by Screening Panel, NFA</p>
<p>Number: ENQ0513485</p> <p>Date: 15/05/2018</p>	<p>Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win</p>	<p>Assessed by Screening Panel, NFA, G</p>
<p>Number: ENQ0517900</p> <p>Date: 11/09/2018</p>	<p>Misleading consumers by stating they have won a prize</p> <p>Targets elderly and vulnerable consumers</p>	<p>NFA, G</p>
<p>Number: ENQ0518067</p> <p>Date: 20/09/2018</p>	<p>Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win</p>	<p>Assessed by Screening Panel NFA, H, W</p>
<p>Number: ENQ0519683</p> <p>Date: 5/11/2018</p>	<p>Unsolicited mail</p> <p>Concerns about advertising material prominently expressing the recipient as being a winner</p> <p>Misleading consumers to believe they have won a prize when instead they have been entered into the draw to win</p>	<p>NFA, H, W</p>
<p>Number: ENQ0523492</p> <p>Date: 27/02/2019</p>	<p>Unsolicited mail</p> <p>Misleading consumers to believe prize has been won when the customer has been entered into the draw to win</p>	<p>NFA, G, W</p>

	Misleading consumers by stating they have won a prize	
Number: ENQ0524288 Date: 22/03/2019	Misleading consumers by stating they have won a prize	NFA, G, W
Number: ENQ0526997 Date: 17/06/2019	Misleading consumers by stating they have won a prize	Assessed by screening panel, NFA, H, W
Number: ENQ0530760 Date: 17/09/2019	Misleading consumers by stating they have won a prize	NFA, G, W
Number: ENQ0532723 Date: 10/11/2019	Refusal to replace faulty good after 12 months Misleading as to the quality of goods	NFA, G
Number: ENQ0535780 Date: 14/02/2020	Unclear what the complaint is about	NFA, G
Number: ENQ0536825 Date: 13/03/2020	Products and/or prize not received Misleading consumers by stating they have won a prize Targets elderly and vulnerable consumer	NFA, G, W

	Requesting more money for order	
Number: ENQ0543970 Date: 21/08/2020	Unsolicited mail Misleading consumers by stating they have won a prize	NFA, G, W
Number: ENQ0549531 Date: 7/01/2021	Misleading consumer to believe prize has been won Targets elderly/vulnerable consumers Failure to stop sending unsolicited mail after being asked to	NFA, G, W
Number: ENQ0550542 Date: 2/02/2021	Misleading consumers to believe prize has been won when the customer has been entered into the draw to win	NFA, G
Number: ENQ0553093 Date: 12/04/2021	Unsolicited mail Failure to stop sending unsolicited mail after being asked to	Not yet assessed
Number: ENQ0553610 Date: 27/04/2021	Unsolicited mail Failure to stop sending unsolicited mail after being asked to	Not yet assessed