

Reference 12.01/16355

26 July 2017

Rankers.co.nz Limited  
4 Sirrah Street  
Okitu, Gisborne, 4010  
New Zealand

Email: [cymen@rankers.co.nz](mailto:cymen@rankers.co.nz)

Attention: Mr Cymen Crick

Dear Mr Crick

### **Fair Trading Act 1986: Warning**

1. The Commerce Commission (the **Commission**) has been investigating Rankers.co.nz Limited (**Rankers**) under the Fair Trading Act 1986 (the **Act**). We have now completed our investigation and are writing to you to alert you to our concerns.
2. In summary, the Commission considers that Rankers made representations that were liable to mislead the public and/or were false or misleading on its website, [www.rankers.co.nz](http://www.rankers.co.nz) (the **website**). Specifically, representations were made that the information on Rankers' website was independent, impartial and free from any bias. In the Commission's view, Rankers applied their own bias, determining which campervan companies appeared in the main ranking table, by excluding companies that did not pay commissions to Rankers for bookings. In the Commission's view, Rankers' conduct was likely to have breached sections 11 and/or 13(b) of the Act.
3. Section 11 of the Act prohibits traders from engaging in conduct that is liable to mislead the public as to the nature, characteristics or suitability for a purpose of services.
4. Section 13(b) of the Act prohibits traders from making false or misleading representations that services are of a particular kind, standard or quality.
5. We note that changes have been made to Rankers' website. We recommend that you seek legal advice about complying with the Act.

### **The investigation**

6. The Commission received complaints from campervan companies, who were concerned about consumers being misled by representations that appeared on

Rankers' website, as not all campervan companies that had reviews and ranking scores on Rankers were included in the main ranking table.

7. Rankers' website contained the following representations about information that appeared on its website:
  - 7.1 *"The Best of NZ are the top ranking companies, activities and experiences based on trusted independent traveller feedback."*
  - 7.2 *"NZ Campervan companies ranked, based on 10 years of customer feedback. The trusted way to learn what you need to know before you book."*
  - 7.3 *"What is Rankers? – This is a website where you can rank and review New Zealand tourism experiences. Rankers is independent, unbiased information by the traveller, for the traveller."*
  - 7.4 *"What does the ranking score percentage mean? The ranking score percentage is used to sort experiences in ranking tables. It is not necessarily a direct measurement of the quality of a particular experience as rated by its customers. The ranking score may include adjustments for credibility and relevancy and is a useful tool to allow travellers to find the best experiences with confidence."*
  - 7.5 *"How is an experience's ranking score calculated? ..... The result is that experiences with a decent number of recent and high-rating reviews will tend to sit higher in the ranking tables."*
  - 7.6 *"How can I trust the information on Rankers? .... Trusted, unbiased information is the cornerstone of Rankers – we'll make sure it stays the way."*
  - 7.7 *"How can Rankers Bids guarantee the best price?... Independent – Free of bias toward any company." (collectively the **representations**)*
8. After becoming aware of the Commission's investigation, Rankers made initial changes to some of the representations on its website, including the addition of the following statement at the top of the campervan ranking table:
 

*"This ranking table doesn't show all campervan companies in NZ, but does show over 90% of them."*
9. On 15 June 2017, Rankers informed the Commission that:
  - 9.1 in 2016, Rankers changed their business model for campervans, to act as a booking platform, similar to the Air BnB model, where the booking facilitation was done through Rankers' website. It was at this time Rankers decided to remove companies from their ranking table who did not agree to be "bookable" through their system and pay a commission;

- 9.2 prior to the changes in 2016, all campervan companies that had been reviewed appeared on the ranking table; and
- 9.3 it never amended representations on its website that might have created the impression that all reviewed companies appeared on the ranking table.
- 10. Rankers advised the Commission that it would make further revisions to its FAQs sections and the other pages of its website where potentially false or misleading representations have appeared.
- 11. On 7 July 2017, Rankers advised the Commission that its revisions to its website in response to our concerns had now been completed.

### **The Commission's view**

- 12. In this case, the Commission's view is that Rankers' conduct was likely to have breached sections 11 and/or 13(b) of the Act.
- 13. We consider that these representations created the impression that all of the information on Rankers' website, including the campervan ranking table, was independent, impartial and free from any bias. The website did not clearly disclose the commercial relationship it had with the campervan companies that appeared on the ranking table, and that campervan companies did not appear on the ranking table which were not in a commercial relationship with Rankers.
- 14. Rankers should have been clear about the commercial relationship it has with some campervan companies, and how that impacted on who appeared in the ranking table.
- 15. We recommend that you seek legal advice and encourage you to regularly review your compliance procedures and policies.
- 16. While we will not be taking any further action against Rankers at this time, we will take this warning into account if this conduct continues or if you engage in similar conduct in the future.
- 17. We may also draw this warning to the attention of a court in any subsequent proceedings brought by the Commission against Rankers.
- 18. This warning letter is public information. We may make public comment about our investigations and conclusions, including issuing a media release or making comment to media.

### **The Commission's role**

- 19. The Commission is responsible for enforcing and promoting compliance with a number of laws that promote competition in New Zealand, including the Act. The Act

prohibits false and misleading behaviour by businesses in the promotion and sale of goods and services.

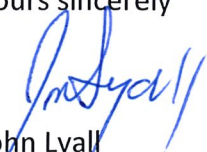
### Penalties for breaching the Fair Trading Act

20. Only the courts can decide if there has actually been a breach of the Act. The court can impose penalties where it finds the law has been broken. A company that breaches the Act can be fined up to \$600,000 and an individual up to \$200,000 per offence.
21. You should be aware that our decision to issue this warning letter does not prevent any other person or entity from taking private action through the courts.

### Further information

22. We have published a series of fact sheets and other resources to help businesses comply with the Act and the other legislation we enforce. These are available on our website at [www.comcom.govt.nz](http://www.comcom.govt.nz). We encourage you to visit our website to better understand your obligations and the Commission's role in enforcing the Act.
23. You can also view the Act and other legislation at [www.legislation.co.nz](http://www.legislation.co.nz).
24. Additionally, the International Consumer Protection and Enforcement Network (ICPEN) published a set of guidelines with respect to online reviews and endorsements. The first of these guidelines is titled "*ICPEN Guidelines for Review Administrators*", which is available at [www.icpen.org/initiatives](http://www.icpen.org/initiatives). We encourage you to review this, and ensure that you comply.
25. Thank you for your assistance with this investigation. Please contact me on 09 919 4441 or by email at [John.Lyall@comcom.govt.nz](mailto:John.Lyall@comcom.govt.nz) if you have any questions about this letter.

Yours sincerely



John Lyall  
Manager – Consumer  
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