

14 September 2020

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

### **Official Information Act #20.007 - Unsubstantiated Environmental Claims**

1. Further to our letter of 5 August 2020, the information you have requested is outlined below.
2. Section 12A of the Fair Trading Act 1986 (FTA) deals with unsubstantiated representations.<sup>1</sup> The section came into force on 17 June 2014.<sup>2</sup>
3. The Commission has had two section 12A FTA matters dealing with unsubstantiated representations relating to environmental claims which resulted in a fine or warning.

#### **Unsubstantiated environmental claims - fine**

4. The section 12A FTA matter resulting in a fine relates to Kiwipure Limited (Kiwipure). Kiwipure was fined \$162,000 for making unsubstantiated claims about the benefits and effectiveness of its magnetic water filtration system, including (relevant to environmental claims) that it:<sup>3</sup>
  - 4.1 saves electricity;
  - 4.2 uses less washing powder;
  - 4.3 invigorates your garden; and
  - 4.4 uses less concentration when spraying weeds.

<sup>1</sup> <http://www.legislation.govt.nz/act/public/1986/0121/latest/DLM6156605.html>

<sup>2</sup> We have treated the relevant time period for your request as 17 June 2014 - 8 July 2020.

<sup>3</sup> Commerce Commission v Kiwipure Limited [2019] NZDC 12149 at [7].

5. You can access the Kiwipure judgment and sentencing notes in the Case Register on our website.<sup>4</sup>

### **Unsubstantiated environmental claims - warning**

6. The section 12A matter resulting in a warning relates to Auckland Commercial Solar Limited, trading as Supercharged Energy. The warning letter (dated 3 June 2020) will be published in the Case Register on our website shortly.<sup>5</sup>
7. We found that Supercharged was likely to have breached section 12A of the FTA by (relevant to environmental claims) making unsubstantiated claims on its website at [www.superchargedenergy.co.nz](http://www.superchargedenergy.co.nz) about the total carbon emissions saved as a result of its installations.
8. A warning is not a finding of non-compliance; only Courts can decide whether a breach of the law has occurred.

### **Further information**

9. There are 13 other matters relevant to unsubstantiated representations (but not relevant to environmental claims); you can access these in the Case Register on our website by filtering to section 12A of the FTA.
10. Please note the Commission will be publishing this response to your request in the OIA Register on our website.<sup>6</sup> Your personal details will be redacted from the published response.
11. Please do not hesitate to contact us at [oja@comcom.govt.nz](mailto:oja@comcom.govt.nz) if you have any questions about this request.

Yours sincerely

*Mary Sheppard*  
OIA Coordinator

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<sup>4</sup> <https://comcom.govt.nz/case-register/case-register-entries/kiwipure-limited>

<sup>5</sup> <https://comcom.govt.nz/case-register>

<sup>6</sup> <https://comcom.govt.nz/about-us/requesting-official-information/oia-register>