

| | |
|-------------------------|-----------------------------|
| COMPLAINT NUMBER | 16/344 |
| COMPLAINANT | D. Ryan |
| ADVERTISER | Fluoride Free NZ |
| ADVERTISEMENT | Fluoride Free NZ Television |
| DATE OF MEETING | 26 September 2016 |
| OUTCOME | No Grounds to Proceed |

Advertisement: The television advertisement for Fluoride Free NZ showed a selection of flags of countries without water fluoridation and stated only 4% of the world fluoridates, including New Zealand. It then referred to the 'Child Smile' project in Scotland saving millions of dollars. The advertisement ends by posing the question "why is New Zealand still adding fluoride chemicals to our drinking water?" and encouraged viewers to "find the facts" via the Fluoride Free NZ website (www.fluoridefree.org.nz).

The Chair ruled there were no grounds for the complaint to proceed.

Complainant, D. Ryan, said in part: Fluoride Free NZ's two TV adverts breach the following rules of the Advertising Code of Ethics: 2. Truthful Presentation; 3. Research, Tests and Surveys; 6. Fear; 11. Advocacy Advertising:

Context: There is an upcoming proposed law change regarding water fluoridation, which would pass on ownership of fluoridation from DHBs to local councils. FFNZ have said that they would like this new law to be scrapped and this is the reason for the TV adverts.

Video 1 breaches the ASA's Code of Ethics Rule 2, regarding truthful presentation:

A number of Fluoride Free NZ's statements in this video are likely to deceive or mislead the average member of the public into believing that water fluoridation is not a valuable public health measure. Here are transcripts of statements from the video that are likely to mislead:

1) "Europeans... teeth are just as good, if not better than, ours". This is incorrect. A 2015 report(<https://www.mah.se/CAPP/Country-Oral-Health-Profiles/According-to-Alphabetical/Global-DMFT-for-12-year-olds-2011/>) shows NZ at 1.1 DMFT (Decayed, Missing, and Filled Teeth - a standard measure of dental hygiene) while Europe is at 1.81 DMFT. The NZ population's teeth are measurably healthier. This is the same reliable data that the World Health Organization (WHO) uses.

2) "The Childsmile programme in non-fluoridated Scotland saves millions of dollars". This is misleading and suggests that the Childsmile programme saves money compared to water fluoridation. However, this is not the case and the Childsmile program is much more expensive than an equivalent water fluoridation program. To quote from the American Fluoridation Society:

“The British Dental Association of Scotland believes that for best dental health communities should also fluoridate. The Royal College of Surgeons dental surgeons in England advocate for both more fluoridation as well as services similar to Childsmile in Scotland. Experts know that ChildSmile is not a cost-effective nor adequate substitute for water fluoridation.

The annual cost of ChildSmile in Scotland is \$186 US per child per year. The average cost per person of CWF per child if Scotland was fluoridating their water system would be approximately 59 cents US per person per year.

Child Smile benefits only high risk children and is over 300 times more expensive. In comparison, fluoridation is much more affordable and benefits all citizens.”
<http://americanfluoridationsociety.org/wp-content/uploads/2016/03/2016-ChildSmile-AFS-One-Pager.pdf>

3) “The Childsmile programme... is giving Scottish kids better teeth than Kiwi kids.” The Childsmile programme was only fully introduced in 2011 (www.childsmile.org.uk/professionals/about-childsmile/how-did-it-start.aspx). There are a number of elements of the Childsmile programme that NZ has already implemented. Saying the program is the reason why Scottish kids’ teeth are better is misleading.

Video 1 also breaks the ASA’s Ethics Code Rule 3, Research, Tests and Surveys:

1) The graph that is shown (“Tooth decay rates dropping: fluoridated and non-fluoridated”), is simplistic, cherry picked, and misleading. It makes out that, since the DMFT measure has been dropping in all countries since the 1980’s, fluoridation isn’t needed. Without a statistical analysis, it’s nearly impossible to know if the amount of tooth decay in fluoridated countries is decreasing faster than in non-fluoridated countries. For the countries they list in this graph, some use other fluoride methods (salt, milk, etc) to protect teeth, or have naturally occurring beneficial fluoride levels in their water.

Video 1 breaks the Ethics Code Rule 11, Advocacy Advertising:

1) Given the factual issues listed above, opinion has not been clearly distinguished from fact in this video.

2) The identity of the advertiser is not clear because all that is shown is a website address to identify Fluoride Free NZ, along with a voiceover saying to “visit fluoridefree.org.nz”. This link is only shown for two seconds and is followed by the Givealittle and Spark logos (which are shown for longer than the Fluoride Free NZ website address). This is likely to confuse viewers as to who is providing the advertisement.

The relevant provisions were Basic Principle 4, Rules 2, 3, 6 and 11 of the Code of Ethics.

The Chair noted the concerns from the Complainant that the advertisement was misleading and used fear to scare people into going fluoride free.

The Chair noted that there had already been a ruling made in relation to this particular advertisement, Decision 16/285 which said in part:

“Turning to the advertisement before her, the Chair confirmed that the identity of the Advertiser was clear and viewers were invited to go the website which had more information. Therefore, the Chair said the advertisement fulfilled the identification requirement in Rule 11.

“The Chair also considered previous decisions in relation to Fluoride Free NZ and in particular precedent (15/389 Appeal 15/020) which stated:

“As part of a broad review of the application of the advocacy principles to this type of advertising, the Appeal Board confirmed the spirit of the Code was more important than technical breaches. In particular, where there is clear information identifying an advertisement, the name of the Advertiser and their position in the debate – a liberal interpretation to Code compliance will be made.

The Appeal Board emphasised the existence of contradictory evidence – even if that evidence was against the view of the consensus - did not mean the advertisement was misleading as it was the right of Advertisers in a democratic society to interpret and impart its own opinions under Rule 11.”

In regard to the complaint about misleading claims, the Chair said the above Decisions applied to the complaint before her. The Chair confirmed that so long as the identity and position of the Advertiser was clear in matters where there were strong differing opinions supported by factual information, an advertisement was unlikely to mislead consumers.

The Chair then turned to consider whether the advertisement exploited the superstitious or, without justifiable reason, played on fear. The Chair noted the advertisement presented information from a particular perspective and posed the question, “why is New Zealand still adding fluoride chemicals to our drinking water?”, encouraging people to visit the Advertiser's website to find out more. The Chair acknowledged the advertisement could be considered inflammatory to people who held an opposing view, however, it did not reach the threshold to unjustifiably play on fear.

In conclusion, the Chair said when the advertisement was considered in its entirety, it was clearly an advocacy advertisement presented from a particular perspective and was unlikely to mislead consumers. The Chair also said the advertisement did not reach the threshold to be considered to play on fear. She ruled the advertisement was not in breach of Rules 2, 6 or 11 of the Code of Ethics and had been prepared with a due sense of social responsibility, required by Basic Principle 4 of the Code of Ethics.

The Chair said the previous ruling and Appeal Board Decision applied to the advertisement before her. She confirmed the identity of the advertiser and their position on fluoride was clear. While the Chair acknowledged the Complainant's opposing view, the advertisement before her was not in breach of Rules 2, 3, 6 and 11 of the Code of Ethics.

The advertisement had been prepared with a due sense of social responsibility in accordance with Basic Principle 4, accordingly, the Chair ruled there were no grounds for the complaint to proceed.

Chair's Ruling: Complaint **No Grounds to Proceed.**