

<b>COMPLAINT NUMBER</b>	17/032
<b>APPEAL NUMBER</b>	17/003
<b>APPLICANT</b>	L Brooks
<b>ADVERTISER</b>	Freeview NZ
<b>ADVERTISEMENT</b>	Freeview NZ, Television
<b>DATE</b>	20 February 2017
<b>OUTCOME</b>	Declined

## **SUMMARY**

The Chair of the Complaints Board ruled on 30 January 2017 the complaint from L Brooks about Freeview NZ's television advertisement featuring a woman smelling yellow flowers planted in the middle of a traffic island, and in the following scene, giving a bunch of yellow flowers to a man in an office, had No Grounds to Proceed. The Applicant appealed the Ruling.

This application was considered by the Chairperson of the Appeal Board. She noted the Applicant's view that the decision should be appealed because "theft from Council gardens is against community standards therefore it is socially irresponsible".

The Chairperson considered this point but said there was nothing in the appeal application which met any of the grounds on which an appeal could be accepted.

The Chairperson ruled the appeal application was Declined.

Please note this headnote does not form part of the Decision.

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## **CHAIRPERSON'S RULING**

The Chairperson viewed the application for appeal. She noted there were five grounds upon which an appeal was able to proceed. These were listed at Clause 6(c) of the Second Schedule of the Advertising Standards Complaints Board Complaints Procedures and were as follows:

- (i) The proper procedures have not been followed.
- (ii) There is new evidence of sufficient substance to affect the decision.
- (iii) Evidence provided to the Chairman of the Complaints Board has been misinterpreted to the extent that it has affected the decision.
- (iv) The decision is against the weight of evidence.

(v) It is in the interests of natural justice that the matter be reheard.

The Chairperson agreed with the No Grounds ruling by the Chair of the Complaints Board. The Chairperson noted the Complainant disagreed with the Ruling, however, this is not a ground for appeal. The Chairperson considered the advertisement to be humorous, and said it was unlikely to encourage people to steal plants from public gardens.

Accordingly, the Chairperson ruled there were no grounds on which the appeal should proceed and the appeal application was declined.

**Chairman's Ruling:** Appeal application **Declined**

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## **DESCRIPTION OF ADVERTISEMENT**

The television advertisement for Freeview television features a woman saying "They say nothing in life is free - but some things are - like smelling the flowers..." The next shot shows a woman smelling yellow flowers which are planted in the middle of a traffic island. In the following shot the woman is giving a bunch of yellow flowers to a man at an office water cooler. The flowers appear to have been pulled straight out of the ground, with the roots and soil still attached.

## **APPEAL APPLICATION FROM L BROOKS**

Under your CODE OF ETHICS Basic principle 4. Theft from Council gardens is against Community standards therefore it is socially irresponsible. The very short clip at the water cooler showing the plant being handed to the man needs to be deleted. There is nothing wrong with the rest of the advertisement.

The advertisement should continue but without the irresponsible section.

## **SUMMARY OF COMPLAINTS BOARD DECISION**

**The Chair** noted the Complainant's concerns that the advertisement showed a woman giving a man flowers that appeared to have been stolen from a flower bed in the middle of a traffic island.

The Chair said the advertisement relies on humour and a sense of surprise to get its message across. The Chair did not consider the advertisement would encourage the theft of flowers from public gardens.

The Chair ruled the advertisement had been prepared with a due sense of social responsibility to consumers and did not reach the threshold required to be considered as a breach of Basic Principle 4 of the Code of Ethics.

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

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