

COMPLAINT NUMBER	17/061
APPEAL NUMBER	17/005
APPLICANT	J Goodman
ADVERTISER	NZME
ADVERTISEMENT	Newstalk ZB Out of Home
DATE	14 March 2017
OUTCOME	Declined

SUMMARY

The Complaints Board Chair ruled on 27 February 2017 that the complaint from J Goodman about the Newstalk ZB billboard 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 billboard carries subliminal political messages, but agreed with the No Grounds ruling from the Complaints Board Chair and said that while the Applicant may disagree with it, this is not a ground for appeal.

The Chairperson ruled the appeal application was Declined.

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

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 from the Complaints Board Chair and considered that while the Applicant may disagree with it, this is not a ground for appeal.

The Chairperson agreed with the Chair of the Complaints Board that in the context of 2017 being an election year, and Newstalk ZB being a talkback radio station, the content of this billboard is appropriate and does not contain anything which is likely to cause serious or widespread offence. Therefore, there was nothing in the appeal application which met any of the grounds on which an appeal could be accepted.

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

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

DESCRIPTION OF ADVERTISEMENT

The billboard advertisement for Newstalk ZB's "The Mike Hosking Breakfast" features a head and shoulders colour photo of Mike Hosking flanked on each side by a politician. On his right is Prime Minister, Bill English, next to the words "Status quo". On his left is Opposition Leader, Andrew Little, with the words "New order". The advertisement poses the question "Who will we listen to in 2017?".

APPEAL APPLICATION FROM L BROOKS

The Chair has misinterpreted the plain and ordinary meaning of the ad, which features the images of rival political leaders underneath slogans whose plain and ordinary meaning is political. However, instead of having regard to the plain and ordinary meaning of the language, the Chair has substituted a minority and specialist interpretation of the ad which cannot explain all the content of the ad.

The context of the ad is also political; it has been set up at the start of an election year, in which the election to be held early, and features a broadcaster who is widely known as a political commentator. There is no musical context in support of any musical interpretation.

Instead of having regard to the plain and ordinary meaning of the slogans and to the context, the Chair has embarked on a search for possible "musical" meanings and has then substituted these minor and subsidiary meanings for the plain and ordinary meanings, the latter being also fully supported by the context while there is no context whatsoever in support of the musical meanings.

The only explanation which supports the whole content of the ad is thus the political interpretation. To search thus for minor meanings against the plain and ordinary language is not only wrong, it is in my view wrong to the point of perversity.

SUMMARY OF COMPLAINTS BOARD DECISION

The Chair noted the Complainant's concerns the advertisement contains overt and subliminal political messages and portrays Mike Hosking as "a kind of kingmaker".

The Chair noted the comments made by the Advertiser; the word “stability” is not used in the advertisement, the choices referred to are the names of music bands and the blue colour of the billboard is not related to political leanings but is the Newstalk ZB brand colour.

The Chair agreed that the advertisement is “political” to the extent that it refers to the leaders of the main parties and asks the question “Who will we listen to in 2017?”

The Chair said this question could also refer to which music, which politician or which radio station the viewers will listen to in 2017.

The Chair said there is a humorous element to the advertisement as “Status Quo”, which literally means keeping the existing state of affairs, is also the name of an English rock band founded in 1962. “New Order”, on the other hand, is also a rock band, founded in 1980.

The Chair said that in the context of 2017 being an election year and Newstalk ZB being a talkback radio station, the content of this billboard is appropriate and does not contain anything which is likely to cause serious or widespread offence.

Therefore, the Chair ruled the advertisement had been prepared with a due sense of social responsibility to consumers and there was no apparent breach of Basic Principle 4 and Rules 2 and 5 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**