

COMPLAINT NUMBER	17/160
COMPLAINANT	K MacGibbon
ADVERTISER	Bauer Media
ADVERTISEMENT	Bauer Media Out of Home
DATE OF MEETING	29 May 2017
OUTCOME	No Grounds to Proceed

Advertisement: A billboard promoting Bauer Media's Metro Magazine Top 50 Restaurants in Auckland showed an image of measuring spoons and the tagline "Who measures up?"

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

Complainant, K MacGibbon, said:

I wish to lodge a complaint regarding a billboard currently on display on Victoria Street, Auckland. The billboard belongs to QMS Media. The billboard features the words Who Measures Up?, which is a reference to Metro Magazines annual "Metro Top 50 Restaurants list.

I believe the billboard is offensive, misleading and deceptive. It is likely to mislead the consumer, which contravenes Principle 3 of the ASA's Code of Ethics, as quoted below. Furthermore, I feel the advertisement also contravenes Rule 3 of the ASA's Code of Ethics,

This advertisement creates the impression that those restaurants who have not made Metro's "Top 50 are somehow not measuring up to an ambiguous, undefined, completely unscientific standard. It certainly exploits the consumers lack of experience and knowledge as to what Metro claims constitutes a "Top 50 restaurant.

I accept that Metro has a right to promote its Top 50 list, but it should not be doing so in a way that would lead a reasonable consumer to conclude that the 100's of other restaurants in the greater Auckland area in some way do not "measure up."

The hospitality industry employs thousands of New Zealanders and generates 100's of millions of dollars every year. It is disheartening and disappointing that Metro magazine feels that it can diminish the passion and commitment of those who work in this industry by suggesting that their place of work is somehow deficient, simply because they have not made a "Top 50 list."

I have a number of friends who either own restaurants, or work in them. They are proud of their achievements and all strive to be the best they can. These people deserve better than to, in effect, be told they don't measure up. It's disheartening and demoralising for them, and their staff.

Whilst I accept that it is not the responsibility of the ASA to investigate the validity, credibility and integrity of Metro's judging process in determining the Top 50, there are a number of restaurateurs who have expressed their concern to me at various times over the lack of

transparency around the list. However, their ability to raise legitimate questions over Metro's process is hindered by the inevitable response from Metro "that their complaints are simply sour grapes."

There is, for example, no way of knowing how Metro selects the pool of restaurants that they then choose the Top 50 from. They claim they conduct "multiple visits to each of the restaurants, which on the face of it suggests a financial outlay that would frankly be beyond Metro's financial capacity."

They do not release judging notes, they do not provide restaurants with any notification that they have been nominated for consideration in the Top 50 list. The restaurants themselves receive no notification that they may have been judged. They do not release details of the qualifications and/or culinary expertise of their judges.

For these reasons I think Metro is wrong to be asking "Who Measures Up?"

The relevant provisions were Code of Ethics - Basic Principle 3, Basic Principle 4, Rule 2.

The Chair noted the Complainant's concerns that the Metro billboard advertising its Top 50 Restaurant list was misleading.

The Chair said the Advertiser was entitled to promote its top 50 list as long as it did so in a truthful, socially responsible manner. The Chair noted the issues raised in the complaint about the likely consumer take-out of the tagline "who measures up". In her view, it was clear the wording referred to a list compiled by Metro, however the process used to compile that list was outside the ASA's jurisdiction.

The Chair said the image and reference to measuring up in the context of a top 50 list compiled by a magazine was not misleading and did not reach the threshold to breach the Advertising Codes. Therefore, the advertisement was prepared with the requisite standard of social responsibility to consumers and to society and the Chair ruled there were no grounds for the complaint to proceed.

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