

COMPLAINT NUMBER	17/337
COMPLAINANT	F. Brown
ADVERTISER	New Zealand National Party
ADVERTISEMENT	National Party Flyer
DATE OF MEETING	19 September 2017
OUTCOME	No Grounds to Proceed

Advertisement: The National Party flyer was headed “Delivering for Christchurch and Canterbury” and stated, in part: “Bill English and his strong, National team have a clear plan to support Christchurch and Canterbury families, invest in community facilities and build the infrastructure a regenerating city needs.” The flyer then went on to list what the National Party plans to undertake if re-elected.

The advertisement also included a red box which said:

“Canterbury can’t afford Labour.

It has put \$300 million on the table – a fraction of what National is already spending. Labour also wants five new taxes that would increase costs for hardworking families, cost jobs and put a handbrake on growth and the benefits it’s delivering.”

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

Complainant, F. Brown, said, in part: “The box in red is stating as ‘fact’ things that are only perception. Eg ‘five new taxes that would increase costs for hardworking families’ - this is not a fact and there is no way this could be stated as fact without the figures to back it up and they can’t because labour have not yet done the work on it. They also can’t say it will costs jobs – that is an assumption but not fact. Etc etc. I have check the other flyers I have received from TOP, Labour and the Greens and none do this. It is appalling and playing into the people in NZ that do not understand evidence based practice and will look at this and get scared of change. I personally don’t mind who people choose to vote for but I believe everyone should be given the opportunity to make a choice based on facts not scare mongering.”

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

The Chair noted the Complainant’s concerns that information in the National Party flyer was presented as fact when it is not and the advertisements were scaremongering.

Turning to the National Party flyer advertisement, the Chair noted the advertisement was an advocacy advertisement and Rule 11 of the Code of Ethics applied. Rule 11 states:

“Advocacy Advertising - Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. Therefore such opinions may be robust. However, opinion should be clearly distinguishable from factual information. The identity of an advertiser in matters of public interest or political issue should be clear.”

Also applicable were the Advocacy Principles, developed by the Complaints Board in previous Decisions for the application of Rule 11. These said:

1. That Section 14 of the Bill of Rights Act 1990, in granting the right of freedom of expression, allows advertisers to impart information and opinions but that in exercising that right what was factual information and what was opinion, should be clearly distinguishable.
2. That the right of freedom of expression as stated in Section 14 is not absolute as there could be an infringement of other people's rights. Care should be taken to ensure that this does not occur.
3. That the Codes fetter the right granted by Section 14 to ensure there is fair play between all parties on controversial issues. Therefore in advocacy advertising and particularly on political matters the spirit of the Code is more important than technical breaches. People have the right to express their views and this right should not be unduly or unreasonably restricted by Rules.
4. That robust debate in a democratic society is to be encouraged by the media and advertisers and that the Codes should be interpreted liberally to ensure fair play by the contestants.
5. That it is essential in all advocacy advertisements that the identity of the advertiser is clear.

Turning to the advertisement before her, the Chair confirmed that the identity of the Advertiser, the New Zealand National Party was clear, a requirement of Rule 11.

The Chair considered the Complainant's issue regarding the content of the advertisement. The Chair said the flyer advertisement presented the National Party's view on why "Canterbury can't afford Labour" including a reference to taxes the Labour Party may introduce if elected. The Chair said this was part of the political discourse allowed under the provisions of Rule 11 of the Code of Ethics.

The Chair observed that in a free and democratic society, differences of political opinion should be openly debated without undue hindrance or interference from authorities such as the Complaints Board, and in no way should political parties, politicians, lobby groups or advocates be unnecessarily fettered by a technical or unduly strict interpretation of the rules and regulations.

While she acknowledged the Complainant's concern the advertisement presented information about Labour Party tax policy as fact, the Chair said the Complaints Board had consistently ruled that advertisements presenting one political party's view on what another may do if elected were allowed as part of advocacy election advertising.

The Chair said the advertisement complied with the requirements of Rule 11 and taking into account the Advocacy Principles, did not reach the threshold to breach Rule 2 or Basic Principle 4 of the Code of Ethics.

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

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