

COMPLAINT NUMBER	17/377
COMPLAINANT	R. Aguilar
ADVERTISER	Labour Party
ADVERTISEMENT	NZ Labour Party, Twitter
DATE OF MEETING	16 October 2017
OUTCOME	No Grounds to Proceed

Advertisement: The post advertising the Labour Party on Twitter was posted by the Young Labour New Zealand and said “Ending HIV in New Zealand by 2025... Labour is committed to finding PrEP so we can end HIV. Party vote Labour to secure stronger health support for rainbow kiwi’s.”

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

Complainant, R. Aguilar, said: “The headline reads: "ENDING HIV in NZ BY 2025" and the byline reads: "Labour is committed to funding PrEP so we can end HIV." Both are misleading as it implies that HIV will be totally eradicated in NZ, that includes existing people with HIV and immigrants/visitors that may have HIV (maybe they want to get rid of them?). Also HIV is a virus that has proven very hard to eradicate anywhere in the world, so I am not sure how they can state they can END it. Yes, they took the slogan from the AIDS Foundation: <https://www.nzaf.org.nz/services-programmes/hiv-prevention-programmes/ending-hiv/> But the Aids Foundation clearly states: 'Ending HIV is NZAF's HIV prevention campaign that aims to mobilise gay and bisexual men toward the goal of ending new HIV transmissions by 2025. 'Labour does not state that they mean 'to end TRANSMISSIONS', nor they reference the AIDS Foundation campaign in their advertising. Labour twisted the AIDS Foundation campaign for their own purposes and transforming the original slogan into a statement that is totally inflated, inaccurate, misleading and even dangerous.”

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

The Chair noted the Complainant’s concern the advertisement was misleading because it implied HIV would be eradicated in New Zealand when it was actually referring to the transmission of HIV.

The Chair noted the Labour Party was the Advertiser and it was posted by Young Labour New Zealand on Twitter. The Chair said 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 Labour Party was clear, a requirement under Rule 11.

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.

The Chair then considered the Complainant's issue regarding the content of the advertisement. The Chair said the statement "Ending HIV in New Zealand by 2025" was qualified with the further statement "Labour is committed to finding PrEP so we can end HIV." The Chair noted the advertisement referred to the Labour Party's policy on funding Pre-exposure Prophylaxis to minimise the transmission of HIV and was aspirational in nature.

The Chair was of the view the Complainant had taken an extreme interpretation of the advertisement and said the phrasing used in the advertisement was clear, unlikely to mislead and not in breach of Rule 2 or Rule 11 of the Code of Ethics. The Chair said the advertisement had been prepared with a due sense of social responsibility to society and was not in breach of Basic Principle 4 of the Code of Ethics.

Accordingly, the Chair ruled there was no apparent breach of the Advertising Codes and ruled the complaint had no grounds to proceed.

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