

COMPLAINT NUMBER	18/015
COMPLAINANTS	B. Theobald and J Clarke
ADVERTISER	Golriz Ghahraman MP
ADVERTISEMENT	Digital Marketing
DATE OF MEETING	2 February 2018
OUTCOME	No Grounds to Proceed

Advertisement: The Facebook post by Golriz Ghahraman, MP shared a news service Al Jazeera video of “9 inspiring women who crushed it in 2017” in which Ms Ghahraman was listed. The post said, in part: “I’m so so humbled to be included in Al Jazeera’s 9 women who crushed it in 2017! Buzzing!”

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

Complainant, B. Theobald, said: “Within the video of ‘women who crushed 2017’, we have a list MP, Golriz Ghahraman, who is touted as having spent her career defending vulnerable communities. This is misleading to the public, as she has not been representing communities, as the Green Party would have people believe. Instead she has been representing several war criminals that have victimised vulnerable communities; which is the opposite of what the claim is asserting.”

Complainant, J. Clarke shared similar views that the claims in the video were misleading.

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

The Chair noted the Complainants’ concern the post was misleading as Golriz Ghahraman also spent time representing war criminals as a defence lawyer.

The Chair took into account the post included a statement from Ms Ghahraman as well as a link to a video by Al Jazeera news service. The Chair said the content of the video fell outside the jurisdiction of the Advertising Standards Authority as it was a current affairs item, not an advertisement and therefore the ASA Codes of Practice did not apply to it.

The Chair said the wording posted by Ms Ghahraman did fall under the definition of advertisement for the purposes of the ASA Codes, which states:

““Advertising and advertisement(s)” are any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.”

The Chair said the advertisement was advocacy advertising and noted the requirements of Rule 11 of the Code of Ethics. Rule 11 allowed for expression of opinion in advocacy advertising, provided that the expression of opinion is robust and clearly distinguishable from

fact. 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.

The Chair also referred to a recent precedent Decision, 17/435, about a National Party Facebook Post with a quote from a Forbes Magazine opinion piece about New Zealand's economy and a link to the article. The Decision said in part:

"The Complaints Board said it was clear the article was an opinion piece from Forbes business magazine as that was clearly identified in the article. The Complaints Board was of the view that it was not deceptive to attribute the quote to Forbes Business Magazine when it was an opinion piece, because Forbes Magazine had made the editorial decision to publish it. Further, the Complaints Board noted the post included a link through to the full article which could be read in its entirety and the provenance was clearly referenced."

The Chair said this precedent applied and such posts were able to include links to other content. The Chair said there was nothing in the advertisement which was likely to mislead readers as it was clear from the post that Ms Ghahraman was sharing the video and expressing her gratitude at being included in the Al Jazeera list.

The Chair ruled there was no breach of Rules 2 and 11 of the Code of Ethics and the advertisement had been prepared with a due sense of social responsibility required by 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**