

<b>COMPLAINT NUMBER</b>	18/311
<b>COMPLAINANT</b>	J Pollard
<b>ADVERTISER</b>	C&R Communities and Residents
<b>ADVERTISEMENT</b>	C&R Out of Home
<b>DATE OF MEETING</b>	24 October 2018
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The campaign billboard for C&R Communities and Residents political group asked Aucklanders to vote for them. It included one statement saying “\$350 = Vote C&R” and another stating “C&R won’t sell Vector”.

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

**Complainant, J Pollard, said:** Citizens and Ratepayers have campaign billboards up that says "\$350 = VOTE C&R" which implies that if you vote for them, you will receive \$350. Clearly they cannot guarantee this unless they are suggesting they will pay every voter directly (which would be illegal). This ad is misleading.

**The relevant provisions were Code of Ethics - Basic Principle 4, Rule 11, Rule 2;**

**The Chair** noted the Complainant’s concern that the advertisement was misleading as the Advertiser was not in a position to guarantee \$350 to voters.

The Chair confirmed the advertisement was an advocacy advertisement and Rule 11 and the Advocacy Principles applied. She also confirmed the identification requirements of Rule 11 had been met, as the Advertiser was clearly identified as C&R.

The Chair noted 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 rights 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 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 said the advertisement articulated a position by C&R on a current issue of debate in Auckland relating to the Entrust majority ownership of Vector and the dividends paid to consumers that qualify for it. In the Chair's view, consumers likely to see the billboard would understand the context of the statements. Taking into account the Advocacy principles which allow for a liberal interpretation of the Code, the Chair said the claims in the advertisement did not meet the threshold to breach Rule 2 or Rule 11 of the Code of Ethics and the advertisement had been prepared with the required standard of social responsibility.

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

#### **APPEAL INFORMATION**

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website [www.asa.co.nz](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.