

COMPLAINT NUMBER	17/076
COMPLAINANT	P Callister
ADVERTISER	Shine
ADVERTISEMENT	Shine, Television
DATE OF MEETING	11 April 2017
OUTCOME	Not Upheld

SUMMARY

Shine's 'Light it Orange' television advertisement shows four Vodafone Warrior players under a bed. One says 'One in three women are abused by a partner.' The lights come up and comedian Guy Williams says 'It's time to shine a light on domestic violence.' A call to support Shine's campaign against domestic violence is then made.

The Complainant said the advertisement was misleading because the statement 'One in three women are abused by a partner', suggested that One in three women are abused by a current partner and therefore one in three men are abusers.

The Advertiser said there was nothing in the advertisement to imply that one in three men perpetrated abuse and strongly disagreed that this would be a logical conclusion to draw from the statement.

The Complaints Board agreed that the statement: 'one in three women are abused by a partner', didn't suggest that one in three men were abusers. The Complaints Board didn't consider that people who viewed the advertisement would take that meaning from the statement.

The Complaints Board agreed that an advocacy advertisement had leeway to communicate an organisation's purpose or cause as long as the organisation was clearly identified – and in this case it was. The Complaints Board noted the statement was sourced from a 2005 study about domestic violence and while it would have been clearer to state the statistic was over a lifetime, the threshold to breach the Code of Ethics had not been met.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rules 2 and 11 of the Code of Ethics. This required the Board to consider whether or not the advertisement was, either directly or indirectly, likely to deceive or mislead the consumer and if it had been prepared with a due sense of social responsibility

to consumers and to society. The Chair noted that as this was an advocacy advertisement, expressions of opinion were permitted, however these should be clearly distinguishable from factual information.

The Complaints Board ruled the complaint was Not Upheld.

The Complaint

The complaint concerned the statement made by one of the Warrior players in the advertisement: 'One in three women are abused by a partner'. The Complainant said most people would assume this to mean that one in three men are abusers.

The Complainant referred to the 2005 Families Commission report *Beyond Zero Tolerance*, by Dr Janet Fanslow (2005) which cites research by Fanslow and Robinson in 2004. The research concluded that "Among ever partnered women, 33% in Auckland and 39 % in Waikato had experienced at least one act of physical and/or sexual violence by an intimate partner."

The Complainant said Shine's 'Light it Orange' advertisement was misleading because it used lifetime experience to suggest ongoing or current abuse.. More accurate wording would be 'one in three women report abuse by a partner over their lifetimes'.

The Advertiser's Response

Shine, a registered charity that works with other organisations to end domestic violence in New Zealand, said the statement used in the advertisement was a truthful representation of the statistics in Dr Fanslow's report. The Advertiser said the statement suggested that one in three women were abused by a partner in their lifetime. There was nothing to suggest or imply that one in three women are abused by a *current* partner..

The Advertiser said there was nothing in the advertisement to imply that one in three men perpetrated abuse and strongly disagreed that this would be a logical conclusion to draw from the statement that 'one in three women are abused by a partner'.

The Advertiser said the purpose of the television advertisement was to encourage people to participate in the campaign and to fundraise to support Shine services which help victims of family violence become safe.

Precedents

Two precedents were considered by the Complaints Board:

Complaint 10/424 – Decision: Complaint upheld Appeal 10/035 against Complaint 10/424 – Decision: Appeal dismissed

Complaint 10/433 – Decision: Complaint upheld Appeal 10/036 against Complaint 10/433 – Decision: Appeal dismissed

The complaints were made about a newspaper and TV advertisement by the National Collective of Independent Women's Refuges Inc. Both advertisements used the words: 'One in three New Zealand Women need your help. Because living in fear isn't living.'

In both cases the Complaints Board ruled that the claim that 'one in three New Zealand women were living in fear' was 'exaggerated' and not substantiated. The Board ruled that the advertisements were in breach of Rule 2 and Basic Principle 4 of the Code of Ethics.

The Complaints Board Discussion

The Complaints Board agreed that an advocacy advertisement had leeway to communicate an organisation's 'truth, as long as the organisation was clearly identified – and in this case it was.

The Complaints Board said that the advertisement's statement: 'one in three women are abused by a partner', didn't suggest that one in three men are abusers and did not consider that people who viewed the advertisement would take that meaning from the statement. The advertisement suggested that one in three women were abused by a partner in their lifetime.

The Complaints Board agreed that the 'one in three' statement used an average number to highlight an issue that was a serious problem in society. The Complaints Board noted that the use of average figures in advocacy advertisements was not unusual.

The Board also noted that the word 'partner' applies to both men and women and that one abuser may abuse more than one woman.

In considering the precedents, the Complaints Board agreed those advertisements went further than the advertisement under discussion because they extrapolated from the domestic violence statistic, to claim that 'one in three New Zealand women lived in fear'. It was for this reason that they were found to be misleading.

The Complaints Board noted the statement complained about was sourced from a 2005 study about domestic violence and while it would have been clearer to state the statistic was over a lifetime, the threshold to breach the Code of Ethics had not been met.

The Complaints Board ruled that the Shine television advertisement was not likely to mislead or deceive consumers and had been prepared with the requisite sense of social responsibility. The identity of the advertiser was clear. The advertisement did not breach Basic Principle 4 or Rules 2 and 11 of the Code of Ethics.

Therefore, the complaint was Not Upheld.

Decision: Complaint Not Upheld

DESCRIPTION OF ADVERTISEMENT

Shine's 15-second 'Light it Orange' television advertisement shows four Vodafone Warrior players under a bed. One says 'One in three women are abused by a partner.'

The lights come up and comedian Guy Williams says 'It's time to shine a light on domestic violence.' This is followed by a call to action to support Shine's campaign against domestic violence.

COMPLAINT FROM P CALLISTER

This is the advertisement produced by Shine regarding domestic violence: <http://www.lightitorange.co.nz/>

I support the campaign but such campaigns need to get their facts correct and not exaggerate.

As part of the advertisement there are men under a bed saying 'One in three women are abused by a partner'

Most people seeing this would assume its saying that one in three men are abusers. But what the men should be saying is that " one in three women report abuse by a partner over their lifetimes'. Its quite different.

Supporting data can be found in the 2005 Families Commission report Beyond Zero Tolerance. Fanslow, J. (2005) Beyond Zero Tolerance: Key issues and future directions for family violence work in New Zealand, August, Wellington: Families Commission.

In this report the author cites one of their own studies, which indicated that between 33% and 39% of ever-partnered women suffered either physical or sexual abuse over their lifetime. In this study, the incidence rate for women in the previous 12 months was between 5.4 and 5.7%. Men were not part of the study. The Families Commission report also cites the work of Morris et al (2003) which, based on physical violence only, showed that 26.4% of ever partnered women had been a victim of domestic violence over their lifetime versus 18.2% of men. The incidence rate for women in the previous 12 months was 3% and for men 1.8%. Morris, A., Reilly, J., Berry, S., & Ransom, R. (2003). New Zealand National Survey of Crime Victims 2001. Wellington: Ministry of Justice.

It is misleading to use lifetime experience to suggest ongoing or current abuse. The research tells us that abuse is higher in younger age groups and, for a variety of reasons diminishes over time; It is misleading to suggest that victimisation of one in three women over their lifetime equates to current perpetration by one in three men. It would be equally misleading to use the 12 month victim of abuse data to say, based on the Morris et al research, that 97% of men do not abuse their partners. Such extrapolations simply cannot be made based on these data.

In an era of false news its even more important to get facts correct in important advertising campaigns.

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 2 Truthful Presentation: Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

Rule 11 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.

RESPONSE FROM ADVERTISER: SHINE

Your letter mentions that 'The relevant sections in the Advertising Code of Practice appears to be Code of Ethics — Basic Principle 4, Rule 11, Rule 2', i.e.:

2. Truthful Presentation — Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

11. 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.

The portion of the advertisement complained about is specifically the portion stating: '*One in three women are abused by a partner.*' This is clearly not an expression of opinion, so it would appear that the only section of the Code relevant to this complaint is in fact Rule 2, requiring Truthful Presentation.

The complainant rightfully references this statistic to Dr Janet Fanslow's research in her 2005 report entitled 'Beyond Zero Tolerance'. This research found that between 33% and 39% of ever-partnered women suffered either physical or sexual abuse over their lifetime. Our thirty-second TV advertisement for Light It Orange attempted to convey a complex problem in four brief statements, followed by a call to action to get involved with the campaign to help more victims of family violence get safe and stay safe. Therefore, this statistic was succinctly expressed as 'one in three women are abused by a partner.'

There was nothing said to suggest or imply that one in three women are abused by a *current* partner, or living in fear at present, as was the case in the two cases you referenced in your letter regarding complaints against a women's refuge advertisement that referenced the same statistic. We regard the statement used in our television advertisement as a truthful representation of the statistical information in Dr Fanslow's research.

There was certainly nothing in our advertisement to imply that one in three men perpetrate abuse, as we know this not to be the case. We disagree strongly that this would be a logical conclusion drawn from the statement that 'one in three women are abused by a partner.'

FURTHER RESPONSE FROM ADVERTISER: SHINE

Further to a phone conversation with Marion Hughes at the Advertising Standards Authority, I am sending you an updated response to the complaint you forwarded to us about our Light It Orange TV advertisement, with slightly more detail included.

Your letter mentions that 'The relevant sections in the Advertising Code of Practice appears to be Code of Ethics — Basic Principle 4, Rule 11, Rule 2 i.e.:

2. Truthful Presentation — Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

11. 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,

The portion of the advertisement complained about is specifically the portion stating: '*One in three women are abused by a partner.*' The complainant rightfully references this statistic to Dr Janet Fanslow's research in her 2005 report entitled 'Beyond Zero Tolerance'.

The statistic originally came from substantive and highly credible research done by Janet Fanslow and Elizabeth Robinson in 2004, and published in The New Zealand Medical Journal November 2004. The research concludes that, 'Among ever-partnered women, 33% in Auckland and 39% in Waikato had experienced at least one act of physical and/or sexual violence by an intimate partner.'

Our thirty-second TV advertisement for Light It Orange attempted to convey the depth, prevalence and seriousness of a complex problem by quoting three statistics in four brief statements, followed by a call to action to get involved with the campaign to help more victims of family violence get safe and stay safe. We needed to convey a lot of vital information very succinctly and compellingly, so we had to make every word count. We therefore succinctly expressed the statistic from Fanslow & Robinson's research as 'One in three women are abused by a partner.'

Below is the full script of our TV ad, illustrating how few words we were able to use in this 30 second advertisement:

TALENT 1: Today children all over New Zealand will hide from violence in their home

TALENT 2: Every 39 days a child is killed by a family member

TALENT 3: One in three women are abused by a partner

TALENT 4: And every 5 minutes our police attend a family violence incident

GUY: It's time to shine a light on family violence.

GUY: Find out more at Light it orange dot org dot nz and help victims of family violence get safe and stay safe.

There was nothing in the advertisement to suggest or imply that one in three women are abused by a *current* partner, or living in fear at present, as was the case in the two cases you referenced in your letter regarding complaints against a women's refuge advertisement that referenced the same statistic. We regard the statement used in our television advertisement as a truthful representation of the statistical information in the research by Fanslow and Robinson.

The complainant states, 'Most people seeing this (television advertisement) would assume its saying that one in three men are abusers.' There was also nothing in our advertisement to imply that one in three men perpetrate abuse, as we know this not to be the case. We disagree strongly that this is a logical conclusion most people would draw from the statement that 'one in three women are abused by a partner'.

We believe that the use of well-known male personas in our advertisement, ranging from well-regarded actor Peter Elliott to comedian Guy Williams and four of the Vodafone Warriors, in fact communicates a positive message about men, i.e. that most men in our society do not condone nor perpetrate family violence. Shine has always had strong male involvement at every level — board, staff, volunteers, etc., and we receive enthusiastic and committed support from men as donors and sponsors. We are clear that most men do not abuse their partners or family members *and* that involving men in our organisation and campaigns is vital to our long-term success with preventing family violence.

The purpose of our Light It Orange TV advertisement was to encourage people to participate in our Light It Orange campaign and fundraise to support Shine services, which help victims of family violence become safe. This is Shine's major annual fundraising campaign, which is now in its third year. Based on our experience, most members of the public are unaware and appalled at the prevalence of family violence in New Zealand when they hear readily available statistics such as the ones stated in our TV advertisement.

RESPONSE FROM MEDIA: COMMERCIAL APPROVALS BUREAU

CAB approved this Shine commercial on 20/01/17 with a 'G' classification.

A complainant believes that "Most people seeing this would assume its saying one in three men are abusers."

The complainant offers no evidence to support this claim of public interpretation.

The Shine Foundation is a registered charity that works in partnership with other organisations to end domestic violence in New Zealand.

Shine clearly states in the commercial that, "One in three women are abused by a partner". This is an objective fact, supported by Fanslow, J. (2005) 'Key issues and future directions for family violence work in New Zealand'.

Interpretations are subject to personal bias, and the crux of this complaint rests on a very selective interpretation of this ad's overall message – plainly, it cannot be applied to the New Zealand public-at-large, and CAB notes that this commercial has attracted only a single complaint over a two-month period.

The Code of Ethics requires advertisers to present truthful information to the public, in the fulfilment of a due sense of social responsibility. The advertiser has duly presented fact, and should not be penalised in their efforts to end violent domestic abuse across the country.