

<b>COMPLAINT NUMBER</b>	17/369
<b>COMPLAINANT</b>	G. Fairweather
<b>ADVERTISER</b>	Rainbow Youth
<b>ADVERTISEMENT</b>	Rainbow Youth, Website
<b>DATE OF MEETING</b>	16 October 2017
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** Rainbow Youth promoted its national advertising campaign on its website ([www.rv.org.nz](http://www.rv.org.nz)) and was titled “If it’s not gay, it’s not gay” and it included a video which demonstrated the pejorative use of the word “gay”.

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

**Complainant, G. Fairweather, said:** “I’m complaining about the slogan “if it’s not gay it’s not gay”. I’m 57 & my name is Gay. Spelt gay no e after the y & It’s meaning is happy & I’m hetrosexual. I am deeply insulted with the slogan as I feel it’s saying unless I’m a lesbian I’m not me. I have never been offended or insulted that my name is Gay. There has been the looks & laughter, which I’m fine with. I’ve accepted that I’ve had to change the spelling of my name for emails & other software that requires my name. I am not fine with a slogan saying I am not me because I’m not a lesbian. I feel the slogan is insulting to all the females who’s name is Gay & is unacceptable.”

**The relevant provisions were Basic Principle 4 and Rule 4, Rule 5 and Rule 11 of the Code of Ethics.**

The Chair noted the Complainant’s concern the statement “If it’s not gay, it’s not gay” was offensive to people named Gay.

The Chair noted the Advertiser was Rainbow Youth, a charitable organisation dedicated to helping young queer and gender diverse people up to the ages of 27, as well as their wider communities. The Chair noted the public service nature of the advertisement. She said it 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, Rainbow Youth was clear, a requirement under Rule 11.

The Chair noted previous Rulings where an individual's last name was used in an advertisement. Ruling 13/225 stated in part:

"The Chairman noted the offence the Complainants took at the level of ridicule in the advertisement associated with the surname 'Ramsbottom'.

The Chairman also considered precedent decisions including 03/347 which used the line 'Helen Pearce is a slapper' and 08/047 in which the name 'Trudy' was referred to as a 'fat girl's name'. Those complaints were not upheld.

While she acknowledged the offence the advertisement had caused the Complainants, taking the provision for humour into account, the Chairman said the reference to Ramsbottom in the advertisement did not reach the threshold to be considered to have portrayed people with that surname - or similar - in a manner that was reasonably likely to cause serious or widespread offence or widespread hostility, contempt abuse or ridicule."

The Chair took into account the precedents and noted the advertisement before her was promoting the appropriate use of the word 'gay' in relation to homosexuality and to discourage its use in a derogatory way.

While she acknowledged the offence the advertisement had caused the Complainant, the Chair said the advertisement was unlikely to cause serious and widespread offence to most people. The Chair ruled the advertisement was not in breach of Rules 4, 5 or 11 of the Code of Ethics and had been prepared with a due sense of social responsibility to consumers and society required by Basic Principle 4 of the Code of Ethics.

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

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