

Guidance Note on Advocacy Advertising

This Guidance Note is to be read in conjunction with Rule 2 (e) of the Advertising Standards Code. The note is intended to provide interpretation assistance to the industry and consumers on advocacy advertising. The advocacy principles are taken into consideration by the Complaints Board and the Appeal Board when applying Rule 2 (e) of the Advertising Standards Code.

Definition of Advocacy Advertising

Advocacy advertising is often characterised by parties having differing views that are expressed in robust terms. This is especially so when there is proposed legislation or a referendum on an issue. Examples include abortion, fluoridation, immunisation and legalisation of marijuana. Government advertising on a range of health and safety initiatives are also likely to be advocacy advertising.

Advertising Standards Code

Rule 2 (e) Advocacy advertising

Advocacy advertising must clearly state the identity and position of the advertiser.

Opinion in support of the advertiser's position must be clearly distinguishable from factual information.

Factual information must be able to be substantiated.

Guidelines

- Evidence (e.g. academic studies, expert opinion) in support of factual information must be appropriate and robust and must be readily available and obtainable.
- The identity of the advertiser must be obvious and easily recognised. Where an advertiser is not well known, additional information such as a physical address, website address or phone number may be appropriate to include

Advocacy Principles:

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 advertiser 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.

Application of Rule 2 (e)

To assist consumers and advertisers and taking into account the advocacy principles and recent precedent decisions, the ASA has agreed, where advertising meets certain conditions, a more liberal interpretation of the Code is appropriate. This allows all sides to advocate their position – clearly identified – and avoid a technical interpretation of potential breaches.

Evidence

- Evidence may be cited in support of the opinion but it should be clear that it supports the opinion rather than being the full factual position. Evidence in support of an opinion should be clearly cited and readily obtainable.
- Academic studies are often cited as evidence or factual information. Such studies are treated as expert opinion rather than the full factual situation. It follows that they are not misleading – especially where there are other academic studies with contrary conclusions.
- The role of the Complaints Board in advocacy advertisements is to ensure there is fair play and the right of free expression is not unduly restricted. Accordingly, the Complaints Board liberally interprets the Codes and tries not to be concerned with minor or technical breaches.
- Complainants sometimes ask the Board to in effect decide which side in an advocacy debate is correct but the Board has consistently declined to have a view. Similarly, the Board will not determine which of competing academic studies or other evidence is correct. The Complaints Board's only role is to determine whether there has been a breach of the ASA Codes taking into account the Advocacy Principles.

For a more liberal interpretation of the Codes to apply to advocacy advertisements, the following is required:

- **The identity of the advertiser must be obvious and easily recognised. Where an advertiser is not well known, additional information such as a physical address, website address or phone number may be appropriate to include.** A physical address is desirable but a P.O. Box number and/or telephone number are acceptable. An email address alone is not sufficient. A website address featuring the organisation's name may be used providing the website has contact details. It is essential this information is clear and easily seen by the reader / viewer, not hidden in the fine print. The term "Authorised by" should only be used where required by law. If legislation provides specific wording for such a statement, compliance with the legislation will be deemed to meet this requirement under the ASA Codes.
- **It must be clear in the advertisement what view the advertiser advocates and ideally this should be clear in their identity.** For example: a short advertisement stating 'Contact the Fluoridation Foundation for information on fluoridation' would not qualify. On the other hand, the names Pro-Fluoridation Foundation or Anti-Fluoridation Foundation are acceptable along with a clear statement in the advertisement about its purpose – "Stop Fluoridation Now" or Support Fluoridation in the Referendum".

- **Advertorial style advertisements must be clearly labelled ‘Advertisement’ or ‘Advertorial’.** This requirement applies regardless of the medium used. Layout and context is important and special care must be taken to ensure the consumer is not misled about the nature of the communication. See Rule 2 (a) Identification, [Advertising Standards Code](#) and the ASA [Guidance Note on Identification of Advertisements](#).