

COMPLAINT NUMBER	19/046
COMPLAINANT	A Morris
ADVERTISER	Netflix
ADVERTISEMENT	Netflix Facebook
DATE OF MEETING	26 March 2019
OUTCOME	Settled

SUMMARY

A post on the Netflix Facebook page dated 29 January 2019 said: “Fuck it’s hot.”

The Complainant, A Morris, was concerned the Facebook post describing the hot weather being experienced at the time, was “pretty disgusting”.

In its initial response the Advertiser said the statement about the weather does not constitute an advertisement, as defined by the Advertising Standards Code.

The Complaints Board first considered this complaint at its meeting on 26 February 2019. The Complaints Board agreed the Facebook post did fit the ASA definition of an “advertisement” as it was likely to influence consumer opinion in relation to Netflix.

The Complaints Board decided to adjourn the complaint and ask Netflix for a substantive response, with reference to the relevant code requirements.

In its second response the Advertiser advised the text of the Facebook post had been changed to read “Heck it’s hot.”

The Complaints Board acknowledged the Advertiser made changes to the Facebook post, after receiving the complaint, amending the word which was of concern.

Given the Advertiser’s co-operative engagement with the process and the self-regulatory action taken in amending the post, the Complaints Board ruled the matter was Settled.

[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 complaint with reference to Principle 1 and Rule 1 (c) of the Advertising Standards Code.

Principle 1 - Social Responsibility required the Complaints Board to consider whether the advertisement had been prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c) - Decency and Offensiveness required the Complaints Board to consider whether the advertisement contained anything that is indecent, exploitative or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt abuse or ridicule.

The Complaints Board ruled the complaint was Settled.

The Complaint

The Complainant was concerned the Facebook post referring to the heatwave was “pretty disgusting”.

The Advertiser’s response

The Advertiser response advised that the text of the Facebook post has been altered to read “Heck it’s hot.”

Complaints Board Discussion

As a preliminary matter, the Complaints Board considered whether the Facebook post met the ASA definition of “advertisement”. The definition 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 Complaints Board took into account the post was on the Advertiser’s Facebook page and included the promotion for new programmes and movies available via its platform and content posted by its staff.

The Complaints Board agreed the Facebook post on the Advertiser’s Facebook page did fit the definition of an “advertisement” as it was likely to influence consumer opinion in relation to Netflix. The Complaints Board therefore had jurisdiction to consider the complaint.

The Complaints Board acknowledged the Advertiser made changes to the Facebook post, after receiving the complaint, amending the word which was of concern.

Given the Advertiser’s co-operative engagement with the process and the self-regulatory action taken in amending the post, the Complaints Board ruled that the matter was Settled.

DESCRIPTION OF ADVERTISEMENT

A post on the Netflix Facebook page dated 29 January 2019 said: “Fuck it’s hot.”

COMPLAINT FROM A MORRIS

I find it pretty disgusting that Netflix has decided to take to Facebook about the heat in a derogatory manner.

CODES OF PRACTICE

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c): Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt abuse or ridicule.

ORIGINAL RESPONSE FROM ADVERTISER, NETFLIX NZ

Contact person for advertising complaints	Zach Werner, Counsel
A basic, neutral description of the advertisement	During a recent heat wave in New Zealand, with temperatures reaching 37C, Netflix's Australia and New Zealand Facebook account made the following post: "Fuck it's hot."
Date advertisement began	January 29, 2019
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Facebook post.
Is the advertisement still accessible – where and until when?	Yes, Facebook posts remain accessible indefinitely.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	
Who is the product / brand target audience?	Followers of Netflix Australia and New Zealand on Facebook.
Clear substantiation on claims that are challenged by the complainant.	<p>It was a scorcher. Temperatures were soaring across New Zealand, with an official heatwave declared in Bay of Plenty, Marlborough, and Canterbury, and consistently elevated heat in Taupo, Wellington, Nelson, Dunedin, and Gore, among other cities and towns.</p>

<p>The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.</p>	<p>We appreciate that the Advertising Standards Authority brought this complaint to our attention, and we apologize if anyone found this post offensive.</p> <p>It is our position that this statement about the weather does not constitute an advertisement as defined by the Advertising Standards Authority. In making this post, Netflix had no “intent to influence the choice,</p>
	<p>opinion or behavior of those to whom it [was] addressed,” and we respectfully request that the Advertising Standards Authority not further consider this matter.</p>
<p>For Digital advertisements:</p>	
<p>What platform tools have you used to target your audience?</p>	<p>Netflix’s Australia and New Zealand Facebook account is targeted to users in those countries.</p>

SECOND RESPONSE FROM ADVERTISER, NETFLIX NZ

Amended and Restated Complaint Response Form

<p>Contact person for advertising complaints</p>	<p>Zach Werner, Counsel</p>
<p>A basic, neutral description of the advertisement</p>	<p>During a recent heat wave in New Zealand, with temperatures reaching 37C, Netflix’s Australia and New Zealand Facebook account made the following post: “Fuck it’s hot.”</p>
<p>Date advertisement began</p>	<p>January 29, 2019</p>
<p>Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)</p>	<p>Facebook post.</p>
<p>Is the advertisement still accessible – where and until when?</p>	<p>The text of the post has been altered to read “Heck it’s hot.” The updated post is accessible on Facebook but with the expletive removed.</p>
<p>A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.</p>	<p><u>Original post</u> :</p> 

	<p>Updated post :</p> 
Who is the product / brand target audience?	Followers of Netflix Australia and New Zealand on Facebook.
Clear substantiation on claims that are challenged by the complainant.	<p>It was a scorcher . Temperatures were soaring across New Zealand, with an official heatwave declared in Bay of Plenty, Marlborough, and Canterbury, and consistently elevated heat in Taupo, Wellington, Nelson, Dunedin, and Gore, among other cities and towns.</p>
The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	<p>We appreciate that the Advertising Standards Authority brought this complaint to our attention, and we apologize if anyone found this post offensive.</p> <p>As a demonstration of our co-operative engagement with self-regulation, we have altered the post to remove the word at issue, and we respectfully request that the Advertising Standards Authority consider this matter settled.</p> <p>For record purposes, we note our original position was that the post does not constitute an advertisement as defined in the Advertising Standards Code.</p>
For Digital advertisements:	
What platform tools have you used to target your audience?	Netflix's Australia and New Zealand Facebook account is targeted to users in those countries.

RESPONSE FROM MEDIA, FACEBOOK

Thank you for your email. We have investigated this matter and can advise that this piece of content did not violate our policies at the time of investigation.

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. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.