

COMPLAINT NUMBER	19/241
COMPLAINANT	F Gardiner
ADVERTISER	NZME
ADVERTISEMENT	Radio Hauraki, Digital Marketing
DATE OF MEETING	23 July 2019
OUTCOME	Upheld Advertisement to be removed

Description of Advertisement

The digital marketing banner on the advertisement for Radio Hauraki's Beer and Pie July appeared on www.nzherald.co.nz. The advertisement flashes between the Beer and Pie July logo which provides a text number to find out more and the Radio Hauraki logo with the tagline "There's nothing to gain when you abstain."

Summary of the Complaint from

The Complainant is concerned the advertisement's tagline "There's nothing to gain when you abstain" is misleading and could send a dangerous message to some people.

Issues Raised

- Truthful Presentation
- Social Responsibility

Summary of the Advertiser's Response

The Advertiser said the advertisement is in response to the 'Dry July' campaign. It relates to an article by Matt Heath, a Herald columnist and Hauraki broadcaster, who says the binge sobriety of Dry July doesn't work and cutting back on drinking should not be a competition. He says it is a novelty event rather than a significant life-change. He concludes there is nothing to gain when you abstain from drinking alcohol for a month.

Summary of the Complaints Board Decision

The Complaints Board Upheld the complaint about the Radio Hauraki advertisement on the New Zealand Herald website, promoting Beer and Pie July. The Complaints Board said the Advertiser's claim in the advertisement that "there was nothing to gain when you abstain" was misleading and had not observed a high standard of social responsibility.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes

ADVERTISING STANDARDS CODE

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(b): Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of

knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

Principle 1: Alcohol advertising and promotions shall observe a high standard of social responsibility.

Guideline 1(h): Alcohol advertising and promotion shall 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 or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

Complaints Board Discussion

Preliminary Matter

The Complaints Board began by discussing whether the Code for Advertising and Promotion of Alcohol applied to the advertisement. It noted the definition of an alcohol advertisement is one that is “generated by an alcohol producer, distributor or retailer that promotes alcohol by product, brand or outlet.”

The Complaints Board said the call to action in the advertisement to text a number to pledge support led the consumer to information about the month-long promotion, including invitations to events sponsored by breweries. The Complaints Board said the advertisement promoted licensed events and this meant it was an alcohol advertisement for the purposes of the Code.

Having established the advertisement before it was an alcohol advertisement, the Complaints Board agreed to adjudicate the complaint under Principle 1 and Guideline 1(h) of the Code for Advertising and Promotion of Alcohol. This code requires a higher standard of social responsibility than the Advertising Standards Code’s due sense of social responsibility. Therefore, the Complaints Board said it would not consider the complaint against Principle 2 or Rule 2(b) of the Advertising Standards Code.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement is that there is no benefit to be obtained from abstaining from drinking alcohol as part of the “Dry July” fundraiser.

Is the advertisement misleading?

The Complaints Board said the statement “There is nothing to gain when you abstain” is misleading given there are health benefits and financial savings from reducing alcohol intake. The Board said the Advertiser’s justification for the statement is based on the opinion piece from a Radio Hauraki host. The Board said this was not sufficient substantiation to defend the claim there was nothing to be gained from short-term abstinence from alcohol.

Is the advertisement socially responsible?

The Complaints Board acknowledged the Advertiser intended the message to be a humorous reaction to the “Dry July” promotion. In making its decision, the context and placement of the advertisement was a key element in the Board’s consideration. Placement on the New Zealand Herald website meant the Advertiser would reach a much wider audience than Radio Hauraki listeners, who would be more familiar with its irreverent

humour. The Complaints Board agreed the statement in this instance undermined a consumer choice not to drink alcohol in July or at any other time.

The Complaints Board said the advertisement was misleading and had not observed a high standard of social responsibility, taking into account context, medium, audience and product. The Complaints Board said there had been a breach of Principle 1 and Guideline 1(h) of the Code for Advertising and Promotion of Alcohol and unanimously ruled the complaint was Upheld.

Outcome

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed.

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.

APPENDICES

1. Complaint
 2. Combined Response from Advertiser and Media
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Appendix 1

COMPLAINT FROM F GARDINER

In response to Dry July, Hauraki are running a Beer & Pie July....no problem with that. But the byline "Nothing to Gain When you Abstain" is clearly not true for many people and is a very dangerous message. Can/Should it be removed?

Appendix 2

RESPONSE FROM MEDIA NZME ON BEHALF OF ADVERTISER, RADIO HAURAKI

We are writing on behalf of NZME (the media) and Radio Hauraki (the advertiser) in response to the above complaint regarding Hauraki's advertising of "Beer and Pie July" and the tagline "there's nothing to gain to when you abstain".

The tagline was designed by Hauraki and NZME. We do not consider that the advertisements are misleading, nor socially irresponsible.

The ASA identified Advertising Standards Code - Principle 2, Rule 2(b); Code for Advertising and Promotion of Alcohol - Guideline 1 (h), Principle 1 as potentially being breached:

Advertisements must be truthful, balanced and not misleading.

Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

Obvious hyperbole identifiable as such is not considered to be misleading.

Alcohol advertising and promotions shall observe a high standard of social responsibility

Alcohol advertising and promotion shall 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 or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

The idea of "Beer and Pie July" is a response to "Dry July" by the Hauraki team, and has run for several years (including using the slogan "there's nothing to gain when you abstain" slogan for the previous two years).

Matt Heath (a Herald columnist and broadcaster on Hauraki) noted the following as the purpose behind "Beer and Pie July":¹

I know the organisers [of Dry July] have good intentions. It's for charity. They mean well. But it's also binge sobriety and that can be dangerous.

¹ Refer "Matt Heath: Join me in beer and pie July, you sweet thing"
https://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11885039

Any good achieved by not drinking is usually lost on the day you restart. Nothing makes a New Zealander thirstier than not drinking... If you want to stop or cut back, you should. Don't make it a competition. Don't publicise it. If you are serious about drinking less make a reasoned change in your life. Seek help. Taking booze away for a month is a novelty, not a life change. Mark my words. August 1 will be a blow-out of epic proportions... Binge sobriety, like fad dieting, won't help you and it won't help the hospo industry. There is nothing to gain when you abstain.

On that basis, we do not consider that the concept of Beer and Pie July, or the tagline, is socially irresponsible. It can be seen as an alternative for those who might undertake Dry July and then binge drink in August, rather than moderately consume alcohol responsibly throughout. New Zealand has a serious binge drinking problem. We further note that audiences familiar with the style of Hauraki broadcasters would understand the dry humour behind their “answer” to Dry July.

We are conscious that the ad on the New Zealand Herald website can be seen by those unfamiliar with the nature and tone of Hauraki promotions. Alternatively, without this background, we consider that the tagline is likely to be seen as satirical, given both short term and long-term abstinence of alcohol very likely has health benefits.²

We repeat the same in respect of social responsibility and alcohol. Beer and Pie July advocates the drinking of a beer (or part thereof) responsibly, with a pie; the concept also, as above, advocates for long term change where such change is required.

² For example, refer <https://www.nature.com/articles/nrgastro.2016.39>; <https://www.vichealth.vic.gov.au/media-and-resources/publications/evaluation-of-the-impact-of-febfast-participation>; <https://psycnet.apa.org/record/2015-57039-001>