

COMPLAINT NUMBER	19/273
COMPLAINANT	O Miller
ADVERTISER	Family First
ADVERTISEMENT	Family First Print
DATE OF MEETING	13 August 2019
OUTCOME	Not Upheld No further action required

Description of Advertisement

The full -page newspaper advertisement for Family First is headed “We love them both”. The “B” of the word “Both” is formed by the shape of a pregnant woman. Beneath this is the question: “ABORTION: What does New Zealand *really* think? Below this are ten different percentages relating to the responses provided by several polls held between 2011 and 2017. The text at the bottom of the ad says: “The full polling results can be viewed at CHOOSELIFE.ORG.NZ/POLL”.

Summary of the Complaint

The Complainant said the advertisement is misleading and in breach of Rule (c) of the Advertising Standards Code relating to the use of data, specifically the guideline “Claims must not overstate the significance of any results.”

The Complainant said to be representative of the New Zealanders’ views about abortion, the sample size for the poll should be 4,920 people, not 1,000.

Issues Raised

- Truthful Presentation
- Use of Data
- Advocacy Advertising

Summary of the Advertiser’s Response

The Advertiser said actual poll results were used in the advertisement. The polls were conducted in accordance with relevant research Codes of Practice.

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a newspaper advertisement for Family First on the subject of abortion. The Complaints Board said the advertisement was not misleading, did not overstate the significance of poll results and was clearly an advocacy advertisement for Family First.

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.

Rule 2(c): Use of Data: Advertisements must not use tests, surveys, research results or quotations from technical and scientific literature in a manner which is misleading or deceptive.

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.

The Complaints Board said the advertisement before it fell into the category of advocacy advertising and noted the requirements of Rule 2(e) of the Advertising Standards Code. This Rule required the identity of the advertiser to be clear; opinion to be distinguished from factual information and factual information able to be substantiated. The Advocacy Principles developed by the Complaints Board in previous decisions considered under Rule 11 of the Code of Ethics remain relevant. They say:

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 rights 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.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout was this advertisement contains polling information presented by an organisation which is against liberalising New Zealand's abortion laws.

Does the advertisement fit the definition of advocacy advertising?

The Complaints Board agreed the advertisement did fit the definition of advocacy advertising and the identity of the Advertiser, Family First, a well-known organisation, was sufficiently clear. The Complaints Board said the view of the Advertiser was also clear as the advertisement included the website address: CHOOSELIFE.ORG.NZ/POLL. The Complaints Board noted that a bill proposing reform of abortion laws in New Zealand is currently being considered by Parliament.

Is the advertisement misleading and have poll results been used in a manner which is misleading?

The Complaints Board agreed the advertisement was not misleading and the poll results were not used in a manner that was misleading.

The Complaints Board noted that the polling was conducted in accordance with the New Zealand Political Polling Code by a named market research organisation. The advertisement provided a reference to a website where further information about the polling results could be found.

The Complaints Board noted a sample size of 1,000 respondents was common practice for market research polls in New Zealand.

The Complaints Board said taking into account context, medium, audience and product, the advertisement was not in breach of Principle 2 or Rules 2(b), 2(c) or 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

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. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT FROM O MILLER

I would like to make a complaint about the full page ad taken out by Family First in the July 23rd 2019 addition of The Dominion Post, page 14.

My complaint is primarily based on a breach of Rule 2 (c) Use of data, specifically under the guideline "Claims must not overstate the significance of any results."

This full page advertisement claims to use statistical information to prove what New Zealanders think of abortion. The way in which this information has been portrayed is both misleading and deceptive.

The research that Family First has used is based on a sample size of 1,000 people -this advertisement claims to be representative of the views of New Zealanders, however in order to do so within a reasonable margin of error they would need to have a sample size of 5,170 people. To claim that research based on such an inadequate sample size is representative of what 'New Zealanders really think' about abortions is very misleading, as it implies it is a much more representative of the nation's view than it in fact is.

Additionally the manner in which the different statistics have been combined is in breach of Rule 2(b) Truthful representation. The combination of results selected and the wording they have used to present this information is misleading and I believe deliberately so.

As an example of this, Family First state "65% want fewer abortions" - in the context of this anti-abortion ad this statistic implies that 65% of New Zealanders think that women seeking abortions should be refused treatment. However, it does not clarify whether this question refers to wanting an increased number of women to be denied abortions or wanting fewer abortions because fewer woman or having unplanned/ unsafe/ nonviable/ or unwanted pregnancies - a distinction which in this context is very important.

The inclusion of the statistic "90% oppose sex-selective abortions' is also misleading and deceptive. This statement given without context stands to deliberately mislead and confuse readers by implying that either sex-selective abortions are currently legal- which with exception of health reasons such as significant genetic disorders is inaccurate- or that they are occurring on a frequent basis - given that administrating an abortion for this reason is illegal it appears highly unlikely that this is the case, if Family First has evidence that this is occurring currently then I consider that they have an obligation to state their evidence to back this implied claim (if not in the ad, in the link they supply for more information). On this basis I consider that the inclusion of this statistic and the inaccurate situation it implies is deliberately deceptive and exploits the lack of legal knowledge or understanding that an average reader can be expected to have regarding abortion laws or process.

On the basis of multiple breaches of the Advertising Standards Authorities rules which have resulted in the publication of advertising that contains significant misrepresentation of data presented in a misleading and deceptive manner, I consider that Family First have failed to present the results of the research they have commissioned in a way that adheres to the required legal framework. On this basis I hope that the Advertising Standards Authority will no longer allow Family First to advertise this misinformation.

Appendix 2**RESPONSE FROM ADVERTISER, FAMILY FIRST**

Attached are the actual poll results which formed the advertisement.

You will note that that the polls are conducted in accordance with the New Zealand Political Polling Code, the Research Association New Zealand Code of Practice and the International Chamber of Commerce/European Society for Opinion and Market Research Code on Market and Social Research.

We have nothing further to add.

Appendix 3**RESPONSE FROM MEDIA, STUFF**

We understood the advertisement to be a truthful representation of the information provided to the public.

As an advocacy style advertisement, it provided the public with the information the advertiser wished to convey, with an authoriser statement at the bottom of the advertisement, should any party wish to contact them to discuss.

We welcome any recommendations the ASA have in regards to this advertising or type of campaign in the future.