

COMPLAINT NUMBER	19/332
COMPLAINANT	K Woolrych & K Lynch
ADVERTISER	Fluoride Free NZ
ADVERTISEMENT	Fluoride Out of Home
DATE OF MEETING	9 September 2019
OUTCOME	No Grounds to Proceed

Advertisement: The Fluoride Free NZ billboard advertisement said: "NEW STUDY - TOP MEDICAL JOURNAL FLUORIDATED WATER LOWERS KIDS' IQs". It includes an image of a pregnant woman and the Advertiser's website address, www.fluoridefree.org.nz.

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

Complainant, K Woolrych, said: This billboard, displayed prominently in the car park of Dunedin International Airport, makes a patently false claim, reading:

'NEW STUDY -
TOP MEDICAL JOURNAL
FLUORIDATED WATER LOWERS KIDS' IQs'
www.fluoridefree.org.nz'

This statement is not supported by scientific evidence and is designed to exploit a lack of public knowledge about government fluoridation of water supplies. It is misleading and potentially dangerous, as fluoridation is proven to have public health benefits and spreading pseudo-scientific misinformation has damaging effects on society as a whole. It presents the information as fact without citing any sources or scientific evidence.

The Complaints Board should note the finding of Complaints Board Decision 13/501 where the Ministry of Health - a national authority and seen as an expert body with regard to its statutory role - cited the findings of Professor Sir Peter Gluckman, the Chief Science Advisor to the Prime Minister, as an authority on the matter who said at the doses used, there is no risk from fluoride in the water.

This statement, prominently displayed for both international visitors and the Dunedin public to see, goes beyond the provision of robust opinion allowed for under the rules of advocacy advertising by making a patently false statement.

The ASA has a social responsibility to remove this advertisement and encourage Dunedin International Airport to exercise more prudence in their future decisions to grant advertising space.

Complainant, K Lynch, said: Scientific claims like this require significant substantiation. I do not believe this message is derived from a credible source of information. This is dangerous information to spread.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b), Rule 2(e)

The Chair noted the Complainants concerns the advertisement was misleading, unsubstantiated and potentially dangerous.

The Chair confirmed the advertisement was 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 must be 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.

The Chair referred to a precedent, Decision 18291 Appeal 18018, which was ruled Not Upheld, Appeal Allowed. The complaint concerned a newspaper advertisement for Fluoride Free New Zealand which showed a photo of a child drinking a glass of water with the heading "Fluoride is a Neurotoxin that Reduces Children's IQ". The Appeal Board said the advertisement did not reach the threshold to be misleading as, in the context of an advocacy advertisement, some substantiation had been provided for the claims made. The Appeal Board also said the advertisement did not reach the threshold to unjustifiably play on fear and therefore was not socially irresponsible.

Turning to the complaint before her the Chair said the precedent decision was directly relevant as the Advertiser was referring to a recently published study to support their views on the fluoridation of water debate.

The Chair noted that this is a current matter of public debate with media coverage about the study referred to in the advertisement. The advertisement also contains the Advertiser's website: www.fluoridefree.org.nz, and makes its position in the debate clear.

The Advertiser, in relying on the article, had provided some substantiation for the claims made, in the context of an advocacy advertisement. Therefore, the advertisement was not misleading.

The Chair ruled the complaint had No Grounds to Proceed.

Chair's Ruling: Complaint No Grounds to Proceed

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.