

COMPLAINT NUMBER	19/358
COMPLAINANT	P Lunt
ADVERTISER	Seafood New Zealand
ADVERTISEMENT	Seafood New Zealand Print
DATE OF MEETING	23 September 2019
OUTCOME	No Grounds to Proceed

Advertisement: The newspaper advertisement for Seafood New Zealand showed a photo of a cat standing in a litter box with the heading "It's not fishing that's landed the Māui dolphin in the poo". The article beneath this photo includes the following statements: "New research hints at the real answer. Recent autopsies on Māui dolphins have shown the presence of fatal toxoplasmosis in two of three cases. Toxoplasmosis is a bacterial disease spread by animal faeces, particularly wild and domestic cats. It finds its way into waterways and then into the sea."

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

Complainant, P Lunt, said: Sealord advertisement on Page 19 of Dominion Post dated Mon 16th Sept which suggests that research hints that Maui dolphin deaths are from toxoplasmosis disease contracted from cat faeces. This is untrue and misleading.

1 DOC and Fisheries NZ have previously been warned by a panel of experts that the danger posed to dolphins by toxoplasmosis from cat faeces was 'tenuous at best'.

2. Professor Liz Slooten (dolphin expert) has previously described the theory that cats posed a greater risk to dolphins than fishing nets as 'nonsense'.

I therefore wish to make a complaint about the advert by Seafood.co.nz as it contains untruthful, unbalanced and misleading information. I contend that the information from Seafood.co.nz is an advert as it contains a message, the content of which is intended to directly influence the opinion of those to whom it is addressed.

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

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(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 Chair noted the Complainant's concerns the advertisement was misleading because it suggests that Māui dolphin deaths have been caused by toxoplasmosis, a disease contracted from cat faeces.

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 noted that the introduction of the Government's Threat Management Plan is a current matter of public debate with media coverage about the studies referred to in the advertisement. The advertisement contains the Advertiser's website: Seafood.co.nz and makes its position in the debate clear.

The Chair said, in the context of an advocacy advertisement, the Advertiser's view is supported by recent research, and the advertisement is not misleading.

The Chair said the advertisement was not in breach of Principle 2, Rule 2(b) or Rule 2(e) of the Advertising Standards Code.

The Chair ruled there were No Grounds for the Complaint 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.