

<b>COMPLAINT NUMBER</b>	19/344
<b>COMPLAINANT</b>	S Martelli
<b>ADVERTISER</b>	New Zealand National Party
<b>ADVERTISEMENT</b>	New Zealand National Party, Digital Marketing
<b>DATE OF MEETING</b>	15 October 2019
<b>OUTCOME</b>	Not Upheld No Further Action Required

### **Description of Advertisement**

The New Zealand National Party digital marketing advertisement shows a Newshub video clip of the Hon David Parker being interviewed. He is asked “Labour failed to deliver on KiwiBuild and Capital Gains Tax, how can we trust that Labour is capable of turning this around in 5 years?” David Parker responds “Trust me I know what I’m doing.” The advertisement then shows a montage of different Coalition Government Ministers in the debating chamber in Parliament stating voters can trust them. A list of initiatives that the National Party considers shows Government can’t be trusted scrolls up the screen and includes the claim “Economic growth halved.” The advertisement ends with the text “You can’t trust Labour”. The advertisement has an authorisation statement.

### **Summary of the Complaint**

The Complainant is concerned the advertisement is misleading to state that economic growth has halved, implying this has happened under the Coalition Government. The Complainant says NZ’s GDP has fallen from 3.1% in Sep 2017 to 2.7% in March 2019 which is not halving economic growth.

### **Issues Raised**

- Truthful Presentation

### **Summary of the Advertiser’s Response**

The Advertiser said the Complainant had picked one particular measure and point of time of economic growth to justify the complaint. Statistics NZ produce a large number of measures of economic growth. The Advertiser points to a number of more typically used measures of economic growth which show it has halved as substantiation for the claim made in the advertisement.

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about the National Party advertisement on Facebook and Twitter that claimed economic growth had halved under Labour. The Board agreed there were many ways to measure and compare economic growth. The Complaints Board unanimously agreed that within the context of advocacy advertising, the Advertiser provided adequate substantiation to support the claim made.

## Relevant ASA Codes of Practice

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

### 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(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.

### Complaints Board Discussion

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement is the National Party says you cannot trust Labour to deliver on what they say they will. The Board said the claim that economic growth has halved was not a key element of the takeout, but was one example to illustrate the Advertiser's view.

#### *Is the advertisement advocacy advertising?*

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 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 state:

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.

Having established the advertisement posted on Facebook and Twitter was from the New Zealand National Party questioning whether the Labour Party can be trusted, the Complaints Board noted that political advertisements were not only acceptable but encouraged, as they were an essential and desirable part of the functioning of a democratic society.

The Complaints Board also observed that in a free and democratic society, differences of political opinion should be openly debated without undue hindrance or interference from authorities such as the Complaints Board, and in no way should political parties, politicians, lobby groups or advocates be unnecessarily fettered by a technical or unduly strict interpretation of the rules and regulations. Therefore, the Complaints Board considered the rest of the complaint in conjunction with this liberal interpretation under the application of the Advocacy Principles.

*Is the identity of the Advertiser clear?*

The Complaints Board agreed the Advertiser had met the identity requirements for advocacy advertising under Rule 2(e). The video was posted on the New Zealand National Party Facebook page and Twitter feed, the identity of the Advertiser was clear and an authorisation statement from Simon Bridges, Leader of the National Party was included.

*Is the claim “economic growth halved” misleading?*

The Complaints Board said that although the economic growth statement in the advertisement was not a central claim, it was a factual claim which required substantiation from the Advertiser.

The Complaints Board agreed there were different ways to measure and compare economic growth and it was not surprising that parties with opposing political views are able to provide evidence to support different viewpoints.

The Complaints Board unanimously agreed that within the context of advocacy advertising, the Advertiser has provided adequate substantiation to support the claim made in the advertisement.

The Complaints Board rule the advertisement was not likely to mislead consumers and was not in breach of Principle 2 and Rule 2(b) 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](http://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
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### Appendix 1

#### COMPLAINT FROM S MARTELLI

New Zealand National Party ad on Facebook and twitter.

Dated 09/09/2019 17.11 "Trust me, I know what I'm doing" - David Parker. Does anyone really believe that?

The ad states "Economic growth halved", implying this has happened under the Coalition Government. This is false.

NZ GDP has fallen from 3.1% Sept 2017 to 2.7% Mar 2019. as per Stats NZ.

[https://www.stats.govt.nz/indicators/gross-domestic-productgdp?](https://www.stats.govt.nz/indicators/gross-domestic-productgdp?fbclid=IwAR19kvoBgOo_196amptTNIFIF_3NuaHcSlrhQKfvOCMyT_hwoITlujQViD0)

[fbclid=IwAR19kvoBgOo\\_196amptTNIFIF\\_3NuaHcSlrhQKfvOCMyT\\_hwoITlujQViD0](https://www.stats.govt.nz/indicators/gross-domestic-productgdp?fbclid=IwAR19kvoBgOo_196amptTNIFIF_3NuaHcSlrhQKfvOCMyT_hwoITlujQViD0)

It hasn't halved.

The ad is false and misleading and should be withdrawn

### Appendix 2

#### RESPONSE FROM ADVERTISER, NEW ZEALAND NATIONAL PARTY

Thank you for your letter dated 17 September 2019 regarding a complaint by S. Martelli.

You note in your letter the relevant section of Advertising Standards Codes of Practice Principle 2, Rule 2(b) and (e), that may apply here.

In regard to advocacy advertising, and particularly regarding political matters, it has been the previous view and practice of the Advertising Standards Authority that the spirit of the Code is more important than any minor technical breaches. People have a right to express their views and this right should not be unduly or unreasonably restricted by Rules.

Furthermore, in very recent previous rulings the Chair of the ASA Board noted that political advertisements were not only acceptable but encouraged, as they were an essential and desirable part of the functioning of a democratic society. The Chair also observed that in a free and democratic society, differences of political opinion should be openly debated without undue hindrance or interference from authorities and in no way should political parties, politicians, lobby groups or advocates be unnecessarily fettered by a technical or unduly strict interpretation of the rules and regulations.

To address the matter of complaint directly, the complainant, Mr Martelli, has simply picked one particular measure (and point in time) of economic growth to justify his complaint. That is misleading. Stats NZ produce a large number of measures of GDP (expenditure based/production based, nominal/chain volume, actual/seasonally adjusted) over different time periods (quarterly growth vs. annual growth).

On a number of the more typically used measures of economic growth, it has indeed halved.

For example, quarterly GDP growth (using the most typical measure: GDP production-based measure, chain volume, seasonally adjusted) was **0.8% in the third quarter of 2017**. Quarterly GDP growth **in the third quarter of 2018 was 0.4%** (ie, half the rate of economic growth)

- Source: Stats NZ – Infoshare - Economic Indicators - National Accounts - GDP (P) - Chain Volume - Seasonally Adjusted – Total - Percentage Change - Percentage change from previous period – 2017Q3 vs. 2018Q3

The other common measure of economic growth is per capita growth. The compound annual growth rate (CAGR) of per person GDP growth (using the most typical measure: GDP production-based measure, chain volume, seasonally adjusted) **between 2012 and 2017 was 1.7%** (ie, the 5-year annual average under National). **In the last 12 months, annual per person GDP growth was 0.7%**. Economic growth per person has more than halved.

- Source: Stats NZ – Infoshare - Economic Indicators - National Accounts – Per capita measure - Chain Volume - Seasonally Adjusted – Total – Gross Domestic Product – production measure – CAGR (2012Q3 - 2017Q3) vs. Annual growth (y/y) (2017Q4:2018Q4)

GDP per person has also more than halved on a quarterly basis. Quarterly GDP growth per person (using the most typical measure: GDP production-based measure, chain volume, seasonally adjusted) was **0.4% in the third quarter of 2017**. Quarterly GDP growth in **the third quarter of 2018 was 0.0%** (ie, more than half the rate of economic growth), 0.2% in the fourth quarter of 2018 and 0.1% in the first quarter of 2019.

- Source: Stats NZ – Infoshare - Economic Indicators - National Accounts – Per capita measure - Chain Volume - Seasonally Adjusted – Total – Gross Domestic Product – production measure – 2017Q3 vs. 2018Q3 or 2018Q4 or 2019Q1

The main point is that Stats NZ produce a large number of measures of economic growth. However, as has been shown above, the most typically used measures have halved (or more than halved). Therefore, the complaint made by S Martelli, under Principle 2, (b) and (e), should be dismissed.