

<b>COMPLAINT NUMBER</b>	19/386
<b>COMPLAINANT</b>	R Young
<b>ADVERTISER</b>	Vodafone New Zealand
<b>ADVERTISEMENT</b>	Vodafone New Zealand Television
<b>DATE OF MEETING</b>	12 November 2019
<b>OUTCOME</b>	Not Upheld No further action required

### **Description of Advertisement**

The television advertisement for Vodafone's 5G service shows a dog in New Zealand being operated on by a veterinary surgeon based in Japan. At the end of the advertisement there is large text which says: "Life to the power of 5G. Launches December 2019." There is also small text which says "5G launches in parts of Auckland, Wellington, Christchurch and Queenstown."

### **Summary of the Complaint**

The Complainant was concerned the advertisement is misleading because there is no 5G system in New Zealand that could link continents to provide the level of connectivity portrayed in the advertisement. The 5G technology shown in the advertisement is a local high-speed network and relies on existing cable-based connectivity based outside New Zealand.

### **Issues Raised:**

- Truthful Presentation

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

The Advertiser defended the advertisement and said the advertisement is intended to illustrate the benefits of 5G technology by showing it can enable remote surgery of the kind depicted in the advertisement. The Advertiser referred to examples of this occurring in other countries such as China.

The Advertiser said 5G technology enables this type of remote surgery because it provides a far lower "latency" (the delay in transmission of data) than previous mobile technology.

The Advertiser said it does not make any statements about the technical infrastructure by which 5G operates, or how it facilitates communications. Rather, the advertisement provides a simple illustration of one beneficial application of 5G technology and the lower latency it provides.

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

The Complaints Board did not uphold a complaint about a television advertisement for Vodafone's 5G network which showed a dog being operated by a surgeon who was located overseas. The Board said the advertisement was not misleading and provided an illustration of a potential benefit of 5G technology.

## 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.

## Complaints Board Discussion

### *Consumer Takeout*

The Complaints Board agreed the consumer takeout of the advertisement was 5G technology is super-fast and will enable innovations, such as remote surgery to take place. 5G technology will be available in some parts of New Zealand from December 2019. The Board noted that advertisement was from a telecommunications company who are rolling out 5G, rather than a veterinarian, so the focus of the advertisement was on the capability of the technology.

The Complaints Board noted the comment from the Advertiser, that the intercontinental communications such as that depicted in the advertisement involve the use of undersea fibre optic cables.

The Complaints Board noted the Advertiser did not make any statements about the technical infrastructure by which 5G operates, or how it facilitates communications.

### *Is the advertisement misleading?*

A majority of the Complaints Board said the advertisement was not misleading. The majority said the advertisement promoting the 5G network, demonstrates the potential of what can be achieved using 5G technology, which is faster than ever before. The majority said the advertisement provided an illustration of one specific application of 5G technology, which will be possible with the lower latency 5G technology provides.

A minority disagreed. The minority said the advertisement was misleading because it implies that from December 2019 surgery conducted remotely, from an overseas location, will be possible in New Zealand. The minority said the Advertiser's response did not directly address the Complainant's concern that there is currently no 5G system that links continents to provide this level of connectivity.

### **In Summary**

In accordance with the majority, the Complaints Board said the advertisement was not misleading, taking into account context, medium, audience and product and was not in breach of Principle 2 or 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
  3. Response from Media
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### Appendix 1

#### COMPLAINT FROM R YOUNG

The advert is promoting vodafone's 5g service by showing a dog in nz being operated on remotely by a team of asian medics.

The advert is perporting to show that 5g will enable intricate real time surgery across continents, with the implicit link to vodafone's 5g network providing this capability.

The claims in the advert are untrue. There is no 5g system that links continents to provide this level of connectivity. The 5g technology is a local high speed network and relies on existing cable based connectivity outside nz.

Therefore the claims made by vodafone are plainly untrue and unsubstanciated and should not be permitted in a tv advert.

### Appendix 2

#### RESPONSE FROM ADVERTISER, VODAFONE NZL

1. We refer to your letter dated 8 October 2019 and the enclosed complaint by R. Young (the **Complaint**). In the schedule to this letter we enclose the Complaint Response Form setting out the details of the television commercial with ASA key number VOD 30 038 (the **Advertisement**).
2. As the Complaint records, the Advertisement shows a dog located in New Zealand being operated on remotely by a surgeon located in Japan. At the end of the Advertisement, the text "Life to the Power of 5G" appears. The Advertisement is intended to illustrate the benefits of 5G technology, by showing how it enables remote surgery of this nature. A copy of the Advertisement can be viewed at [www.vodafone.co.nz/5G](http://www.vodafone.co.nz/5G).
3. For the reasons set out below, Vodafone considers that the Advertisement is not in breach of Rule 2(b) of the Advertising Standards Code.

#### **5G technology can be used in the way depicted**

4. 5G technology does allow remote surgery of the kind depicted in the Advertisement. Indeed, similar remote surgeries have already taken place around the world using 5G:

- (a) In January 2019, remote surgery via robotics was successfully performed in China on an animal approximately 50 kilometres away, over a 5G network.<sup>1</sup>
  - (b) In March 2019, a surgeon in Sanya, China used 5G technology to successfully place a brain implant in a Parkinson's disease patient located in Beijing, almost 3,000 kilometres away.<sup>2</sup>
5. A Vodafone 5G network was used to enable surgery in Barcelona in February 2019 that was remotely mentored by a surgeon located outside the surgery room.<sup>3</sup>
  6. 5G technology enables these surgeries because it provides a far lower "latency" (the delay in transmission of data) than was the case for previous mobile technology. For example, a 4G network has an average latency of around 50 milliseconds, while a 5G network can achieve a latency of less than 10 milliseconds. That means that the delay in the transmission of data is considerably reduced.
  7. In the context of remote surgery, this means that a surgeon's use of robotic surgical instruments can be replicated almost instantaneously in the operating theatre, reducing the risk of medical errors to an extent that would not previously have been possible using a 4G network.
  8. If you would like us to provide further details of how 5G technology operates, we are happy to provide this.

#### **The Advertisement does not make the claims alleged in the Complaint**

9. The Complaint alleges that the Advertisement makes untrue and unsubstantiated claims because "*there is no 5G system that links continents to provide this level of connectivity. The 5G Technology is a local high speed network and relies on existing cable based connectivity outside NZ.*"
10. The complainant is correct that 5G communications rely on the use of cables to transfer data between cell towers (as is the case for all cellular networks). In the context of intercontinental communications, such as that depicted in the Advertisement, this involves the use of undersea fibre optic cables.
11. However, the Advertisement makes no contrary representation. It does not make any statements about the technical infrastructure by which 5G operates, or how it facilitates communications. Rather, the Advertisement provides a simple, clear and accurate illustration of one beneficial application of 5G technology and the lower latency it provides.

We trust that this resolves the matter, however please do not hesitate to contact us if you require any further information.

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<sup>1</sup> A video is available at <https://www.youtube.com/watch?v=yFR61jjL1vo>

<sup>2</sup> Reported here: <https://www.geek.com/tech/worlds-first-5g-powered-remote-brain-surgery-performed-in-china-1778982/>

<sup>3</sup> Reported here: <https://www.clinicbarcelona.org/en/news/barcelona-hosts-the-first-5g-tele-mentored-surgery>

A basic, neutral description of the advertisement	The advertisement depicts a dog being operated on in NZ by a surgeon in Japan over a 5G connection.
Date advertisement began	15/09/19
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	<ol style="list-style-type: none"> <li>1. TV – Free to Air (TVNZ, MW, Choice) &amp; Sky Channels</li> <li>2. TVNZ &amp; MW On-Demand platforms (pre-roll)</li> <li>3. Digital OOH (late Sept Only)</li> </ol>
Is the advertisement still accessible – where and until when?	<ul style="list-style-type: none"> <li>• Free to Air, Sky Broadcast &amp; TVNZ/MW OD platforms</li> <li>• Media planned to run through to March 2020</li> </ul>
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	<a href="https://www.youtube.com/watch?v=xtEe1iuH9f0">https://www.youtube.com/watch?v=xtEe1iuH9f0</a>
Who is the product / brand target audience?	All New Zealanders
Clear substantiation on claims that are challenged by the complainant.	See above letter.
The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	
<b>For Broadcast advertisements:</b>	
A copy of the script	There is no voiceover in the Advertisement
A copy of the media schedule and spot list (Please remove all financial information)	See attached
CAB key number and rating	120 sec #90912052  60 sec #90912052  Rating: G

### **Appendix 3**

#### **RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU**

CAB approved this Vodafone commercial on 18/09/19 with a G classification.

The commercial shows the possibilities offered by new technologies, connected by 5G data transmission.

The details of the 5G technology and the counter-claims made the complainant are very complex, so CAB will defer to the expert knowledge of the advertiser.

Vodafone and their agency work very diligently to meet NZ advertising standards, and we support their response in good faith.