

COMPLAINT NUMBER	20/023
COMPLAINANT	R Travaille
ADVERTISER	Right to Life
ADVERTISEMENT	Right to Life billboard
DATE OF MEETING	10 February 2020
OUTCOME	No Grounds to Proceed

Advertisement: The billboard advertisement for Right to Life had a photo of a foetus next to the text “If you think that abortion up until birth is wrong... Ask your MP to vote against the Abortion Bill. www.righttolife.org.nz.”

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

Complainant, R Travaille, said: Advertising is "pro-life" (anti abortion) double-sided placard on a trailer near Innes Rd roundabout on QE2 Drive in Christchurch. The website this is advertising for is offensive to me as a woman, an educator and humanist. I think the advertisement has no place in our progressive city and discriminates against woman such as myself who believe in gender equality (that we should have right to our own bodies and what happens to them.) The Right to Life website it references attacks LGBT people, sex education and woman. I don't think this that abhorrent website with outdated and vicious views should be publicly advertised on a road frequented by so many. Thank you for your consideration.

The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(c), Rule 2(e);

The Chair noted the Complainant's concerns the advertisement discriminates against women and the Right to Life website is outdated and has vicious views.

The Chair said the advertisement 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.

The Chair said the Advertiser had met the identity requirements for an advocacy advertisement. The billboard advertisement was authorised by Right to Life and contained a website address, which would allow consumers to find out more details about the organisation's views. The organisation's position regarding abortion was also clear. Therefore, the Chair said the context, placement and content made the identity of the Advertiser clear.

Having established the advertisement was from Right to Life, the Chair noted that political commentary within advertising was not only acceptable but encouraged, as it is 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 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 Chair considered the rest of the complaint in conjunction with this liberal interpretation under the application of the Advocacy Principles.

In considering the complaint, the Chair referred to precedent Decision 17/322, which concerned a Voice For Life advertisement about abortion reform and was ruled no grounds to proceed by the Chair of the Complaints Board. That decision said in part:

“While she acknowledged the Complainant's concern the wording in the advertisement was misleading, the Chair said the Complaints Board had consistently ruled that an opinion held by a political party, person or organisation was not misleading just because of a different emphasis on the interpretation of detail, even if it was contrary to that of the Complainant.”

Turning to the complaint before her, the Chair said the Advertiser is presenting its interpretation of the Government's proposed changes to abortion legislation which it opposes. The Chair said the viewpoint represented in the advocacy environment is opinion rather than fact and does not meet the threshold to breach Principle 1, Principle 2 or Rules 1(c), 1(g) and 2(b) of the Advertising Standards Code.

The Chair noted this was a matter of public interest which is currently being widely debated and covered by a range of media platforms.

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 calendar days of receipt of this decision.