

COMPLAINT NUMBER	20/040
COMPLAINANT	C Smith
ADVERTISER	New Zealand National Party
ADVERTISEMENT	New Zealand National Party, Digital Marketing
DATE OF MEETING	13 February 2020
OUTCOME	No Grounds to Proceed

Advertisement: The Twitter advertisement on the New Zealand National Party's feed is headed "Labour's "Year of Delivery" and has two columns headed "Promises" and "Delivery?" Listed under the Promise heading are; "Strong economy, Reduced Child Poverty, Light rail, 1800 more police, Free doctor visits, More ECE Services, One billion trees, Capital gains tax, Kiwi Build." The Delivered column has crosses next to each area. The advertisement is authorised by Simon Bridges, Leader of the Opposition.

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

Complainant, C Smith, said:

I wish to make a complaint about this ad posted on Twitter by the National Party <https://twitter.com/NZNationalParty/status/1216585665153863680> (copy attached).

I draw your attention to Rule 2 (b) Truthful presentation of the Advertising Standards Code - Truthful presentation. This ad is likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge.

The ad refers to the "Year of Delivery", a name given to 2019 by Prime Minister Ardern. It then lists a series of things it says were "promises" and displays red crosses implying these were not delivered in the "Year of Delivery". This misleads a number of times, by claiming promises were made for 2019 that were not made and by claiming that promises made for 2019 were not delivered when they were. The most egregious of these are:

1) Strong economy. The ad puts a cross beside the words "strong economy", implying Labour broke a promise to deliver a strong economy in 2019. In fact, Statistics NZ data (<https://www.stats.govt.nz/indicators/gross-domestic-product-gdp>) shows the economy grew 2.7% in the year to September 2019, higher than Treasury's long-run growth assumptions (<https://treasury.govt.nz/system/files/2019-12/fsm-projections-hyefu19.pdf>) and 0.7% in the quarter, beating the Reserve Bank's projection of 0.3% (<https://www.rbnz.govt.nz/monetary-policy/monetary-policy-statement/mps-november-2019> page 40).

2) Reduced child poverty. The ad implies that the Government has not reduced child poverty as promised. The promise in question is targets set by the Government of reducing child poverty using the 50% of median income before housing costs and 50% of median income after housing cost poverty lines. According to the Child Poverty Report released with Budget 2019, the Government is reducing poverty and on track for its targets (<https://www.budget.govt.nz/budget/2019/wellbeing/child-poverty-report/index.htm>)

3) One billion trees. The ad implies Labour promised to plant one billion trees in 2019. In fact, the Government has set a target for one billion trees by 2028. 149m have been planted so far (<https://www.mpi.govt.nz/funding-and-programmes/forestry/one-billion-trees-programme/about-the-one-billion-trees-programme#tree-planting-tracker>)

4) Capital Gains Tax. The ad implies that Labour promised a capital gains tax. It didn't. The promise made by Jacinda Ardern was for a tax working group that would look into, among other things, a capital gains tax (see timeline at the bottom of this article https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12223212). There was no promise that a capital gains tax would be implemented and it was not included in Labour's Alternative Budget (<https://www.labour.org.nz/fiscalplan>) The Tax Working Group was established as promised, it reported, and the Government chose not to advance a capital gains tax.

There are other misleading elements to this ad, but these are the most blatant untruths.

As you will be aware, the ASA has already ruled several times against untruthful National Party ads in the past year. Unfortunately, it seems the strategy of concerted, purposefully untruthful political advertising that has been seen in other countries is being mimicked in New Zealand. This is a threat to our democracy and I hope it is something the ASA will continue to take seriously.

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 concern the advertisement was attempting to mislead consumers about targets set by the New Zealand Labour Party and whether they had been achieved.

The Chair confirmed the advertisement for the National Party was an advocacy advertisement provided for under Rule 2(e) of the Advertising Standards Code. Robust expression of opinion is allowed, as long as the advertiser is clearly identified, and the Advertiser's position is clear. The Chair ruled the Advertiser had met the identity requirements of an advocacy advertisement.

The advertisement appears on the National Party Twitter feed and includes an authorisation statement from Simon Bridges, the Leader of the Opposition. Therefore, the Chair said the context, placement and content made the identity of the Advertiser and their position clear.

Having established the advertisement was from the New Zealand National Party, the Chair 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.

The Chair noted the advertisement listed nine policy areas such as “Kiwi Build”, “Strong economy” and “Reduce Child Poverty” with crosses in the delivered column. The Chair said the advertisement did not contain any detail about these categories.

The Chair said it was clear the advertisement is the Opposition's view of the Government's achievements in some policy areas. The Chair said whether what had been promised was delivered was open to debate and the advocacy advertisement was clearly from the Opposition Party's point of view.

The Chair said this type of advocacy advertising, reflecting an opposition party's perspective on matters of current public debate, was provided for under the Code and did not meet the threshold to be misleading.

The Chair said taking into account the context, medium and likely audience, the advocacy advertisement was not in breach of Principle 2 or Rules 2(b) and 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 calendar days of receipt of this decision.