

COMPLAINT NUMBER	20/036
COMPLAINANT	A Kleven
ADVERTISER	ACT New Zealand
ADVERTISEMENT	ACT New Zealand, Digital Marketing
DATE OF MEETING	17 February 2020
OUTCOME	No Grounds to Proceed

Advertisement: The ACT New Zealand Facebook advertisement says: “Labour wants to control what you say.” The supporting text says: “Support ACT’s campaign for freedom of speech” The advertisement contains an authorisation statement.

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

Complainant, A Kleven, said: Digital Marketing

https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=NZ&impression_search_field=has_impressions_lifetime&view_all_page_id=92043134118

Social Media

This political advertisement from Act, states "Labour wants to control what you say." without providing any sources to support this claim. Though the claim may be argued to be true in some capacity, it is clear that the intent here is to paint Labour as an authoritarian party which wishes to enact far more control than is realistic.

I believe this is in breach of the Advertising Standards Code, Principle 2(b).

<https://www.facebook.com/ads/library/?id=173522450625002>

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 misleading to imply the Labour Party wanted to control freedom of speech without providing sources to support this claim.

The Chair confirmed the ACT advertisement 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 sponsored advertisement appears on the ACT New Zealand Facebook page and includes the ACT New Zealand logo. 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 ACT New Zealand 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 Complainant considered the advertisement was implying the Labour Government wanted to control free speech but had not provided any sources to support the claim. The Chair confirmed the advertisement was an opinion statement from a political party, whose position is against imposing restrictions on free speech.

The Chair said the opinion statement did not reach the threshold to be likely to mislead or deceive consumers and interested parties would be likely to investigate matters concerning free speech and hate speech for themselves. The Chair also noted there is regular media coverage of political party policies on matters of public debate which give context to this type of advertising.

The Chair said the advertisement was not in breach of Principle 2 or Rule 2(b) and 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 calendar days of receipt of this decision.