

COMPLAINT NUMBER	20/117
ADVERTISER	Brand Developers Ltd
ADVERTISEMENT	Fish Seeker, Television
DATE OF MEETING	30 March 2020
OUTCOME	No Grounds to Proceed

Advertisement: The Brand Developers television advertisement for the Fish Seeker shows it in action taking a long line of baited hooks out to deep waters. Freshly caught fish, some with the hooks still in their mouths, are shown being pulled out of the sea or lying on the sand. Some of the fishers hold up freshly caught fish to the camera.

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

Complaint: I wish to complain about the infomercial for the torpedo fishing device 'Fish Seeker'.

This infomercial screened just prior to the 6pm news on TVNZ 1 on 23 March, 2020.

It was an entirely inappropriate time for such an advertisement. This type of infomercial usually feature through the early morning hours when viewership is limited.

The advertisement showed blatant animal cruelty in that shots of fish desperately struggling to breath out of water featured prominently. There were also shots of fishermen holding live fish which were struggling to breath.

The advertisement promotes the ability to catch fish beyond the legal quota for one individual and therefore the product it is selling should be deemed illegal.

This product and the advertising of it go against the law around fishing in NZ and also contravenes good conservation practice in relation to conserving fish stocks.

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

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c): Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt abuse or ridicule.

The Chair noted the Complainant's concern the advertisement showed images that were inappropriate for the time it screened and promoted the illegal practice of fishing beyond the quota allowed for a single fisher.

In considering the placement element of the complaint, the Chair confirmed the advertisement had been given a G (General) rating by the Commercial Approvals Bureau, which means it may be broadcast at any time. The advertisement screened directly before the 6pm News, which is categorised as Unclassified Programming.

The Broadcasting Standards Authority refers to Unclassified Programming as "news, current affairs, sports and live content that is not, because of its distinct nature, subject to classification. However, broadcasters must be mindful of children's interests and other broadcasting standards and include audience advisories (i.e. a warning) where appropriate."

While the Chair acknowledged the Complainant's concerns about the timing of the advertisement, she considered the advertisement had been placed with the appropriate care just prior to the 6pm news bulletin where viewer discretion is often advised. The Chair also said advertisement is a realistic portrayal of what occurs when fish are caught and was unlikely to cause serious or widespread offence.

The Chair then turned to the Complainant's concern about the product promoting over-fishing practices. The Chair referred to a precedent decision, Decision 15/084, which considered a similar complaint for a product called Fish Harvester.

That decision said in part:

"... The Chairman acknowledged snapper was the only species of fish that featured throughout the advertisement and the graphics showed how the device would enable fishers to reach deeper parts of the ocean where snapper were prevalent. However, she did not agree with the Complainant's notion the advertisement encouraged recreational fishers to take more than the limit allowed.

Looking at the scenes that showed the harvester being pulled in, the Chairman noted only a few snapper were shown being brought onto the beach. She also noted the cooler bin showed six freshly caught snapper on ice. However, she noted this was below the limit of seven snapper a day for recreational fishers and, as such, was socially responsible.

The Chairman acknowledged the advertisement emphasised there were 25 hooks on the harvester. However, she said it would be highly unlikely a snapper would be caught on each hook. Rather, she was of the view the likely consumer takeout would be the 25 baited hooks gave fishers a greater chance of attracting and catching more fish in deeper water.

When considering the Complainant's concern about the brevity of the information about fishing regulations, the Chairman was of the view it was the responsibility of recreational fishers to inform themselves about quota restrictions for fish species."

The full versions of decisions since 2015 can be found on the ASA website :<https://www.asa.co.nz/decisions/>

The Chair said Decision 15/084 was directly relevant to the complaint before her. She acknowledged the sincere concerns of the Complainant but did not consider the advertisement encouraged fishers who use the device to disregard fishing limits.

The Chair said the advertisement had been prepared with the due sense of social responsibility required and ruled it was not in breach of Principle 1 or Rule 1(c) 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.