

COMPLAINT NUMBER	20/016
ADVERTISER	NZ National Party
ADVERTISEMENT	NZ National Party, Twitter
DATE OF MEETING	21 April 2020
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a National Party Twitter advertisement which used comparisons in benefit numbers between National and Labour Government periods and an illustrative line graph which truncated the Y axis. The Complaints Board said the data displayed was correct which saved the graphic from being misleading, given the medium used and the principles of advocacy advertising.

Description of Advertisement

The advertisement on the New Zealand National Party Twitter feed is headed “ Nine years of progress undone in two” The line graph is headed “Number of People on the Dole Up Under Labour” and shows a blue line tracking downwards turning into a red line with a sharp increase. The post includes a source information and authorisation statement.

Summary of the Complaint

The Complainant said the advertisement is misleading by presenting a truncated graph which exaggerates the reduction and increase in unemployment levels under the National and Labour Governments. The Complainant said the advertisement also misleads by inferring that the number of people on the dole is the same as the number of people unemployed when they are not the same thing.

Issues Raised:

- Truthful Presentation
- Advocacy Advertising

Summary of the Advertiser’s Response

The Advertiser said a truncated Y axis is not misleading as the Y axis is clearly labelled and the source identified. The graph is a visual aid to shows a trend. The Advertiser said there is no mention of unemployment on the graphic or caption. It illustrates how many additional people are on the benefit under the current Government.

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.

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/465 Appeal 20/002 which was Not Upheld and 20/065 which was ruled No Grounds to proceed by the Chair of the Complaints Board.

The full versions of decisions since 2015 can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 19/465 Appeal 20/002 concerned an advertisement on the National Party Facebook and Twitter Platforms about the relative fuel taxes under National versus Labour led Governments.

The Complaints and Appeal Boards were of the view that the hyperbole used in the graphic illustrations in the advertisement were mitigated by the presence of the actual figures used from a credible data source. The Boards noted the placement of the advertisement on the Advertiser's own social media platforms and the context of robust debate about fuel pricing at the time of posting.

Decision 20/065 concerned an advertisement on the National Party's Twitter feed regarding the term "dole" being used in an offensive way.

The Chair of the Complaints Board ruled there were no grounds for the complaint to proceed as she considered the word "dole" is still identifiable by consumers as a colloquial term for a benefit received by people who are unemployed.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement posted on the National Party Twitter feed was, the National Party's position was the number of people on the unemployment benefit is rising under the Labour Government and it has only taken two years for the reductions made by National in Government to be reversed.

Is the advertisement advocacy advertising?

The Complaints Board said the advertisement before it 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 Complaints Board confirmed 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 Complaints Board 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.

Is the identity of the Advertiser clear?

The Complaints Board agreed the Advertiser had met the identity requirements for advocacy advertising under Rule 2(e) of the Code. The advertisement was posted on the New Zealand National Party Twitter feed, the identity of the Advertiser was clear and an authorisation statement from Simon Bridges, Leader of the National Party, was included.

Is the advertisement stating a fact or opinion?

The Complaints Board said the advertisement is stating a fact about the increase in benefit numbers. The Board said this required substantiation.

The Complaints Board said the Advertiser had provided sufficient substantiation by stating the source of the data, namely the Ministry of Social Development benefit statistics which included the numbers illustrated in the graphic.

Is the graphic representation of the data misleading?

The Complaints Board said the execution of the graph with a truncated Y axis did not reach the threshold to mislead within an advocacy environment. This is because despite exaggeration of the trend of increased beneficiaries in the visual presentation, the actual figures are referred to. The Board took into account a precedent decision 19/465 Appeal 20/002 in determining the advertisement was saved by providing the correct data and the source of the information.

Who is the likely audience?

The Complaints Board noted that the advertisement was posted on the New Zealand National Party's Twitter account. The advertisement was not a sponsored post, meaning the audience viewing the advertisements would only see the posts if it actively engaged with the Advertiser's social media platforms including through hashtags or if an individual shared the content with them.

The Complaints Board considered the advertising medium to be important. It said the placement of the advertisement on the National Party's Twitter account meant the audience was likely to have a political interest in policy and performance comparisons between the major parties and an appreciation of the political stance a party's own social media platforms were likely to present.

The Complaints Board said the advertisement was not likely to mislead or deceive consumers, taking into account context, medium, audience and product and when viewed through the lens of advocacy advertising.

The Complaints Board ruled the advertisement was not in breach of Principle 2 or Rules 2(b) and 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaints were **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. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

<https://twitter.com/nznationalparty/status/1220124483836473344?s=11>

Once again, the truncated scale is seriously misleading. At first glance, it gives the impression that National reduced it by approx 85% and Labour have now increased it by 650%.

However, if the Y axis was to scale the decrease and increase would be approx 17% and 19%. It is also misleading because it infers that the number of people of the dole is the same as the number of people unemployed. They are not the same thing as the attached unemployment stats graph shows. Such misleading info about a competitor would not be tolerated in commercial advertising and therefore, it should not be tolerated here either. Most voters assume that stats like this are accurately presented and our democracy depends on voters being able to make informed decisions. This graph (along with many others recently published by National) would fall into the category of disinformation.

Appendix 2

RESPONSE FROM ADVERTISER, NZ NATIONAL PARTY

In regard to advocacy advertising, and particularly regarding political matters, it has been the previous view and practice of the Advertising Standards Authority that the spirit of the Code is more important than any minor technical breaches. People have a right to express their views and this right should not be unduly or unreasonably restricted by Rules.

Furthermore, in very recent previous rulings the Chair of the ASA Board 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.

To address the complainant's first point, a truncated Y axis is not misleading. The second most prominent text on this graphic is the labelling on the Y axis. The only reason this complainant knows the Y axis is truncated is because it is clearly and explicitly labelled.

Truncating an axis is common practice across all political parties and advertisers. It has been used transparently as a visual tool to show an obvious, factually accurate, and sourced trend.

On the complainant's second point: there is no mention of unemployment on this graphic or in the accompanying caption. It illustrates how many additional people are on the benefit under the current Government. What the complainant believes the intent of the graphic to be does not match what it actually displays, so this point is vexatious.