

<b>COMPLAINT NUMBER</b>	20/235
<b>ADVERTISER</b>	Department of Internal Affairs
<b>ADVERTISEMENT</b>	Keep it Real Online, Television and Digital Marketing
<b>DATE OF MEETING</b>	7 July 2020
<b>OUTCOME</b>	Not Upheld No further action required

### Summary of the Complaints Board Decision

The Complaints Board did not uphold complaints about the Keep it Real Online advertisement about children accessing inappropriate online content. The advertisement showed a man with a gun shooting the cake at a fantasy rabbit's birthday party. The Complaints Board said the content and placement of the advertisement from the New Zealand Government was justifiable on educational grounds, to address the concern that many children are currently able to access inappropriate content online.

### Advertisement

The Department of Internal Affairs television advertisement shows a girl sitting at home watching an online cartoon video called "Rabbit Birthday Party". A live enactment of what she is watching then appears on the lawn outside the house. Two people in rabbit costumes are sitting at a fully laden table with a big sign saying: "Happy Birthday". When the girl clicks on another "Suggested for you" video called "Rabbit Hunting Party" a hunter appears and takes a shot at the rabbits, hitting the birthday cake. The girl, who is still indoors watching her device, is upset. Her father says to her "Ok sweetie, I need to turn these child settings on asap, and we'll keep a closer eye on what you're watching." The voiceover then says "Kids can go from safe places to scary places in just a few clicks. Keep it real online. Get help and advice at: [keepitrealonline.govt.nz](http://keepitrealonline.govt.nz)".

### Summary of the Complaint

There were 45 complaints about this advertisement. The Complainants were concerned the advertisement:

- was inappropriate for children, due to the portrayal of violent activity using guns
- portrays hunters and rabbit hunting in a bad light
- shows a lack of firearm safety.

### Issues Raised:

- Social responsibility
- Decency and offensiveness
- Advocacy advertising
- Safety
- Fear and distress

### Summary of the Advertiser's Response

The Advertiser defended the advertisement and said:

- The purpose of the advertisement is to raise awareness about the risk of online harm to children
- Hunting is legal in New Zealand, and they had no intention of causing any offence to hunters

- The situation portrayed is clearly hyperbolic and not real life, and viewers would realise this
- During filming, safety practices were followed
- The advertisement was placed at a socially responsible time and not during programming aimed at children

### 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 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.

**Rule 1(e) Safety:** Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

**Rule 1(g) Fear and distress:** Advertisements must not cause fear or distress without justification.

**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 three precedent decisions, Decision 17/217, which was Settled in part and Upheld in part and 19/158 and 20/177, both of which were Not Upheld.

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

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

**Decision 17/217** concerned a television advertisement for “V Energy” drink which showed a construction worker on a building site. Two small human characters appear, and one jumps into wet concrete. The worker drinking “V” picks up a nail gun and fires it at the small humans. The Advertiser responded to the complaint and advised that it had removed the scene with the nail gun and it defended the concrete scene. The Complaints Board ruled the complaint was Settled in relation to the nail gun scene and Upheld in relation to the concrete scene. This is because it depicted a dangerous practice with the potential to encourage a disregard for safety.

**Decision 19/158** concerned a television advertisement for the New Zealand Transport Agency featured two men in a car eating and drinking while driving at a slow speed. The driver was slow to react to the green light change. The driver was distracted by a bike that was making a pizza delivery and crossed onto the other side of the road crashing into an oncoming vehicle.

The dazed driver sat in the car having flashbacks to smoking drugs. The onscreen text stated: "Hard to stay focused? Drive straight." The Complaints Board agreed the advertisement fitted the definition of advocacy advertising and the identity and anti-drug driving position of the Advertiser NZTA was clear. The Complaints Board agreed the advertisement was justifiable on educational grounds due to the number of car accidents and road deaths in New Zealand caused by drivers impaired by drugs.

**Decision 20/177** concerned a Department of Internal Affairs television advertisement promotes its campaign 'Keep It Real Online' which suggest ways parents can engage with their children about online pornography. The advertisement shows two naked people visiting a house because a young person had accessed their pornographic content online. The pair tell the mother about the devices he watches them on and that they normally perform for adults. They are concerned because their performance does not talk about consent or reflect how they would normally act. The mother calls her son to the door and he is surprised to see the couple at the door. The mother says, "It's time to have a talk about what you see online versus real life relationships." The advertisement ends with the line "Many young kiwis are using porn to learn about sex, keep it real online" followed by a web address for viewers to visit and the New Zealand Government logo. The Complaints Board said the execution and placement of the advertisement was justifiable on educational grounds to address the fact that many young people are using pornography to learn about sex.

### **Complaints Board Discussion**

#### *Consumer Takeout*

The Complaints Board agreed the consumer takeout was that it is a Government message highlighting that children may be accessing inappropriate content online, and suggesting parents and caregivers take action to protect them from potential harm.

#### *Does the advertisement fit the definition of 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 requires the identity of the advertiser Advertisers 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, the predecessor to Rule 2 (e), remain relevant. These say:

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.

*Is the identity and position of the Advertiser clear?*

The Complaints Board agreed the identity of the Advertiser was sufficiently clear due to the inclusion of the All of Government logo “New Zealand Government” and the supporting website address, [keepitreonline.govt.nz](http://keepitreonline.govt.nz), for viewers to seek help and advice on the issues raised. The Board confirmed the Advertiser’s position on the risks associated with accessing online content was clear.

The Complaints Board then considered the rest of the complaint in conjunction with the more liberal interpretation available under the application of the Advocacy Principles.

*Audience*

The Complaints Board noted the advertisement was rated GXC (General Except Children’s Programmes) by the Commercial Approvals Bureau, and therefore may play in programming intended for children over 13.

Complaints were received about the advertisement after it played during the following programmes:

New and current events programmes: Seven Sharp, Breakfast, TV1 News, all of which are categorised as Unclassified Programming<sup>1</sup>.

Other programmes included: Karate Kid 3, which is rated PG (Parental Guidance) and screened at 7.30pm, Love it or List which screened at 8pm, and Piri’s Tiki Tour, which screened at 9.10pm.

The advertisement also screened on Facebook and YouTube. It was available on the Keepitreonline accounts and screened as paid advertising. The Advertiser provided the following information about the target audience for the advertising campaign:

“The target audience for this campaign is parents and caregivers of children and young people in New Zealand.

We have targeted the ads to this audience in various ways:

- TV – Our commercial target audience is AP 25-54 with children 0-14 (The closest demographic to all parents and caregivers), is used to place our ads, with further consideration to avoid airtime that may see high viewership from young people via co-viewership (e.g Family Movies). This audience is measured through Nielsen and collected via TVMap/Arianna.
- Billboards and posters – placing these in locations more likely to be frequented by adults rather than children and young people, while actively avoiding schools and common areas where children congregate (eg Skate parks, youth centres)
- Online – strictly targeting parents 18+ with children in primary and secondary schools and/or has a lifestyle/hobbies interest in "Family-focused" and/or "Childcare and education". Google Ads, Facebook Ads Manager and internal platforms at NZME and Stuff are used to monitor this audience.
- Print ads – we didn't run the inappropriate content creative in press.

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<sup>1</sup> 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.

- Radio - commercial target audience of Parents with children 0-17. The audience is collected via GSK.”

*Does the advertisement cause fear or distress without justification?*

The Complaints Board said the advertisement did not cause fear or distress without justification. The Board noted that children can easily access harmful content online, even on trusted sites and showing how easily this can be done, and how frightening this can be for children, was justifiable on educational grounds.

The Board said while the imagery in the advertisement was likely to be frightening for small children the advertisement was not placed in programming targeted at children but in programming intended for audiences over the age of 13 and targeted at adults.

The Complaints Board referred to a relevant precedent decision, 19/158, which shows a drugged driver who has just had a car accident having flashbacks to when he was smoking drugs. The Board said while there are members of the community who oppose this advertisement, it contains an important social message.

The Board said the scene with the humans dressed as rabbits was obviously a fantasy scenario and the intended audience would understand this.

*Does the advertisement contain anything that is indecent or likely to cause serious or widespread offence?*

The Complaints Board ruled the advertisement did not meet the threshold to cause serious or widespread offence. The Board noted the concerns raised by several organisations representing hunters (See Appendix 1) that the advertisement implies hunting videos are inappropriate content and the advertisement portrays hunters “in a bad light”.

The Complaints Board said it was the Advertiser’s intention to convey the intended message on internet safety using imagery that clearly suggests a “danger”, but which is also legal for adults. The Board noted that there are limited options available which meet these criteria.

The Complaints Board noted the response from the Advertiser saying that it was not their intention to cause any offence to New Zealand’s many responsible hunters and gun owners. The Advertiser said: “Hunting is legal in New Zealand and enjoyed by many thousands of people, and the Department [of Internal Affairs] supports the right of Kiwis to hunt appropriately.”

The Board said this ruling was made in the context of the advertisement being an advocacy advertisement about internet safety which was not screened during children’s programming.

*Does the advertisement portray a situation which encourages or condones a dangerous, illegal or unsafe practice, which is not justifiable on educational or social grounds?*

A majority of the Complaints Board said the advertisement did not portray a situation which encourages or condones a dangerous, illegal or unsafe practice which is not justifiable on educational or social grounds. The majority said the advertisement is a fantasy scenario, designed to demonstrate how easily children can access harmful content online, and is justifiable on educational grounds.

A minority disagreed. The minority said the portrayal of a person pointing and firing a gun at two people dressed in rabbit costumes in the front garden of a suburban street was an unsafe practice and in the context of recent events in New Zealand, including the Christchurch mosque shooting, it was not justifiable, even for an advocacy advertisement.

The minority said the advertisement was in breach of Principle 1 and Rule 1(e) and not saved by the provisions of Rule 2 (e) for advocacy advertising.

*Has the advertisement been prepared and placed with a due sense of social responsibility?*

The Complaints Board said the advertisement was not in breach of Rule 1(c), Rule 1(g) or Rule 2(e) or of the Advertising Standards Code.

A majority of the Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1 or Rule 1(e) of the Advertising Standards Code.

A minority disagreed. The minority said the advertisement was not socially responsible and was in breach of Principle 1 and Rule 1(e) of the Advertising Standards Code.

### **Outcome**

The Complaints Board ruled the complaint was **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](http://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
  3. Response from Media
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### Appendix 1

#### COMPLAINTS

There were 45 complaints about this advertisement, both from individuals and also from the following organisations: The Council of Licenced Firearms Owners (COLFO), NZ Rod & Rifle Magazine, New Zealand Deerstalkers Association Inc, Kiwi Marine Services Limited, New Zealand Game Animal Council and The Stag Roar Podcast.

**Below are 5 examples of the complaints received:**

#### Example 1

##### Television and Facebook

TV3

Karate Kid 3

2020-06-20

Between 1900-2110

I believe this keepitreonline advertisement is in breach of Rule 1 (e) Safety. While I endorse their other ads regarding pornography, and the general encouragement to parents to supervise and ensure parental controls are in place on children's devices and viewing controls, this advertisement distorts a legitimate hunting scene into an illegal and scary scenario. They depict a person with a gun aiming and shooting at two people dressed as bunnies in a backyard residential area, which is an extremely unsafe and highly illegal activity. What they were trying to portray was a youtube video of someone hunting - what they actually portrayed in the advert was someone trying to commit murder, not someone aiming at a bunny in the wilderness. This is an inappropriate portrayal of the use of firearms, and much more damaging and unsafe for my children watching this, than them watching legitimate hunting. I am a mother to 3 preschoolers, and so this advertisement should have been targeted at me, but I am instead deeply disappointed that instead of doing a great advert, they have portrayed something much more unsafe.

#### Example 2

##### Complaint from The Council of Licenced Firearms Owners

The Council of Licenced Firearms Owners (COLFO) hereby lodges a complaint against a video advertisement by Netsafe, under a funding contract with the Department of Internal Affairs, produced as part of their Keep It Real Online campaign.

The video advertisement, titled *"Keep It Real Online – Inappropriate Content"* was released on 5 June 2020 and received several hundred thousand views.

In our opinion the advertisement breaches the Advertising Standards Authority's *Advertising Standards Code*, in particular Rule 2 (b) Truthful presentation.

In the advert, a young child is seen watching a of a bunny rabbit themed birthday party via an online platform. At the end of the clip, the child clicks on another suggested video about a

rabbit hunting party. Her parents are alerted to this fact and take action to prevent the child watching any more of the video.

The *Inappropriate Content* video creates the impression that it is unsafe for young people to view videos of hunting. The dialogue from the characters makes clear that the issue was with hunting videos in general, as opposed to that particular video.

The advertisement series thereby places videos of hunting alongside illegal activity and objectionable issues targeted by the *Keep It Real Online* campaign. Each of the other themes - online bullying, pornography, and online grooming- carry legal repercussions.

Online bullying is subject to the *Harmful Digital Communications Act 2015*; online grooming is an offence under the *Crimes Act 1961*; and pornography carries a Restricted 18 rating from the Office of Film and Literature Classification (OFLC) under the *Classification Act 1993*.

The *Inappropriate Content* advertisement about humane hunting videos is therefore an outlier within a campaign that aims to educate parents about illegal harms that can afflict their young people when using the internet.

It is not true that humane hunting videos are inappropriate content. Other government agencies have already determined that hunting can be broadcast generally.

As you may be aware, hunting shows are regularly broadcast on free-to-air New Zealand television. These include locally produced shows such as *NZ Hunting Adventures* and *Wild Kai Legends*. Both shows regularly depict humane hunting while carrying either a G – General or PG – Parental guidance rating. Neither of these are R – restricted categories, under which it would be illegal for children to view.

We maintain that;

1. The *Inappropriate Content* advertisement presents hunting videos as harmful, nasty and outside of normal activity. This is untrue as the Classification Office has already decreed it to be viewable in public.
2. Netsafe unnecessarily and wrongly selected hunting to represent inappropriate content'. It is an activity enjoyed by over 250,000 New Zealanders. They were denigrated by the inclusion of their sport in a series of advertisements warning parents against online 'dangers'.

On behalf of the Council of Licenced Firearms Owners, I would like to request that the Advertising Standards Authority investigate this matter further.

### **Example 3**

#### **YouTube**

This advertisement compares hunters to pornographers and paedophiles. How is it that you folk didn't regulate this comparison yourselves.

Hunting is not illegal, though they break a number of laws in this ham-fisted attempt at humour masquerading as a public service, and yet targeting children for sex and to show them pornography is illegal so how is it that this comparison was allowed to be made in the first place?

### **Example 4**

#### **Television**

**TV One During the news 2020-06-11 Approx 6:30pm**

The ad was about monitoring what kids watch online and monitor. It was about a young girl watching a rabbit hunt thinking it was Easter but an actual hunt. However a hunter climbs over what appears a backyard fence and shoots at two people dressed up as rabbits eating cake. My 6 year saw the ad and started screaming. I don't think it's appropriate to play this ad during a time that children would be awake. It would have been less frightening if showed actual rabbit hunting versus a person shooting at people dressed up as rabbits.

#### **Example 5**

Misleading untrue and offensive to the hunting community. Hunting is an educational tool for children and shouldn't be used as a scare tactic to push through a government agenda. Also shows bad gun safety.

#### **Example 6**

This portraits hunting and hunters in a very bad light. To be put alongside the like of child groomers. It's unacceptable.

### **Appendix 2**

#### **RESPONSE FROM ADVERTISER, DEPARTMENT OF INTERNAL AFFAIRS**

##### **Department of Internal Affairs Television – Complaint 20/235**

Thank you for your letter dated 23 June 2020 and subsequent emails alerting us to the complaints you have received about our 'Keep it real online' campaign, particularly the television advertisement focused on inappropriate online content.

We wish to **defend** this ad. We maintain that the ads have been prepared and placed with due care to the Principles of the Advertising Codes and the Arms Act 1983.

##### **Advertising Standards Code - Principle 1, Rule 1(c)**

Under this Rule, "Advertising must not contain anything indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule".

Complainants claim the ad, which features a hunter stalking and shooting at two larger-than-life rabbits, portrays hunters "in a bad light".

Our intention with this ad is not to cause offence to New Zealand's many responsible hunters and gun owners. Hunting is legal in New Zealand and enjoyed by many thousands of people, and the Department supports the right of Kiwis to hunt appropriately.

The ad addresses an important issue that parents and caregivers often struggle with: how to keep children from viewing online content that may not be suitable for their age and may cause them harm. Hunting is not the purpose nor the focus of the ad.

The ad is part of a wider campaign which aims to raise awareness of a range of online harms that children and young people face. The campaign uses humour and exaggerated and unlikely situations to raise these issues. None of the situations shown in the campaign are based on what happens in real life, and we are confident that people watching the ad understand this.

In support of our position, we refer to Rule 2(b) of the Advertising Standards Code: obvious untruths, exaggeration, puffery or deliberate hyperbole that are unlikely to mislead may be accepted.

**Advertising Standards Code - Principle 1, Rule 1(e)**

Under this Rule, “Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.”

In the ad, a hunter is shown discharging a firearm in a residential area, which is illegal. However, the situation shown is clearly hyperbolic and exaggerated rather than a representation of real life, and is firmly in the context of the over-the-top scenario depicted in the ad. We believe that viewers will see this ad for what it is: an obvious exaggeration and something that wouldn't happen in the real world.

We also maintain that the importance of the message – keeping children and young people safe online – offsets the behaviour shown in the ad.

Please note that during filming, all industry standard firearm safety procedures were followed, including contacting police beforehand. No bullets were discharged. A professional, licensed armourer was onsite and managed all handling of the fire arm, and the actor portraying the hunter has a firearms licence.

As a precedent for our defence under this Principle, I refer to Complaints Board Decision 15/034. We also refer to the many ruling not upheld against the New Zealand Transport Agency's road safety campaigns, which frequently show illegal behaviours, for example Complaints Board Decision 18/250 and 19/188.

**Advertising Standards Code - Principle 1, Rule 1(g)**

Under this Rule, “Advertisements must not cause fear and distress without justification”.

I note that some of the complaints relate to the ad being scary for young children. We have developed and placed this ad with a due sense of social responsibility. It is an advocacy ad which draws attention to how some online content is scary for children. It encourages parents to be aware of what their children are watching and use the tools available to them, such as filters, to prevent inappropriate content. The ad is not scheduled during programming aimed specifically at children.

As a precedent for our defence under this Principle, I refer to Complaints Board Decision 18/072.

Thank you for the opportunity to defend our advertising campaign.

**Appendix 3****RESPONSE FROM COMMEERCIAL APPROVALS BUREAU**

We have been asked to respond to complaints involving the depiction of unsafe practices and also the use of footage causing unjustified fear within this commercial.

One of several Government advertisements for the 'Keep It Real Online' campaign, this is aimed at keeping families safe while they are online. The site provides valuable information for parents and caregivers about managing screen time, how to filter and restrict content and also discusses the importance of speaking to young children about internet safety.

The commercial shows how extremely easy it is for a young and partially supervised child watching a device to, immediately with just one simple click, move from a joyful safe environment into an inappropriate and scary situation.

Beginning with a real life setting the footage then interposes characters similar to those depicted in Bugs Bunny cartoons to lull the viewer into an unconcerned state before a 'hunter' appears and destroys the idyllic scene. Yes, it may be robust and rather confronting but that is the intention of this campaign. Material must sometimes be edgy to grab the attention of viewers.

This Advocacy advertisement has a GXC classification so may play in programming intended for children over 13.

We do not believe complaints over such a concerning issue in our society should be upheld.