

| | |
|-------------------------|---|
| COMPLAINT NUMBER | 20/299 |
| ADVERTISER | Ministry of Justice |
| ADVERTISEMENT | Ministry of Justice Print and Digital Marketing |
| DATE OF MEETING | 20 July 2020 |
| OUTCOME | No Grounds to Proceed |

Advertisement: The Department of Justice digital marketing and print advertisements regarding the upcoming referendum on the Cannabis Legalisation and Control Bill provides information for voters to assist them in deciding how to vote. Headings on the advertisements include "The Referendum Question is", "What's Not Included", "The Bill's Purpose is to Reduce Harm to People and Communities" and "Where Can I Find More Information".

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

Complaint: I wish to complain regarding this brochure sent to all enrolled voters and also available online.

It fails to meet the principle and standard Rule 2B of Truthful presentation.

It claims legalisation of cannabis will reduce harm to people and communities and completely excludes widely identified scientific information regarding the negative effects of cannabis use on mental health and other behavioural and social factors. For this reason the leaflet is misleading, abuses the trust of readers who are not fully informed on the consequences of cannabis use and exploits their lack of knowledge in order to sway them to vote for legalisation of cannabis.

It exaggerates benefits with no detail on how supposed beneficial outcomes will be delivered and suggests the implies the benefits will all be automatic when they depend on many other factors unrelated to passing of this bill.

In particular it makes no reference whatever the the NZ Study (recognised worldwide as one of the best of its kind) by University of Otago, Canterbury and Auckland of 1000 NZers - which has specific findings regarding cannabis use. This study that commenced in the 1970s has worldwide acclaim from its findings. There is a specific item on this study's findings in relation to cannabis use at this website

<https://thespinoff.co.nz/politics/10-06-2020/what-40-years-following-thousands-of-nz-people-tells-us-about-cannabis-harm/>

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 advertisements were misleading.

The Chair considered the advertisement under Rule 2(e) of the Advertising Standards Code. Rule 2(e) provides for robust expression of belief or opinion being as expressed by the Advertiser and, therefore, such opinions may be robust. However, opinion should be clearly distinguishable from factual information.

Also applicable were the Advocacy Principles, developed by the Complaints Board in previous Decisions for the application of Rule 2(e) (or its predecessor Rule 11 of the Code of Ethics). These said:

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 right 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 Chair accepted the advertisements were advocacy advertisements from the New Zealand Government encouraging people to become better informed when voting in the upcoming cannabis referendum. The Chair said the identity of the advertiser was clear and their position to encourage voter participation was also clear.

The Chair said the advertisements did not reach the threshold to be likely to mislead or confuse consumers.

The Chair said the Complainant's concerns about the brochure appear to relate to the section titled "The Bill's purpose is to reduce harm to people and communities." The Chair said this part of the brochure is based on the purpose of the Cannabis Legalisation and Control Bill, as set out in section 3 of the Bill:

Purpose

The purpose of this Act is to regulate and control the cultivation, manufacture, use, and sale of cannabis in New Zealand, with the intent of

reducing harms from cannabis use to individuals, families, whānau, and communities by—

(a) exercising controls over the availability of cannabis in New Zealand and deterring the illegal supply of cannabis; and

(b) raising public awareness of the health risks associated with cannabis use; and

(c) protecting the health and wellbeing of New Zealanders, particularly young people, through restricting their access to cannabis and prohibiting inducements to use cannabis; and

(d) improving access to health and social services, and other whānau supports, for those who require assistance to address issues associated with cannabis use; and (e) providing access to a legal and quality-controlled supply of cannabis for adults who choose to use cannabis; and

(f) limiting the public visibility of, and exposure to, cannabis use in New Zealand; and

(g) placing controls on the potency and content of licensed cannabis; and

(h) providing for the limited growing of cannabis for personal use, within a regulated environment; and

(i) ensuring that responses to contraventions of the Act are proportionate, encourage compliance, and incorporate a focus on reducing overall harms.

The Chair said the advertisements were socially responsible and not in breach of Principle 2, Rule 2(b) or 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.