

<b>COMPLAINT NUMBER</b>	20/295
<b>ADVERTISER</b>	Department of Internal Affairs
<b>ADVERTISEMENT</b>	Keep it Real Online, Television, Instagram and YouTube
<b>DATE OF MEETING</b>	11 August 2020
<b>OUTCOME</b>	Not Upheld No further action required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about the television, Instagram and YouTube “Online Grooming” advertisements, which were part of the Keep it Real Online campaign. The Board acknowledged that while the use of the name Albert, or Albie, might cause offence to some people, it did not reach the threshold to be likely to cause serious or widespread offence.

### **Advertisement**

The Department of Internal Affairs advertising campaign "Keep it Real Online" shows an older man going to visit the home of a girl called Sarah. Sarah’s mother answers the door. When she asks the man who he is, he says “I’m Albert, @Albie07 on Insta”. He says he is 13 and goes to “Boy’s High”. Sarah’s mother is not impressed and sends the man away. The voiceover says: “40% of young Kiwis have online interactions with people they’ve never met in real life. Keep it real online. Get help and advice at: keep it realonline.govt.nz”.

### **Summary of the Complaint**

The Complainant was concerned “this advertisement depicts Albie as a sex offender with a prison sentence of up to 7 years.” For any person, young or old being referred to on national TV as a named sex offender is degrading, offensive and like to cause significant psychological (if not physical) harm now and in the future.

### **Issues Raised:**

- Social Responsibility
- Decency and Offensiveness
- Truthful presentation
- Advocacy advertising

### **Summary of the Advertiser’s Response**

The Advertiser defended the advertisements and said “In developing the ad, we determined that it was important to provide a name for the alias that the perpetrator uses online, and one that would ring true to a teenage girl. Online groomers use names (albeit, fake ones) to help build a connection with potential victims. Removing the alias from the ad makes it less relatable...The Netsafe “Don’t be a Nick” campaign generated complaints about the use of the common name Nick, so we decided to take a different approach and use a less common name.”

## Relevant ASA Codes of Practice

The Acting 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.

**Principle 2: Truthful Presentation:** Advertisements must be truthful, balanced and not 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 three precedent decisions, Decision 08/047 and Decision 20/177 which were Not Upheld and 18/433 which was No Grounds to Proceed.

The full versions of these decisions, if after 2012, can be found on the ASA website:

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

**Decision 08/047** concerned a television advertisement for Mainland Special Reserve cheese where a group of people are discussing names. One of the names discussed is Trudy. "... that's a fat girl's name" said one of the men in the group. Another replied: "Oh, oh, you can't say that". "It's fatist". The man continued: "What! I knew a Trudy at school - she may lose weight but her name never will". The majority of the Complaints Board said while the comments in the advertisement were of questionable taste, a level of humour was intended, provision for which was contained in Basic Principle 6. In the view of the majority, this prevented the advertisement from reaching the threshold to be likely to cause serious offence in the light of generally prevailing community standards.

**Decision 20/177** concerned a 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 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.

**Decision 18/433** concerned a website advertisement for Netsafe's "Don't be a Nick" campaign which includes images of text exchanges between three friends, TK, Jimmy and Nick. Nick is the friend that "takes things a little too far". When Nick shares a nude photo of a woman his friends say "Dude, NOT cool to share her nudes" and "Yeah, that is actually too far Nick". The Chair of the Complaints Board said the campaign was designed to discourage the practice of sharing nudes online without consent. While she noted the Complainant's concerns about the use of the name Nick, the Chair was of the view that nothing in the

advertisement could be seen to be likely to cause serious or widespread offence, in light of generally prevailing community standards.

### **Complaints Board Discussion**

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisements was parents and caregivers need to know who their children are talking to online, for their safety. The Board acknowledged this is an uncomfortable subject but one that it is very important to draw attention to it.

#### *Did the advertisements fit the definition of advocacy advertising?*

The Complaints Board agreed the advertisements fitted the definition of advocacy advertising as they are from Government and related agencies, to raise awareness about the potential for children and young people to engage in inappropriate online relationships.

The Complaints Board confirmed Rule 2(e) of the Advertising Standards Code applies to advocacy advertising. Under Rule 2(e):

- 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

Also applicable were the Advocacy Principles, developed by the Complaints Board in previous decisions under Rule 11 of the Code of Ethics, the predecessor to Rule 2 (e). 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.

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

The Complaints Board agreed the identity of the Advertiser was 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 online grooming was clear.

The Complaints Board ruled the advertisements were not in breach of Principle 2 or Rule 2(e) of the Advertising Standards Code.

*Did the advertisements contain anything that is indecent or likely to cause serious or widespread offence?*

The Complaints Board acknowledged that while the use of the name Albert, or Albie for a character representing an online groomer, might cause offence to some people, it did not reach the threshold to be likely to cause serious or widespread offence. The Board said the advertisements were an important Government message highlighting that children and young people may be having inappropriate online relationships and suggesting how parents and caregivers might address this.

The Complaints Board acknowledged the Advertiser's view that it was more effective to use real names for the online groomer and his victim, to make the scenario more realistic. The Board agreed that using real names – in this case Albert and Sarah, helped make the impact of the advertisements more powerful and true to life.

The Complaints Board referred to precedent decision 08/087, which associates the name "Trudy" with being "fat". The Board said unlike the case presently before it, this advertisement directly applies the negative associations it has created with the name Trudy to all Trudys, not just to one person in particular.

The Complaints Board noted that names and other identifying information are used for unappealing characters in many different media, including film, television and literature, and no name is immune from being used.

*Have the advertisements been prepared and placed with a due sense of social responsibility?*

The Complaints Board said the advertisements had been prepared and placed with a due sense of social responsibility, taking into account context, medium, audience and product and was not in breach of Principle 1, Rule 1(c), Principle 2 or Rule 2(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 the Media
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### Appendix 1

#### COMPLAINT

I am making a complaint about a Department of Internal Affairs (DIA) advertisement. The advertisement is on TV, Instagram and has it's own YouTube channel therefore it's reach is global. The advertising campaign has four themes but I'd only like to focus on one.

The advertisement focuses on a middle aged man named Albert, or Albie, as he is referred to. Albie is grooming children on the internet and turns up to the front door of one of the victims he is grooming. This portrayal of Albie meets the sexual grooming criteria of Section 131B of the Crimes Act 1961. Therefore this advertisement depicts Albie as a sex offender with a prison sentence of up to 7 years.

For any person, young or old being referred to on national TV as a named sex offender is degrading, offensive and like to cause significant psychological (if not physical) harm now and in the future.

I believe this type of offensiveness meets the criteria set out in the Advertising Standards Code, Principle 1 Social Responsibility, Rule 1(c) Decency and Offensiveness. *Advertisements must not contain anything that is indecent, or exploitive, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.*

My name is Albie, I was made aware of the advertisement by a colleague at work on Thursday the 9th of July and upon viewing it I felt sick, and haven't watched TV since for fear of seeing it again. I was laughed at that day and by Friday I was referred to as a child groomer in front of many colleagues at work. As a leader in my organisation I am shocked, offended and embarrassed by what this advertisement has created.

Personally this has already caused me significant psychological harm. It also raises the question about some other Albie's in New Zealand now named on TV as sex offenders including partners, colleagues, school teachers, social workers, and people highly regaded in our community.

During my research I came across a number of Albie examples in New Zealand. To name a few:

1. A Maori leader
2. A Public Service Association member
3. A mother on the internet complaining that her son named Albie will now be exposed to bullying at school. That breaks my heart.
4. A man humbled by a Queen's Honour
5. There is an Albie who goes to my daughters school

Therefore my test to the DIA and the agency they used (Motion Sickness) is whether they would use the name of their partner, line manager, CE or anything culturally sensitive? If not then why use any name at all? The only outcome for any named sex offender is shame, stigma and ridicule. Online addresses such as email accounts, usernames and logins are usually

fictitious. Therefore why didn't the DIA and Motion Sickness use something like Dab15 or dancendab15. There's no sense in choosing a name. Did they really think this through?

I have tested this with friends, colleagues and family and all agree it demonises 'Albie' as a sex offender and it's worse being a unique name in limited day-to-day use. The fact that the name is unique makes it more targeted and personal and everyone questions why any name was used.

I'm not complaining about the advertisement suite because I think they are all designed for a very good cause that I thoroughly support. However this particular advertisement is the only one that is a criminal offence, to the best of my knowledge. I also can't think of anyone who would ever want their name associated with such a despicable act, it's just wrong.

I believe a number of past complaints regarding names have not been upheld, including the Pornographic advertisement in this same suite. However I believe this meets the criteria as it links to criminal sex offending, a step that goes too far in a shock and awe campaign.

Therefore can I respectfully ask the ASA to consider the removal of this advertisement or redact any mention of a name, any name, from all forms of media and social media where it exists.

Thank-you for taking the time to read my complaint. I am happy to discuss this with you further by mobile or in person.

## Appendix 2

### RESPONSE FROM ADVERTISER, DEPARTMENT OF INTERNAL AFFAIRS

#### Department of Internal Affairs Television – Complaint 20/295

Thank you for your letter dated 25 July 2020 alerting us to the complaint you have received about our 'Keep it real online' campaign, particularly the television ad focused on online grooming.

We wish to **defend** this ad. We maintain that the ad has been prepared with due care to the Principles of the Advertising Codes.

#### 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".

It is clear that the use of the name Albie in this ad is causing the complainant distress. While it is not our intention to imply everyone with a particular name is a sex offender, online grooming has serious consequences for our young people and it's in the public interest that this issue is understood by parents and caregivers.

In developing the ad, we determined that it was important to provide a name for the alias that the perpetrator uses online, and one that would ring true to a teenage girl. Online groomers use names (albeit, fake ones) to help build a connection with potential victims. Removing the alias from the ad makes it less relatable.

When choosing a name for the character, we debated using a common name vs a less common name. We are aware of the Netsafe campaign 'Don't be a Nick' from 2018, which focused on the issue of sharing nude images without consent. To quote from the campaign's website:

Sharing other people's nudes without their consent is a sure sign that someone's being a full-blown Nick. It's a total ~~Dick~~-Nick move - and it can be against the law. That's right, being a total Nick can actually be illegal in New Zealand.

The campaign generated complaints about the use of the common name Nick, so we decided to take a different approach and use a less common name. In both cases, complaints have been made to the ASA. This leaves advertisers in a tricky situation, but we believe that viewers will condemn the actions of the character rather than people with the same name.

As a precedent for our defence under this Principle, I refer to Complaints Board Decisions about the use of specific names in advertising, for example 08/047, 13/517 and 18/433.

While we do not propose to change the ad, we will use feedback received to help develop the next phase of the campaign, due to launch in August 2020.

#### **Advertising Standards Code – Principle 2, Rule 2(e)**

Under this Rule, "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 ad clearly displays the New Zealand Government logo as the identity of the advertiser. Please refer to our response to complaint 20/177 for a screen grab from the ad showing the New Zealand Government logo.

The fact stated in the ad, that 40 percent of young Kiwis have online interactions with people they've never met in real life, comes from the 2019 report '[Ngā taiohi matihiko o Aotearoa – New Zealand Kids Online](#)' prepared by Dr Edgar Pacheco & Neil Melhuish and released by Netsafe.

#### **Advertising Standards Code – Principle 1, Rule 1(f)**

Under this Rule, "Advertisements must not, unless justifiable on educational and social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property".

The complaint notes that the ad depicts a criminal offence (online grooming), which is correct. This is why the mother character says she's going to call the police at the end of the ad. We want to demonstrate the correct way to respond to criminal behaviour.

Our intention is to show illegal behaviour – and the appropriate response – in a way that educates parents and caregivers so this type of situation can be prevented.

As a precedent for our defence under this Principle, I refer to complaints against NZTA's depiction of anti-social and illegal activity to draw attention to road safety and the resulting Complaints Board Decisions, for example 19/158, 19/162 and 19/118.

Thank you for the opportunity to defend our advertising campaign.

### **Appendix 3**

#### **RESPONSE FROM THE COMMERCIAL APPROVALS BUREAU**

We have been asked to comment on the complaint that the above commercial is in breach of the Advertising Code of Standards as it causes serious offence.

The basis of the complaint is that a character in the commercial suspected of being a sex offender shares the same first name as the complainant.

Whilst we have a lot sympathy for the complainant's situation, we would like to suggest that it has more to do with his working environment than with the contents of the advertisement. In our view, the general viewing public (and in particular other people called Albie) will recognise the advertisement as a fictitious dramatization intended to illustrate a serious topic. Sharing a first name with the sex offender character will be seen, at worst, as a mildly unpleasant coincidence.