

<b>COMPLAINT NUMBER</b>	20/348
<b>ADVERTISER</b>	New Conservative Party
<b>ADVERTISEMENT</b>	New Conservative Party Addressed Mail
<b>DATE OF MEETING</b>	17 August 2020
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The New Conservative Party unaddressed mail pamphlet sets out policy positions for the 2020 general election. Under a section headed "Community", the pamphlet states "It is scientific fact that there are only two biological genders. Gender ideology should not be taught in schools."

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

**Complaint:** They state "It is a scientific fact that there are only two biological genders." This is not true. Intersex people are people who are neither male nor female, but a mix inbetween. This is a very damaging false statement, and could be called "hate speech".  
<https://en.m.wikipedia.org/wiki/Intersex>

**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 concerns the advertisement was misleading to state it was scientific fact that there are only two biological genders.

The Chair said the advertisement is an advocacy advertisement because it promotes the views of a political party.

### **About Advocacy Advertising**

Complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

In assessing whether an advocacy advertisement complies with the Advertising Standards Code, the freedom of expression provisions under the Bill of Rights Act 1990 must also be considered.

Section 14 of the Act says: “Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.” This freedom of expression supports robust debate on current issues in a democracy.

Under Rule 2(e) Advocacy advertising of the Advertising Standards Code:

- The identity of the advertiser must be clear
- Opinion must be clearly distinguishable from factual information, and
- Factual information must be able to be substantiated.

If the identity and position of the Advertiser is clear, a more liberal interpretation of the Advertising Standards Code is allowed.

### **About this complaint**

The Chair confirmed the Advertiser’s identity and position on the issue was clear. The advertisement draws attention to the party’s policy regarding gender issues. It is a reference to their intention to remove the teaching of gender ideology from education programmes in schools.

The Chair said while she acknowledged the Complainant’s genuine concerns about this advertisement it is important that political parties can freely communicate their policies so that voters can decide how they want to vote.

The Chair said the advertisement was 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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.