

<b>COMPLAINT NUMBER</b>	20/330
<b>ADVERTISER</b>	Tricia Cheel and NZ Outdoors Party
<b>ADVERTISEMENT</b>	Tricia Cheel and NZ Outdoors Party, Billboard
<b>DATE OF MEETING</b>	8 September 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 a billboard advertisement for Tricia Cheel and the NZ Outdoors Party. The Board said the Advertiser was expressing a personal opinion that vaccinations can be harmful, and this is allowable in the context of advocacy advertising.

### **Description of Advertisement**

The billboard advertisement promotes Tricia Cheel as a candidate for the NZ Outdoors Party in the General Election. The advertisement includes a photo of a baby on the front of a t-shirt with the text “He almost died”. Other statements in the advertisement are: “Vaccine injury is real” and “Stop bullying families harmed by unsafe vaccines”. The advertisement has a website address and a promoter statement.

### **Summary of the Complaint**

The Complainant was concerned the advertisement made false and unsubstantiated statements regarding vaccines. The Complainant said there was no relevant information on the website that supported the billboard statements that “vaccine injury is real” and “families are harmed by unsafe vaccines”. There were no details relating to the photo of a baby that “almost died”.

### **Issues Raised:**

- Truthful presentation
- Advocacy advertising

### **Summary of the Advertisers’ Responses**

#### **Tricia Cheel’s response:**

Tricia Cheel defended the complaint. She provided a large file of references which she says will back up the claims made on the billboard and also provided links to YouTube videos and other material about vaccine harms. Ms Cheel said “At election time in particular people need to know what people stand for in order to cast An informed vote: And this complaint should be disallowed so that democracy can be seen to be being exercised.” She also provided a link to the nzherald.co.nz story where she sourced the baby’s image and claim about the near death.

#### **NZ Outdoors Party’s response:**

The Outdoors Party defended their candidate’s right to her long-held views, and they did not consider the advertisement to be misleading. They noted the image used in her banner was

taken directly from the NZ Herald and generally follows the narrative of the article. The story explained that the baby concerned had nearly died from a reaction to a rotavirus vaccine.

The Outdoors Party said there is a substantial number of people worried about the harm of vaccinations and they need to be able to express their views without being bullied for speaking out and be represented in Parliament. They consider the complaint should not be upheld, in the interests of freedom of speech, especially during this period of electing a new government. They said: "The voters need to know who best represents their views and who to vote for."

### 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.

#### About Advocacy Advertising

The Complaints Board said the advertisements 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 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.

*Role of the ASA when considering an advocacy advertisement*

The Complaints Board noted its role is to consider the likely consumer takeout of an advertisement. It will consider whether the advertisement includes statements of fact or opinion and decide whether any factual claims have been adequately substantiated by the Advertiser. The Complaints Board noted that a fact is something that is objectively true and can be verified as such whereas an opinion is a personal belief. Others may agree or disagree with an opinion, but they cannot prove or disprove it. Some statements contain both fact and opinion. The Board referred to the ASA Guidance Note on Advocacy which says:

“Evidence may be cited in support of the opinion, but it should be clear it supports an opinion rather than being the full factual position. Evidence in support of an opinion should be clearly cited and readily obtainable. Academic studies are often cited as evidence. Such studies are treated as expert opinion rather than the full factual situation...the Board will not determine which of competing academic studies or other evidence is correct. The Complaints Board’s only role is to determine whether there has been a breach of the ASA Codes, taking into account the Advocacy Principles.”

The Complaints Board observed that in a free and democratic society, issues 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. Therefore, the Complaints Board considered the rest of the complaint in conjunction with this liberal interpretation under the application of the Advocacy Principles.

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

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.

**Relevant precedent decisions**

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/340 which was Upheld and 19/056 which was Not Upheld.

The full versions of these decisions can be found on the ASA website: <https://www.asa.co.nz/decisions/>

**Decision 18/340** concerned a billboard advertisement for WAVES NZ which showed a photo of a man holding a baby and the text: “If you knew the ingredients in a vaccine, would you RISK it?” The majority of the Complaints Board said the identity of the Advertiser, WAVES NZ, was not sufficiently clear and ruled the identification requirement of Rule 11, Advocacy Advertising, had not been met. The Complaints Board said the advertisement

was misleading as the likely consumer takeout that vaccination is not safe was not sufficiently substantiated by the Advertiser, the advertisement unjustifiably played on fear and was socially irresponsible.

**Decision 19/056** concerned a billboard advertisement for Family First NZ with the text “Marijuana has a ‘kids menu’”. The Complaints Board said the advertisement drew the public’s attention to some of the different types of cannabis products that might be available for sale in New Zealand, if recreational cannabis is made legal. The Complaints Board agreed the advertisement did not contain anything indecent, exploitative or degrading, did not cause fear or distress and was socially responsible.

### **Complaints Board Discussion**

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was Tricia Cheel is a candidate for the NZ Outdoors Party for the upcoming election, and she is concerned about the potential harm caused by vaccination.

#### *Is it an advocacy advertisement?*

The Complaints Board agreed the advertisement fitted the definition of an advocacy advertisement and the identity of the Advertisers, Tricia Cheel and the NZ Outdoors Party was sufficiently clear. The Complaints Board said the view of the Advertisers was clear and the advertisement included a website address and a promoter statement.

#### *Is the advertisement misleading?*

The Complaints Board said the advertisement was not misleading. The Board said the Advertiser Tricia Cheel was expressing a personal opinion that vaccinations can be harmful. She is also asking voters to stop bullying families that have been harmed by unsafe vaccines.

The Complaints Board noted the Advertiser had provided information to support her view that “vaccine injury is real” and “families are harmed by unsafe vaccines”. The Advertiser also provided a copy of the New Zealand Herald article that the image was sourced from about a baby that almost died from the rotavirus vaccine.

The Complaints Board said it is important that political candidates and parties can freely communicate their policies so that voters can decide how they want to vote.

#### *Is the advertisement socially responsible?*

The Complaints Board agreed the advertisement was socially responsible. This is because it fitted the definition of an advocacy advertisement and was not offensive or misleading.

The Complaints Board said taking into account context, medium, audience and product, the advertisement was not in breach of Principle 2, Rule 2(b) or 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. Responses from Advertisers
3. Response from Media

### Appendix 1

#### COMPLAINT

Here are the details of my complaint regarding an election 2020 outdoor billboard.

Location: 214 Hibiscus Coast Highway, Orewa, auckland in community signs area.

Issue with billboard: i Believe this billboard has false statements regarding vaccines.

I have clicked through to the referenced website & can see no relevant information that supports, or explains, the billboard statements that “vaccine injury is real” that “families are harmed by unsafe vaccines” or any details relating to the photo of a baby that “almost died”. I believe this billboard should be removed & it is probably not the only billboard in auckland carrying this false information from this candidate.

I note also that on her website there is no information about her running in the 2020 election, only the auckland council elections.

### Appendix 2

#### RESPONSE FROM ADVERTISER, TRICIA CHEEL

#1

Please find attached a file of references that will back up the claims made on my billboard:  
***Vaccine Injury Is Real & Families Harmed by Unsafe Vaccines***

#2

If you do not find these compelling then I suggest the board watch the movie:

**VAXXED - from Coverup to Catastrophe:**

Demonstrating the harm vaccines may do, not just to the individual

But to whole families: And how the CDC tried to cover up the evidence:

<https://www.youtube.com/watch?v=FX95m5kXMBU>

And it's sequel **VAXXED II** - with case after case of such tragic stories.

#3

Obviously the complainant read what he / she wanted to into the wording to try to manufacture a complaint when there are no grounds for one.

The billboard never said:

*'Families are harmed by unsafe vaccines'*

Although that could be an obvious conclusion from the evidence given.

**Robert F Kennedy** has researched the topic of vaccine safety very thoroughly

And just reading the manufacturers own inserts is proof enough of the harm they can deliver.;

Including death.

<https://childrenshealthdefense.org/news/read-the-fine-print-vaccine-package-inserts-reveal-hundreds-of-medical-conditions-linked-to-vaccines/>

#4

For influenza alone the **Vaccine Injury Court** has paid out over \$900 million dollars in the USA.

<https://childrenshealthdefense.org/news/an-unwelcome-milestone-payouts-for-influenza-vaccine-injuries-exceed-900-million/>

#5

The photo of the baby who almost died from the rotavirus vaccine together with the wording; Was taken from the article in the NZ Herald

[https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12052515](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12052515)

Presumably the complainant will proffer another objection about their coverage too?

#6

Overall it is unbelievable that anyone would try to claim that any of these statements are false and I would question the motives and connections of the complainant to determine whether this objection is purely vindictive and vexatious.

I have been subjected to a great deal of bullying, on line, in the street and even on stage .... And driven by outrageous statements from other medical professionals ... who encouraged people to 'bring social pressure to bear'.

This sort of bullying and coercion needs to stop and that is exactly what my billboard is asking people to vote for: To stop bullying and coercion.

#6

At election time in particular people need to know what people stand for in order to cast An informed vote:

And this complaint should be disallowed so that democracy can be seen to be being exercised.

If it does proceed to any sort of hearing then I wish to be heard in person so I can detail the harm to my own family and the bullying I have been subjected to.

## **RESPONSE FROM ADVERTISER, NZ OUTDOORS PARTY**

The NZ Outdoors Party is a registered party under the NZ Electoral Act and consists of many thousands of members. Our vision statement includes

*"We want our communities and society to be self-reliant and resilient, to have access to nutritious food, where reliance on poisons and sprays is eliminated, where we choose to build, make and repair, rather than buy then bury in landfill and where life-long learning is the norm."*

The NZ Outdoors Party has at it's core the belief of free speech and debate on alternative views. We do however expect accurate information be used to support alternative views and where possible assumptions to be articulated for analysis.

Our candidate, Tricia Cheel has a long association with promoting freedom of choice around vaccines and other poisons, and we value her right to have those views.

The banner she has displayed in our opinion makes no misleading statements nor is intended to lead to the viewer forming a false view on the subject.

The image used in her banner was taken directly from the NZ Herald newspaper. [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12052515](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12052515) and generally follows the narrative of the article. The story explained that the baby had nearly died from a reaction to a rotavirus vaccine.

Rotavirus is not generally life threatening, raising questions as to why the vaccine was offered in the first place, and what information was given to its parents about the risks of

each vaccine ingredient individually and in combination, and what short and longer term testing had been undertaken to assess this.

The complaint itself is not specific about what is inaccurate. It acknowledges and is subjective and based on the writers opinion. The fact that Tricia Cheel holds alternative views needs to be respected and not "shut down" by those who hold opposing views and we as a party oppose any attempt to block freedom of speech. As a matter of law the subjective views of the complainant are only of any value if he/she is an expert on the subject and is independent. Without more information it is impossible for us to ascertain if the complainant has any particular expertise, knowledge or vested interests either with vaccines or as a political competitor, what exactly their concern is and what evidence they have to support this. Because the complainant is not disclosed we have no option but to assume he/she is just expressing an unsubstantiated opinion.

There is a substantial number of people worried about the harm of vaccinations and they need to be able to express their views without being bullied for speaking out, and be represented in Parliament.

We believe the ASA needs to disallow this complaint in the interests of freedom of speech especially during this period of electing a new government. The voters need to know who best represents their views and who to vote for. In the event you do not dismiss the complaint we request the opportunity to be heard in person.