

COMPLAINT NUMBER	20/358
ADVERTISER	New Conservative Party
ADVERTISEMENT	New Conservative Party, Unaddressed Mail
DATE OF MEETING	8 September 2020
OUTCOME	Upheld in part Advertisement not to be distributed

Summary of the Complaints Board Decision

The Complaints Board upheld in part a complaint about a flyer for the New Conservative Party. The Board said the statement “Drugged drivers already cause more deaths than drunk drivers” was a factual statement, not an opinion, and it had not been adequately substantiated.

Advertisement

The New Conservative Party unaddressed mail advertisement promotes their political views on a range of current topics in New Zealand. They include the Cannabis referendum drug driving, and abortion. The two-sided brochure poses the question “Did you know?” and lists a number of statements, including “Babies can be lawfully and easily aborted up to full term”, “Every New Zealander owes \$32,000 in Government debt” and “Drugged drivers already cause more deaths than drunk drivers.” “#letsfixthis” is followed by the New Conservatives Party logo. The advertisement includes a Promoter’s Statement.

Summary of the Complaint

There were fourteen complaints about this advertisement. Twelve of the complaints refer to the statement “Babies can be lawfully and easily aborted up to full term”. The Complainants considered this statement to be misleading, fear mongering and disrespectful to families that have had to undergo this procedure. Complainant 12 is concerned that the advertising is fake news and spreading misinformation, including the claim related to drugged drivers. Complainant 13 challenges a number of statements including:

- Every New Zealander owes \$32,000 in Government debt.
- The Government spent over 1/2 million dollars on a playground at Parliament.
- Prisoner numbers have increased with an increase in broken families.
- Police can enter your property without a warrant under the Covid Act.
- We spend \$1.4 billion of tax payer dollars overseas annually on the UN's Paris 2015 Agreement.
- Drugged drivers already cause more deaths than drunk drivers.

Complainant 14 said the statements contain factual inaccuracies and seem to be intending to mislead voters into voting for the party based on misinformation.

Issues Raised:

- Social Responsibility
- Truthful Presentation
- Advocacy Advertising

Summary of the Advertiser's Response

The Advertiser defended the advertisement and provided context and sources for the statements that were challenged. (See Appendix 2 for the full response).

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.

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 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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/465 Appeal 20/002 and Decision 20/037, both of which were Not Upheld.

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

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

Decision 19/465 Appeal 20/002 concerned a Facebook/Twitter advertisement for the NZ National Party on fuel prices. The Appeal Board agreed with the Complaints Board decision and said: “the advocacy nature of the advertisement meant the Advertiser could present factually correct statements with a bias in its favour in order to make a political point” and “in most advocacy advertising there is a more balanced way to present data and viewpoints, but that is not the purpose of this type of communication which by its nature supports the Advertiser’s position.”

Decision 20/037 concerned a Labour Party Facebook post which was headed “Better cancer care with new radiation machines.” The text said “1 in 3 New Zealanders are affected by cancer. We’re directly funding 12 new life-saving cancer radiation machines ...” and “Number of these machines National invested in fixing or upgrading over nine years – 0.”

The Complaints Board said the statement the Complainant considers misleading is that the Labour Government have funded 12 LINAC’s machines in its two years in office while National did not fund any during its nine years in Government. The Board said this is a factual claim which required substantiation.

The majority of the Complaints Board said by using the word “directly” the Advertiser has sufficiently qualified its comparison of funding 12 machines versus 0 from the National Government.

The Complaints Board agreed the likely consumer takeout of the advertisement may not distinguish between the direct funding approach taken by the Labour Government and the National Government funding DHBs to manage the procurement process. However, the majority of the Complaints Board said that the advocacy nature of the advertisement and the context of its placement on the Labour Party Facebook page meant the Advertiser could present a factually correct statement with a bias in its favour.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was this is an election advertisement for the New Conservative Party, highlighting some of their key policy areas.

Has the advocacy advertisement been adequately identified?

The Complaints Board agreed the advertisement had been adequately identified as an advocacy advertisement. The Board said the identity of the Advertiser, the New Conservative Party, was clear along with its position on various issues.

Are any of the statements in the advertisement likely to mislead?

The Complaints Board considered each of the statements complained about in turn, to assess whether they were statements of fact, supported by adequate substantiation, or opinion:

Every New Zealander owes \$32,000 in Government debt

The Complaints Board agreed this statement was a factual statement. The Advertiser provided an explanation as to how this figure was reached which the Complaints Board accepted in the context of advocacy advertising. The claim was not misleading.

The Government spent over 1/2 million dollars on a playground at Parliament

The Complaints Board agreed this statement was a factual statement which had been substantiated by the Advertiser and was not misleading.

Prisoner numbers have increased with an increase in broken families

The Complaints Board agreed this statement was a factual statement.

The Board noted the research referred to by the Advertiser says the imprisonment rate in New Zealand has grown steeply over the last 40 years. While New Zealand does not routinely collect data about the childhood backgrounds of prison inmates, data from other developed nations shows “a minority grew up with both natural parents”. The Complaints Board agreed this was sufficient substantiation for the claim in the context of advocacy advertising.

Police can enter your property without a warrant under the Covid Act

The Complaints Board agreed this statement was a factual statement referring to the Covid-19 Public Health Response Act 2020, which had been substantiated by the Advertiser in the context of advocacy advertising and was therefore not misleading.

Babies can be lawfully and easily aborted up to full term

The Complaints Board agreed this statement was not misleading as it is opinion and reflects the Advertiser’s position on the current abortion legislation. It did not require substantiation.

The Board said babies can be lawfully aborted after 20 weeks gestation, under certain circumstances. The Board said the use of the adverb “easily” suggests this statement is an opinion about the interpretation and application of the current law.

We spend \$1.4 billion of tax payer dollars overseas annually on the UN's Paris 2015 Agreement

A majority of the Complaints Board said this statement was a factual statement which had been adequately substantiated by the Advertiser and was therefore not misleading. The majority noted the Advertiser had provided a copy of the relevant Cabinet paper and Newshub article referring to the Government commitment to meet its funding targets under the Paris Agreement.

A minority disagreed. The minority noted the comments from the Advertiser that “These figures are difficult to find” and “this commitment kicks in next year and the spend could actually increase to as much as \$3.6 billion a year for the next 10 years.”

The minority said an Advertiser should be able to provide evidence in support of any factual statements made in an advertisement, and this had not happened in this instance. The minority said the words “we spend” imply that the expenditure is already happening, yet it is not due to start till next year.

Drugged drivers already cause more deaths than drunk drivers

The Complaints Board agreed this statement was a factual statement which had not been substantiated by the Advertiser and was therefore misleading.

The Board referred to the comment by the Advertiser that “There are no specific statistics available to back this claim, but there is definitely evidence to support it and show that it is highly likely to be true.” The Board said that was inadequate substantiation for the specific claim being made.

Is the advertisement socially responsible?

The Complaints Board agreed the advertisement was not in breach of Principle 1: Social Responsibility because it fitted the definition of an advocacy advertisement and was not in breach of any of the rules related to this principle.

The Complaints Board said part of the advertisement was in breach of Principle 2 and Rule 2(b) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Upheld in part and Not Upheld in part.**

Advertisement not to be distributed.

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.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINTS

There were fourteen complaints about this advertisement:

COMPLAINT 1

These flyers will be distributed across New Zealand in the coming week. There are a few claims I'd argue with, but the one I believe breaches advertising standards is the claim that "babies can be lawfully and easily aborted up to full-term." This is simply not true.

After 20 weeks, abortion is permitted only if a health practitioner deems it "clinically appropriate" and consults at least one other health practitioner. Thus, it's not an easy procedure to obtain.

The word "lawfully" refers to the fact that abortion was recently removed from the crimes act. . But this legislation still only allows abortion up to 20 weeks. Later-term abortions happen only in cases such as when the pregnant person's life is in danger; hence why it needs to be deemed "clinically appropriate" by two health professionals. "Easily" implies a flippancy to the procedure, which is a bald-faced lie.

COMPLAINT 2

I've just received a brochure in my mailbox from the New Conservative Party. Prominent on the front of it is the statement: "Babies can be lawfully and easily aborted up to full term". This is more than a 'political distortion' of the truth; it's simply untrue. This is fear-based scaremongering for political gain of the worst sort. I am grossly offended and outraged that the Conservatives should stoop to such abhorrent claims, and urge the Board to take whatever steps it can to redress this.

COMPLAINT 3

It is dishonest and untrue (and in contravention of Rule 2b) to state that in NZ: "Babies can be lawfully and easily aborted up to full term." Abortions at later gestations are generally only performed when the pregnant person's life is at risk or the foetus will die in the womb or shortly after birth. After 20 weeks a pregnant person can only have an abortion if a health practitioner reasonably believes that it is appropriate. It may be lawful for abortions to be performed after 20 weeks but nobody would describe that process as easy. This sort of statement is disrespectful to the families who have had to go through an often heartbreaking process.

COMPLAINT 4

It is not law for babies to lawfully and easily aborted up til full term.

COMPLAINT 5

The 7th line is false: "Babies can be easily and lawfully aborted up to full term." The Advertising Standards Authority Code states that advertising must be honest and truthful, and this claim is neither of those things. This is a blatant untruthful misrepresentation of New Zealand's abortion legislation, for political campaigning, and should not be allowed.

COMPLAINT 6

Misinformation about abortion - It is dishonest and untrue to state that in NZ: "Babies can be lawfully and easily aborted up to full term." Abortions at later gestations are generally only performed when the pregnant person's life is at risk or the foetus will die in the womb or shortly after birth. After 20 weeks a pregnant person can only have an abortion if a health practitioner reasonably believes that it is appropriate. It may be lawful for abortions to be performed after 20 weeks but nobody would describe that process as easy. This sort of statement is disrespectful to the families who have had to go through an often heartbreaking process.

COMPLAINT 7

Claiming full term abortions is easy is factually untrue.

COMPLAINT 8

I received this advertising from the New Conservative party that makes a misleading claim. It claims that "Babies can be lawfully and easily aborted up to full term". The use of the word "easily" to describe aborting babies up to full term makes this claim misleading. Please take appropriate action to support the quality of political discourse in New Zealand.

COMPLAINT 9

This is a complaint about advertising sent out by the New Conservative Party; which I believe to be completely, blatantly and deliberately misleading

A leaflet was delivered to our letterbox outlining many things which need to be fixed. There was a #letsfixthis and large text saying "This year we win back what we have lost, or we lose the rest"

In order to show what they believed needed to be fixed, a 'Did You Know?' list was included. This showed things "happening in NZ".

This is where my complaint comes in. A very misleading claim was made around NZ Abortion Law in order to try and push a 'Pro-Life' agenda. The claim was: "Babies can be lawfully and easily aborted up to full term".

This claim is entirely factually incorrect and misleading. In order to receive an abortion after 20 weeks a pregnant person must be given that option by a qualified health practitioner. The practitioner must have consulted with another practitioner, believe that the abortion is clinically appropriate and consider the woman's mental health, physical health & overall wellbeing, as well as considering the gestational age of the fetus.

These very strict guidelines, set down by law, are very far from "easy". Once a pregnancy is past 20 weeks it actually becomes quite difficult to receive an abortion, and, as shown rigorous checks and balances are in place.

The New Conservatives suggesting that is "easy" to get an abortion up until full term is clearly incorrect. I ask that the ASA take some kind of action to ensure that this party will not be allowed to continue spreading falsehoods to push their own agenda.

COMPLAINT 10

The statement 'Babies can be lawfully and easily aborted up to full term.' is categorically incorrect.

<https://www.familyplanning.org.nz/advice/abortion/the-law-around-abortion>

"Up to and including 20 weeks of a pregnancy, a qualified health practitioner can provide an abortion to a woman or pregnant person.

After 20 weeks of pregnancy, a qualified health practitioner may only provide abortion services to a woman or pregnant person if the health practitioner believes the abortion is clinically appropriate in the circumstances. The health practitioner must consult with at least one other health practitioner and consider: legal, professional, and ethical standards; the pregnant person's physical health, mental health and overall well-being; and the gestational age of the foetus."

COMPLAINT 11

The statement regarding abortion is categorically incorrect. The statement is not based on fact or law and is intended to incite an emotional response and influence decision making.

The statement seeks to take advantage of those who have poor health or political literacy or who are not well informed on the issue.

<https://www.familyplanning.org.nz/advice/abortion/the-law-around-abortion>

"Up to and including 20 weeks of a pregnancy, a qualified health practitioner can provide an abortion to a woman or pregnant person"

COMPLAINT 12

MIS-INFORMATION, or FAKE NEWS I am writing to make a genuine complaint about the promotion of FAKE NEWS by the NEW CONSERVATIVE PARTY. This is in their flyer delivered to mailboxes throughout the Country and they are obviously promoting Mis-information to put fear in the eyes of those who read it and take it as gospel. It could only otherwise be a case of complete incompetence. To be FAIR to the General Public, this statement should be retracted in the same way as it was promoted, AND be publicly withdrawn to correct the FALSE view now given to hundreds of thousands of New Zealand voters. It should be the responsibility of Political Parties to get facts right. They should be VERIFIED FACTS, and not accidental opinions that have been publicly withdrawn, corrected, and apologised for. Below is a copy of my letter to the New Conservative Party, and attached is a copy of the correction made

(<https://thespinoff.co.nz/society/18-02-2019/more-people-are-killed-by-drinkdrivers-under-the-limit-than-over-it/>) .

Attachments 13:22 (25 minutes ago) to contact YOUR Flyer promoting your New Conservative Party should be stamped out by the Electoral Committee due to a couple of things. FIRSTLY, Your Party Logo is closely aligned to that of the National Party, and should be EASILY distinguishable, rather than EASILY mistaken by new voters. SECONDLY, and even MORE CONCERNING, is your deliberate promotion of FAKE NEWS. I suspect that this is a DELIBERATE CAMPAIGN of MIS-INFORMATION, or just shoddy checking of fact by your incompetent Party Promoters. I find this ABUSE UNCONSTITUTIONAL, and UNACCEPTABLE, and I shall be reporting this to the Electoral Commission. After my disbelief of the claim you promote, it took me less than 1 minute to find the attached published article which disproves your unbelievable claim. I believe that it is "important" to correct this Policy statement of "FAKE NEWS", as it was a "major policy statement" and is totally INCORRECT.

I feel strongly that this sort of mis-information needs to be stamped out in a very public way. I believe that it was almost certainly printed in the full knowledge that it was "not factual", and it has been a deliberate attempt to deceive. This should not be allowed to go unpunished, and should be corrected in the same numbers and way in that it was instigated in the first instance. That is, printing and delivering the same number of flyers, and having them delivered to the same letter boxes as they were initially. Extra to this, they should be made to make public announcements and apologies to the same effect. I believe that this was a blatant abuse of the electoral system, and should not therefore be allowed to go unpunished,.

COMPLAINT 13

The pamphlet (delivered 18/8/20) makes the following claims, the majority of which untrue or misleading. In my opinion, this puts the New Conservative party in breach of the Advertising Standards Code Rule 2(b) and 2(e) at the very least. I believe further that some of the misleading statements are likely to cause fear and distress, which would be a breach of Rule 1(g). The statements (marked with a >) and my evidence that they are false or misleading are below.

Every New Zealander owes \$32,000 in Government debt

This is untrue. The claim appears to be based on dividing the national Gross External Debt (obtained for example from Wikipedia:

https://en.wikipedia.org/wiki/Economy_of_New_Zealand) by the population of New Zealand: \$156,181,000,000/5,000,000 (persons) = \$31,236 per person. But this is not how national debt works. As citizens we do not all owe that money.

The Government spent over 1/2 million dollars [sic] on a playground at Parliament This is true, but it is a public playground free for anyone to use.

Prisoner numbers have increased with an increase in broken families This is untrue. The first graph on the following official website clearly shows that numbers are at the lowest for at least two years and probably for much longer:

https://www.corrections.govt.nz/resources/research_and_statistics/quarterly_prison_statistics/prison_stats_june_2020.

Police can enter your property without a warrant under the Covid Act [sic]. This is technically true but presented in a misleading way. While police can enter your non-dwelling property if they need to enforce the Act (properly the COVID-19 Public Health Response Act 2020), it is extremely hard for the police to enter your home under the Act, and they need very strong reasons to do so, as outlined in section 20 of the legislation itself:

<http://www.legislation.govt.nz/act/public/2020/0012/latest/LMS344194.html>. The presentation of this statement is clearly intended to imply that the police can readily enter your home without a warrant, which is misleading.

Babies can be lawfully and easily aborted up to full term This is untrue. Under the Abortion Legislation Act 2020 it is not easy to abort a baby up to full term. Beyond 20 weeks of pregnancy, a baby can be aborted only if the doctor concerned thinks it is "clinically appropriate" and the health practitioner has consulted

another health practitioner (<https://www.parliament.nz/en/pb/bills-and-laws/billsdigests/document/52PLLaw25991/abortion-legislation-bill-2019-bills-digest-2599>).

We spend \$1.4 billion of tax payer dollars overseas annually on the UN's Paris 2015 Agreement If this is true I cannot find anything to corroborate it. The closest I can find is that as part of the Agreement New Zealand pledged money to the Green Climate Fund, but has so far pledged a total of \$2.56 million (see

https://en.wikipedia.org/wiki/Green_Climate_Fund).

Medicinal Marijuana is legal in New Zealand now This is true.

Drugged drivers already cause more deaths than drunk drivers This statistic has been reported but is highly controversial. The categorising of a road accident fatality as involving alcohol became more stringent in 2016, meaning that only when alcohol was above the legal limit was it noted as a factor. This saw a decline in the number of fatalities being labelled as alcohol-related, rather than necessarily a large increase in the number of drug-related road accident deaths. Furthermore, the category of drug-related fatality also includes prescription drugs, and a combination of drugs (prescription or otherwise) and alcohol. This claim is therefore highly

misleading because (a) even if the ratio of deaths caused by drugs to deaths caused by alcohol has increased, it is unclear how much of this is due to the differences in reporting methodology for drunk drivers, and (b) the category of "drugged drivers" includes those on prescription drugs, not simply those on illegal drugs as the tone and context of the claim would suggest. See <https://www.rnz.co.nz/news/national/382839/aadrug-driving-stats-they-missed-half-the-information> amongst other sources. See also the official page for more information about the reporting of these fatalities: <https://www.transport.govt.nz/mot-resources/road-safetyresources/crashfacts/alcohol-and-drugs/>

In conclusion, all but one of the claims made by the New Conservative party are either false or misleading, and I wish to object in the strongest terms to such falsehoods being allowed to influence the electorate.

COMPLAINT 14

The statements on the first image titled "SAVE NEW ZEALAND". The statements contain factual inaccuracies and seem to be intending to mislead voters into voting for the party based on misinformation. The rest of the advertisement is ok but this page is concerning. I have also contacted the electoral commission as there is no 'promoter' statement saying who authorised the message

RESPONSE FROM ADVERTISER, NEW CONSERVATIVE PARTY

Thank you for the opportunity to defend the complaint lodged in regard to a claim made in the "Did You Know?" section of our recently produced leaflet which we have distributed throughout the country. The statement in question in this complaint is on the front of the DLE trifold leaflet and reads:

"Babies can be lawfully and easily aborted up to full term"

Included with this letter is a copy of the leaflet in question with the "Did You Know?" questions on the right hand side of the outside of the flier (pg 1).

The advertisement, as mentioned, is being delivered to almost every home in New Zealand as I write. 1.4million have been produced and distributed around the country.

The only media it is placed on that we are aware of is our website <https://www.newconservative.org.nz/nc-brochure> and our FaceBook page. <https://www.facebook.com/NewConservativeNZ>

The target audience is New Zealand voters, particularly those who are unaware of what is actually happening in our country.

The complainant complains that there is no substantiation for the above statement and that it is a "bald-faced lie." In our defence of that we state the following.

Under Previous Law

Previously the [Crimes Act](#) allowed for an abortion after 20 weeks gestation only in exceptional circumstances. Otherwise it was illegal! That is no longer the case. Late term abortions will therefore increase.

Statistics NZ data (included OIA request by Family First) shows that 800 late term abortions have been performed over the last 10 years under the previous law where there was no danger

to the physical health or life of the mother – 91% of all late term abortions. That was as it was, and the current law makes it far easier to obtain a late term abortion.

The New Law

The new law means that late term abortions will be available to women if the abortion provider “reasonably believes the abortion is clinically appropriate in the circumstances,” having regard to the woman’s physical and mental health and wellbeing. This is a very broad subjective test. <http://www.legislation.govt.nz/act/public/2020/0006/latest/LMS237600.html> (also section 11 included) Clinically appropriate is not defined, and therefore discretionary for the health professional. The health professional has to “reasonably believe”, so that means their opinion/discretion.

For abortions after 20 weeks, the terms “physical health” “mental health” and “wellbeing” are not defined in the Act. Having regard to this could be interpreted as meaning that the abortion at that stage will not negatively affect the woman’s physical health, mental health or well being. This is a complete reversal of the previous requirements that a late term abortion needed “exceptional circumstances” relating to the woman’s physical/mental health or wellbeing being endangered if the pregnancy continued.

‘Having regard to’ does not restrict much, only requires that they consider them, (or state that they do). The women’s physical health threshold is not defined. Her mental health is also not specifically defined. “Overall well-being” opens it up even further.

The “gestational age” to be considered is not defined. On a natural reading these terms are broad and unrestrictive, substantially lowering the bar and making it easier than it has ever been to procure an abortion right up to full term.

Most importantly, while gestational age of the fetus is to be taken regard of, that is all. There is no restriction or even guidelines as to what that means.

Given the policy intent was to make abortion more accessible, it is difficult to see many instances in which an abortion would reasonably be refused, or in our terms “lawfully and easily” accessed. There are no restrictions whatsoever stopping a full term abortion, if the health professional uses their discretion and belief to decide to do a full term abortion.

Justice Minister Andrew Little has [admitted](#) that late-term abortions up to birth can happen under the new law. A baby could be aborted after 20-weeks as long as the abortionist who intends to perform the abortion considered that the abortion was ‘appropriate in the circumstances’ with a ‘nod’ from a colleague (another abortion provider!). Actually, even though the law requires the abortionist to “consult at least 1 other qualified health practitioner,” there are no minimum standards required of consultation of a second health professional. They merely have to consider professional ethical standards, and then make a discretionary decision.

Self-referral to abortion services. A qualified health practitioner may not, as a condition of providing abortion services to a woman, require the woman to be referred from a health practitioner. The “family doctor” is not required to be seen, and abortion is available at any age. No lower age restriction applies for consent.

A wider range of registered health practitioners can perform abortions, including suitably trained registered nurses, meaning abortions are becoming more accessible. Refer to the Excerpts from Info for Health Practitioners doc included. This appears to be the only legal requirement to make an abortion legitimate, with the added consultation required for post 20 weeks pregnancy.

The Bill has been drafted in such a way that an abortion can legally be obtained, with minimal restrictions or requirements, up until full term. “Easily” is a comparative term and making such comparison between this latest legislation and the earlier legislation, when it was a criminal offence to act outside the strict limits posed on both medical practitioners and mothers to act within the law, and a fear of criminal prosecution, is completely appropriate.

An amendment to allow abortions [post-20 weeks only for extreme circumstances](#) was voted against by a majority of MPs. Far fewer requirements are now to be met for late term abortions than an abortion at any stage of pregnancy under the previous law.

It is clear that with the stated intent of this law being to make abortion more accessible, and with the lack of definition in many aspects of the new law, the statement that “Babies can be lawfully and easily aborted right up to full term” is not a bald-faced lie, but a sad reality.

FURTHER RESPONSE FROM ADVERTISER

Thanks again for the opportunity to defend further complaints about our recently produced flier. I will refer to sources of information for each of the points raised in Complaint 2 as that seemed to be the complaint with more specific accusations.

Every New Zealander owes \$32,000 in Government debt

<https://commodity.com/data/new-zealand/debt-clock/> (screenshot included)

The above website records NZ public debt as \$133.264 billion at the time of checking (31/8). Also noted is that there is a further \$30.173 billion of unsecured government debt. Together they add up to \$163.44 billion which when divided by 5 million population equates to \$32,688 per person.

Ultimately we, the current and future taxpayers, will be the ones paying this debt so it is fair to express it in a per person debt manner as a way of expressing the reality of our situation in a way that is more easily understood by most people.

There are a number of sites showing similar statistics and they invariably break it down to a per person figure so we are following standard process.

We dispute the claim that this statement is untrue.

The Government spent over 1/2 million dollars [sic] on a playground at Parliament

Thankfully, the complainant agrees with this statement and we do not dispute that it is a public playground and free for anyone to use. Neither did we say otherwise. We did say “at” parliament, not “for” parliament.

Prisoner numbers have increased with an increase in broken families

I have included a printout of page 13 of a study commissioned by Family First in 2018. You can view the entire study here:

<https://www.familyfirst.org.nz/wp-content/uploads/2018/06/Imprisonment-and-Family-Structure-What-is-the-Evidence-Telling-Us-2018.pdf>

Pg 13 clearly shows that prison population over the 60 year period prior to the study, as well as the imprisonment rate over the similar period, increased proportionately to the increase in unmarried births, or incomplete family units.

Pg 39-40 of this study looks at the effect of intact families on imprisonment based on Swedish statistics and concludes: *It is not unreasonable to speculate that this discrepancy [in numbers of intact families] lies at the heart of the large difference between Sweden and New Zealand's imprisonment rates.*

The complainant referred to one graph showing prison numbers dropping slightly in the past two years. He/She makes no reference to family make up. Our statement that prison numbers

have increased with an increase in broken or incomplete families is substantiated by the above research going back over several decades.

Police can enter your property without a warrant under the Covid Act

Again the complainant agrees that technically this is true. I have included a copy of the relevant section of the Covid-19 Public Health Response Act 2020 that addresses this issue. It is abundantly clear that police can enter a private dwelling place without a warrant, if they have reason to believe there is a contravention of a Covid-19 order. This is a departure from, and an extension to, other restrictive powers relating to the requirement for police to have a search warrant prior to the entry of a private dwelling.

Babies can be lawfully and easily aborted up to full term

Our defence of this statement is also included as a separate defence.

We spend \$1.4 billion of tax payer dollars overseas annually on the UN's Paris 2015 Agreement

These figures are difficult to find. Our primary source is a media release by NewsHub on 22/5/2017 following receipt of details to an OIA request. These figures have never been refuted.

<https://www.newshub.co.nz/home/politics/2017/05/new-zealand-to-spend-14-billion-to-meet-paris-agreement-targets.html>

While it is difficult getting specific details on this, the following site shows Global Environmental Facility receipts from New Zealand of \$10.68 billion. Printout included. It is difficult to find details on how many payments were made to make up this figure.

https://unfccc.int/climatefinance/nc/gef_funds

I have also included a printout of part of the Newshub article.

Included is also a cabinet paper from 2016. Clauses 18-24 make it clear that this commitment kicks in next year and the spend could actually increase to as much as \$3.6 billion a year for the next 10 years.

<https://www.mfe.govt.nz/sites/default/files/media/Climate%20Change/Cabinet%20paper%20Paris%20Agreement%20on%20Climate%20Change%20-%20Approval%20to%20Begin%20the%20Parliamentary%20Treaty%20Examination%20Process%20%28proactively%20released%20for%20information%29.pdf>

Drugged drivers already cause more deaths than drunk drivers

There are no specific statistics available to back this claim, but there is definitely evidence to support it and show that it is highly likely to be true. The article from NZ Transport here:

<https://www.transport.govt.nz/assets/Import/Uploads/MultiModal/Regulatory-Impact-Statement-Enhanced-Drug-Driver-Testing.pdf> states:

Data from the NZ Transport Agency's (NZTA's) Crash Analysis System (CAS) shows that in 2018, 95 people were killed in crashes where a driver had consumed impairing drugs before driving. In comparison, 123 people were killed in crashes where drivers had alcohol in their system

Note 2 states: 2 Eighty drivers were above the legal limits and 43 were below.

95 people were killed after consuming drugs; 80 above the legal limit of alcohol (drunk drivers) were killed.

The Complainant refers to a Spinoff article refuting figures by the AA. (Link below) Personally I would put more faith in organisations such as the AA and NZ Transport than in an opinion piece from a somewhat biased news organisation.

Included is a print out of a Government Advertisement for Safer Journeys stating that 1 in 4 drivers who crash and die are affected by cannabis. 379 were killed on the roads in 2018, which at 1 in 4 means 95 died who were affected by cannabis. Same figures as above. The following NZ Drug Foundation is also enlightening:

<https://www.drugfoundation.org.nz/matters-of-substance/august-2011/dope-driving-im-a-safer-driver-when-im-stoned-crap-or-fact/>

Drivers with active THC in their systems, at any level, were 2.7 times more likely to have crashed compared to drug-free drivers. With higher levels of THC, 6.6 times more likely to have caused the crash which killed them.

Figures where both alcohol and drugs had been consumed showed that those drivers were 2.9 times more likely to crash than drivers who only had alcohol in their system.

It is clear from the above that the evidence strongly supports the statement that “Drugged drivers already cause more deaths than drunk drivers.”

Finally the AA report from 2018 showing the increase in road deaths involving drivers with drugs in their system compared with alcohol over the previous years. As stated by the AA, “*We now have more crash deaths where people test positive for a drug than alcohol – it’s time to act.*”

<https://www.aa.co.nz/about/newsroom/media-releases/safety/alarming-increase-in-drugged-driving-deaths/>

I submit this evidence to support the integrity of our “Did You Know” statements on our flier.