

COMPLAINT NUMBER	20/445
ADVERTISER	Vote Safe NZ
ADVERTISEMENT	Vote Safe, Out of Home
DATE OF MEETING	21 September 2020
OUTCOME	No Grounds to Proceed

Advertisement: The billboard advertisement for Votesafe.co.nz has the wording “Lethal dose – with NO physical pain required”. Below this is the question: “Is the End of Life Choice Act Safe?” and a promoter statement.

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

Complaint This complaint is in regard to a billboard displayed on Ngaio Road, Waikanae, Kapiti Coast. It was put up over the the weekend of September 13th 2020 and is still there. I have looked at the rules in the Advertising Standards Code, and I think it breaches rule 2(b) because it misrepresents the End of Life Choice Act. I think that it both misleads and deceives, and is intended to exploit lack of knowledge.

The implication of the message on this billboard is that almost anyone could receive a lethal dose (of medication) - they don't even need physical pain, which implies that they don't need to be ill. Taken together with the bottom line - asking if the Act is safe - is intended to make people fearful that they could be euthanised when they are not ill.

This is a gross misrepresentation of the End of Life Choice Act. There are very strict criteria for assisted dying. See S.5 “Meaning of a person who is eligible for assisted dying....” Relevant to this complaint are 5 (1) (c) - (e). In summary, the applicant must be terminally ill, in irreversible decline, and suffering unbearably. It's true - the Act doesn't include the word “pain”. I think we can all understand that suffering could include pain, but isn't limited only to pain, and I am sure that's why the wording of the Act is as it is.

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

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 acknowledged the Complainant’s concern the billboard advertisement is misleading and is intended to exploit a lack of knowledge about the End of Life Choice Referendum.

The Chair confirmed the Advertiser’s identity was clear. Vote Safe is a public information campaign for the Safer Futures Charitable Trust and the organisation’s website address was included on the billboard. The Advertiser’s position on the issue was clear. The advertisement draws attention to the organisation’s position regarding the upcoming End of Life Choice referendum. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair said “Lethal dose – with NO physical pain required” is an opinion statement and reflects the Advertiser’s position on what the End of Life Choice Act will allow if it comes into force following the referendum.

The Chair said the End of Life Choice Referendum is a significant social issue and it is important the New Zealand public has context for the differing views on it, in order to be able to take an active part in the debate. The Chair confirmed the Advertiser’s position against the End of Life Choice Act provides context for consumers when viewing this advertising.

The Chair said the advertisement was not in breach of Principle 2, Rules 2(b) and 2(e) of the Advertising Standards Code.

The Chair ruled there were no grounds for the complaints 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. **NOTE:** Under the fast track process one month prior to the Election, appeals must be made in writing via email or letter within three (3) calendar days of receipt of this decision.