

COMPLAINT NUMBER	20/465
ADVERTISER	NZ Labour Party
ADVERTISEMENT	Labour Party, Google Ads
DATE OF MEETING	24 September 2020
OUTCOME	No Grounds to Proceed

Advertisements: A Google Ad for the New Zealand Labour Party promoted their record in tackling child poverty. The heading states: "We are tackling child poverty – 7/9 indicators have improved." Under the Labour Party website address is the statement: "Our policies have lifted thousands of children out of poverty but there's more to do." The advertisement includes a promoter's statement.

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

Complaint:

If you Google 'child poverty NZ', the Labour Party is paying for a Google ad to show up at the top of the search results reading simply "We're tackling child poverty – 7/9 indicators have improved".

This ad was placed after the first leaders' debate between Judith Collins and Jacinda Ardern where this exchange, as reported by TVNZ, occurred:

Ardern said while in Government, Labour had implemented changes that made "a big difference".

"But there is more to do. We won't do it overnight. We're a country where every child deserves to grow up in a family that can feed them, and deserves to grow up in a warm dry home."

Collins said that was "nonsense".

"Last election, Ardern stood here and said she came into politics to end child poverty. And what's happened? Children are living in material hardship, those numbers have gone up... that was before Covid-19."

Ardern said they had improved seven of nine child poverty measures, and that moves such as implementing free food in schools would make a difference to material hardship.

"I am not done on child poverty."

This is obviously a big political issue for the Labour Party and its leader. Ardern has previously said child poverty is why she got into politics and even made herself the Minister for Child Poverty Reduction.

The fact is, it is only through a wilful misuse of child poverty data that Labour is able to claim 7/9 child poverty indicators have improved. This claim is without basis and is misleading to consumers.

Stats NZ's child poverty measures are the measures clearly being referenced here, as there are no other official nine measures of child poverty. Those Stats NZ measures can be found here: <https://www.stats.govt.nz/information-releases/child-poverty-statistics-year-ended-june-2019>

If you open the spreadsheet found on that website, you will see tables with a yearly

breakdown for each child poverty measure.

See below for each measure and how these have tracked over the current parliamentary term.

1. Percentage of children living in households in New Zealand in each financial year who fell in: Low income: less than 50% median equivalised disposable household income before housing costs (BHC) for the financial year

2017: 14.2%

2019: 14.9%

Worse

2. Percentage of children living in households in New Zealand in each financial year who fell in: Low income: less than 50% median equivalised disposable household income after housing costs (AHC) for the base financial year(1)

2017: 22.4%

2019: 20.8%

Better

3. Percentage of children living in households in New Zealand in each financial year who fell in: Material hardship(1)

2017: 12.7%

2019: 13.4%

Worse

4. Percentage of children living in households in New Zealand in each financial year who fell in: Low income: less than 60% median equivalised disposable household income before housing costs (BHC) for the financial year

2017: 22.1%

2019: 23.3%

Worse

5. Percentage of children living in households in New Zealand in each financial year who fell in: Low income: less than 60% median equivalised disposable household income after housing costs (AHC) for the financial year

2017: 28.4%

2019: 29%

Worse

6. Percentage of children living in households in New Zealand in each financial year who fell in: Low income: less than 50% median equivalised disposable household income after housing costs (AHC) for the financial year

2017: 21.4%

2019: 21.4%

No change in proportion. Worse by total number of children.

7. Percentage of children living in households in New Zealand in each financial year who fell in: Low income: less than 40% median equivalised disposable household income after housing costs (AHC) for the financial year

2017: 16.1%

2019: 14.8%

Better

8. Percentage of children living in households in New Zealand in each financial year who fell in: Severe material hardship(1)

2017: 6.7%

2019: 5.8%

Better

9. Percentage of children living in households in New Zealand in each financial year who fell in: Low income and hardship: less than 60% median equivalised disposable

household income after housing costs (AHC) for the financial year and material hardship(1)
 2017: 7.8%
 2019: 8.2%
 Worse

As you can see from this data, five of the nine measures have worsened, one has had no change (but is worse on actual number of children) and three have improved.

This Google ad contravenes rules 2(b) and 2(c) of the Advertising Standards Code as its wilful and calculated misuse of official data is misrepresenting the reality the data illustrates. What is clear from the raw data is that Labour has decided to compare itself with itself, using the year ending 2018 and the year ending 2019. There is no integrity in using the data in this way. It would be the same as a scenario in which a government sells all state assets in its first year in power, then buys half of them back in its second year and claims to have boosted state assets by 50% under its term. It is disingenuous and it is misleading.

Tacitly, this ad suggests to the consumer it is a comparison between the previous National-led Government and the current Labour/New Zealand First Coalition Government. Any reasonable consumer would perceive it that way. But it is not.

By using the year ending 2018 and the year ending 2019, Labour has tried to cover the fact that five of the nine child poverty measures have worsened since the year ending 2017.

The context of this ad's placing is also important. It does not appear when you search for "child poverty policies" but it does when you search for the raw data to make your own decision about how well Labour has done. This means those who are looking for legitimate data about child poverty are instead offered a misleading version of it, which many voters could reasonably misconstrue as the data itself.

I understand the ASA provides more leeway for advertising considered 'advocacy' advertising but that leeway would allow a statement like "we're making progress on child poverty", and not a misrepresentation of official data in this way. Plain and simple, this advertisement suggests an improvement in child poverty statistics when that improvement does not actually exist.

While many advocacy advertisements are provided this wider berth as they are clearly and easily identifiable as advocacy advertisements, this one is not. It appears at the top of a google search, almost totally indiscernible as a political advertisement for a reasonable consumer who rightly only reads the headline of google search results.

The consumer takeout of this advertisement is that seven out of nine child poverty measures have improved under Labour compared with National. This is not true.

I ask you to consider the gravity of this misuse of data to create a misleading ad and how integral this misuse is to Labour's campaign to convince the voting public it has achieved something it has not. This is of course also crucial to the personal brand of Jacinda Ardern who will not want to be seen as overseeing worsening child poverty compared to the previous National Government. The political context of this misuse of data make it clear it is a calculated attempt to mislead voters and should be ruled as such by the Advertising Standards Authority.

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 genuine concerns about the advertisement and the statement from the Labour Party, "We are tackling child poverty – 7/9 indicators have improved" which the Complainant said was misleading.

The Chair confirmed the Advertiser's identity and position on the issue was clear. The New Zealand Labour Party is a political party seeking re-election to Government in the upcoming election. The advertisement draws attention to the party's policies on child poverty and what it says are an improvement in 7 out of 9 child poverty indicators. The Chair noted the child poverty indicators are reported by Stats NZ.

The Chair noted the Labour Party promoted statistics comparing 2018 with 2019, whereas the Complainant compares 2017 and 2019 in their complaint. The Chair confirmed the advocacy nature of the advertisement during an election campaign meant the Advertiser could present factually correct statements with a bias in its favour.

The Chair observed that in a free and democratic society, differences of political opinion 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.

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. **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.