

COMPLAINT NUMBER	20/488
ADVERTISER	Vote No to End of Life Act
ADVERTISEMENT	Vote No to End of Life Act, Television
DATE OF MEETING	5 October 2020
OUTCOME	No Grounds to Proceed

Advertisement: The television advertisement screened on TVNZ On Demand. The advertisement shows Rachel speaking about her experience on having a terminally ill father, who was diagnosed with brain cancer five years before she was born and given six months to live when she was one year old. She says he was eligible for assisted dying and if he had made that choice, she would have lost eight years with her Dad. A voiceover says: “A choice is not a choice when Doctors get it wrong.” Wording on-screen says: “Vote no to the End of Life Act” and the website address “Riskylaw.nz”. The advertisement ends with a statement on-screen to “Vote no to the End of Life Choice Act” and includes a promoter’s statement.

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

Complaint: I believe this ad is intentionally misleading by omission of key information. While the statements of the young woman speaking are no doubt factual - her dad had a terminal illness, told he had 6 months to live and could've chosen end of life options - she summarises by saying if he had gone ahead she would have missed out on 8 years with him and that doctors get it wrong. However, by not mentioning whether he met the other criteria required to make an end of life choice (ie, unbearable suffering and irreversible decline) it intentionally misleads the viewer to believe that's the only criteria - you have to have been given a 6 month prognosis. I think this is highly irresponsible of the advertiser and entirely misleading.

I'm certainly not a doctor, but I sincerely doubt that someone who truly meets the criteria as described in the ad - six months to live, is in intolerable pain AND it's irreversible really would go on to live for 8 years.

Please review this as a matter of urgency so this irresponsible, dishonest and misleading advertisement is removed immediately. Thank you.

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

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 concern the advertisement is "intentionally misleading by omission of key information".

The Chair confirmed the Advertiser's identity was clear. Vote No to the End of Life Act is a registered promoter for the End of Life Choice referendum and the organisation's website and a promoter's statement is included in the advertisement.

The advertisement draws attention to the organisation's support for a no vote in the upcoming End of Life Choice referendum. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair acknowledged the Complainant's concern the lack of information in the advertisement about the details of Rachel's father's illness, means voters may be misled and think the only criteria to qualify for assisted dying is a terminal diagnosis of six months or less.

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, or Rules 2(b) and 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.