

COMPLAINT NUMBER	20/495
ADVERTISER	NZ National Party
ADVERTISEMENT	NZ National Party, Facebook
DATE OF MEETING	5 October 2020
OUTCOME	No Grounds to Proceed

Advertisement: The advertisement is a sponsored post on Facebook from the National Party, with the heading “#BREAKING Judith Collins announces huge economic stimulus programme of tax relief. It includes an image of jeans pocket with money in it and the words: “An extra \$3000 in the average Kiwi’s back pocket” and “National will provide tax relief for middle NZ.”

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

Complaint:

The New Zealand National Party have posted an ad saying that their tax cut will deliver "\$3000" to the "average kiwi"

I consider this to be false advertising on the following basis:

Under their printed text schedule someone would have to earn between \$60,000 and \$64000 to receive \$3000. So for the statement to be true the "average kiwi" (individual) would need to earn between \$60,000 and \$64,000.

- the Household Labour Force Survey for 2020 records the median weekly income from all sources (inc. Wages and govt transfers etc) as \$652. This is equivalent to \$33,904 (Source: StatsNZ Infoshare). The average income is listed as \$865 per week or \$44,980. If we are defining "average kiwi" by their income, then neither measure will result in the "average kiwi" receive \$3000 as they earn less than \$62,000 (which I calculate as the amount you need to get \$3000).

As far as I can tell the National Party have used income figures "of those in paid employment" to determine their income figures. Using the HLFS (Stats Infoshare) figures only for those "in paid employment" the median income is equivalent to \$53,872 and the average income is \$62,140.

Where does \$64,000 come from?? Well if you only count those "in paid employment" i.e don't count the incomes of everyone on benefits in your assessment of what an "average" New Zealander earns then the median is \$53,872 and the average is \$62,140.

Using these figures makes it look like the "typical kiwi" earns \$62,140 and receives \$3000 when in fact it is more accurately a kiwi in paid employment that earns the average of \$62,140 which gets \$3,000.

Issues:

1. When focussing on the "average kiwi" I suggest it is misleading and false to use any figure of "average income" as opposed to "median income". The layperson will take "average kiwi" to mean "typical kiwi". Any measure of average income does not reflect the real earnings of a

typical kiwi. In Statistics it is generally accepted that the "average" value in a distribution will NOT provide a good guide to the typical result where the distribution of values are not normally distributed i.e. there are some extreme outlying values. This is the case with incomes where the average is massively shifted up as a result of some very high earners. This is illustrated by the difference between the median and average income scores.

2. The bigger issue is however that by excluding people who are NOT in paid employment from their calculations the National Party are blatantly distorting what a "typical kiwi" earns and receives.

You can't legitimately claim the "typical kiwi" will receive \$3000 if you, by definition, exclude those say on a benefit from your definition of what a "kiwi" is. Are they not a "kiwi" because they are not in paid employment?? Any measure of what an "average kiwi" will receive should be based on a measure which reflects all kiwis (or at least all kiwis who earn an income).

To not do so is willfully misleading and in the lead up to an election is an affront to democracy. Particularly when it is considered that this tax policy is the main point of difference between National and its opponents and is their central policy. Variations on this lie have been repeated in many interviews, ads and articles with pernicious effect.

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 National Party advertisement is misleading to claim: "their tax cut will deliver "\$3000" to the "average kiwi".

The Chair confirmed the Advertiser's identity and position was clear. The NZ National Party is a political party. The advertisement is a sponsored post on Facebook from the National Party, headed "#BREAKING Judith Collins announces huge economic stimulus programme of tax relief. It draws attention to a major announcement on the party's policy on tax relief set out on its website, <https://www.national.org.nz/tax> and says: "National will provide tax relief for middle New Zealand".

The Chair noted the Complainant's interpretation of an "average Kiwi". The Chair said the context of the advertisement was relevant in her assessment of Code compliance. The advertisement promoted a tax relief programme announced by the Leader of the National Party during the election campaign.

The Chair noted the advertisement referred to "average Kiwi's" and "middle NZ". In the Chair's view, this provided sufficient support for the consumer takeout the claim of \$3,000 related to New Zealanders on the average income. This consumer takeout was reinforced by the linked website policy titled National will cut taxes for hard-working Kiwis. In the context of advocacy advertising, the advertisement was not in breach of the Advertising Standards Code.

The Chair confirmed it is important that political parties can freely communicate their policies so that voters can decide how they want to vote.

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.