

COMPLAINT NUMBER	20/504
ADVERTISER	SAM (Smart Approaches to Marijuana)
ADVERTISEMENT	Digital Marketing
DATE OF MEETING	7 October 2020
OUTCOME	No Grounds to Proceed

Advertisement: The television advertisement from SAM (Smart Approaches to Marijuana NZ Coalition) opens with the text “The New Zealand Government is proposing a new law to legalise dope”. An image of one cannabis cigarette, or joint, is shown on the screen. Next there is the text “Do you know how many joints per day, per person they’d allow? 40 joints* (* approximate equivalent of 14 grams, specified in the proposed Bill). Does that sound like a safe amount to you? An image of 40 joints is shown on the screen. Next there is the text “Do you know that’s as much THC as 400 joints from the 60’s? An image of many joints is shown, too many to count. At the bottom of the advertisement is the call to action, “say nope to dope” and a website address and promoter’s statement.

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

Complaint: Described proposed legal limits regarding grams available per day in a non-standardized and normalized graphical format. Then used dubious claims to distort egregiously the graphical representation further using a comparison to an unverifiable historical potency claim. This further ignored the fact the proposed bill requires clear and standardised potency on regulated product to be disclosed.

The effect was a misleading and alarmist advertisement using unverifiable data, and misleading graphical representation techniques designed to create confusion

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 concerns the advertisement was misleading. The Chair confirmed the Advertiser’s identity and their position on the issue was clear. The Advertiser, Smart Approaches to Marijuana (SAM) NZ Coalition, supports a no vote in the Cannabis Legalisation and Control Referendum. The advertisement includes the website SayNopeToDope.nz and a promoter’s statement. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair said the Cannabis Legalisation and Control 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 Cannabis Legalisation and Control Bill provides context for consumers when viewing this advertising.

The Chair said the likely consumer takeout of the advertisement was that it is the SAM Coalition’s view that the proposed legalisation will allow people to smoke quite a lot of cannabis, with a potentially higher potency level than in the 1960s.

The Chair said the Advertiser has used graphic imagery to illustrate both the amount of cannabis permissible under the Bill and the potency level, based on products which are available today.

The Chair said the advertisement refers to 14 grams, which is the daily purchase limit suggested in the Bill. The Chair said some of the cannabis available today has higher THC (tetrahydrocannabinol) levels than the cannabis that was commonly available in the 1960s. Specific potency levels are not referred to in the advertisement.

The Chair said the advertisement was not in breach of Principle 2, Rules 2(b), 2(e) and 2(f) 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. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.