

COMPLAINT NUMBER	20/508
ADVERTISER	Its Not Fair
ADVERTISEMENT	Digital Marketing
DATE OF MEETING	12 October 2020
OUTCOME	No Grounds to Proceed

Advertisement: The YouTube advertisement for It's Not Fair is titled "The Safeguards" and includes the following text "Fill in some forms. Send them to Wellington. That's it..." The advertisement ends with the statement "Don't fall for Seymour's spin. Vote NO to the End of life Choice Act". The advertisement has a promoter's statement.

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

Complaint: The advert makes misleading claims about the End of Life Choice Act, including statements that the only safeguards are (directly quoting from the video): "Fill in some forms. Send them to wellington. That's it.". This claim is not in line with the contents of the act as written, and as such is likely to mislead voters.

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.

The Chair said the advertisement is conveying an opinion about the End of Life Choice Act not having sufficient safeguards. In advocacy advertising opinions are permitted.

The Chair said opinions do not require any substantiation, as long as the identity of the Advertiser is clear. 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 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 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.