

<b>COMPLAINT NUMBER</b>	20/510
<b>ADVERTISER</b>	Yes for Compassion
<b>ADVERTISEMENT</b>	Yes for Compassion, Facebook
<b>DATE OF MEETING</b>	12 October 2020
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The sponsored Yes for Compassion Facebook advertisement says “Vote YES for End of Life Choice. Give terminally ill adults the CHOICE to end their unbearable suffering. Get the FACTS here.” The text accompanying the advertisement states Sir Michael Cullen is support the End of Life Choice Act. The advertisement contains a promoter statement and website details for Yes for Compassion.

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

**Complaint:** The ad states, "Give terminally ill adults the choice to end their unbearable suffering".First, the ad is misleading and scaremongering because it implies that terminally ill people generally suffer unbearably.

The authors of a large Australian study by Clark et al concluded, "The terminal phase is perceived as a time where the majority will experience distressing symptoms, but this work suggests a contrary view.". They assessed people at the start of the terminal phase and identified the percentage of people whose symptoms needed urgent attention. They found that the vast majority of respondents had no distressing symptoms whatsoever. (Table 4, page 1292). They stated, "Only 4.2% were documented as experiencing severe pain that urgently required attention.". It's worth noting that they didn't state that these people's symptoms could not be relieved, but that they required attention.

(Clark et al. Physical Symptoms at the Time of Dying Was Diagnosed: A Consecutive Cohort Study To Describe the Prevalence and Intensity of Problems Experienced by Imminently Dying Palliative Care Patients by Diagnosis and Place of Care. <https://pubmed.ncbi.nlm.nih.gov/27603007/>)

Second, the ad is misleading because it implies that there are only two options available to a terminally ill person: One option is to suffer unbearably and the only alternative is to receive assisted dying. The truth is that other alternatives exist. Here are some:

- 1) Stopping life-prolonging medical treatments
- 2) Receiving as much medication as needed to address their symptoms, even if this may hasten their death. If the doctor's intention is to relieve their symptoms, they would not break the current law if the person's death would be hastened as a side effect.
- 2) Receiving palliative sedation, which is reversible and could be temporary.
- 3) Receiving continuous deep sedation until death, also called "terminal sedation". This is rarely needed, but still available as an option.
- 4) Palliative care from a multi-disciplinary team. "Palliative care is a holistic approach to care that improves the quality of life of patients and their families and whānau living with life limiting illness. It involves the prevention and relief of suffering by means of early

identification, impeccable assessment, and treatment of pain and other symptoms â€œ physical, psychosocial and spiritual." ,  
[http://community.scoop.co.nz/2020/10/misinformation-about-palliative-care-dangerous-ineuthanasia-debate/:](http://community.scoop.co.nz/2020/10/misinformation-about-palliative-care-dangerous-ineuthanasia-debate/)"

- 4) Medicinal cannabis
- 5) Alternative treatments such as acupuncture.
- 6) Stopping eating and drinking
- 7) Suicide, which is not illegal and isn't necessarily violent.

**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 misleading.

The Chair confirmed the Advertiser's identity was clear. The advertisement states it is a sponsored advertisement paid for by Yes for Compassion and the promoter's statement and organisation's website are included in the advertisement.

The advertisement draws attention to the organisation's support for a yes vote in the upcoming End of Life Choice referendum. The Chair said advertisement is the Yes for Compassion organisation's view that the End of Life Choice Act will give terminally ill adults a choice to end their life. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair noted the Complainant's concern that there are already a range of choices available to terminally ill patients. Whilst this may be true, the Chair said this did not make the advertisement's message misleading. The Chair said the new choice being debated is based on the process set out in the Act.

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 in favour of 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](http://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.