

COMPLAINT NUMBER	20/512
ADVERTISER	NZ Social Credit Party
ADVERTISEMENT	NZ Social Credit Party, Facebook
DATE OF MEETING	16 October 2020
OUTCOME	Upheld Advertisement to be removed

Summary of the Complaints Board Decision

The Complaints Board upheld a complaint about a sponsored Facebook advertisement for the NZ Social Credit Party because the Advertiser had not substantiated the claim that charities support approximately 400,000 children.

Advertisement

The sponsored Facebook advertisement for the NZ Social Credit Party is headed “Poverty Limits Choice”. The text says “There are over 150 foodbanks in NZ. Charities support approx. 400,000 children. More than 41,000 people are experiencing homelessness. The Reserve Bank is creating \$100 billion to put into the pockets of rich investors. Every MP should resign in shame.” The advertisement contains a promoter’s statement.

Summary of the Complaint

The Complainant is concerned the Advertiser has not substantiated the claims made in the advertisement and it is therefore misleading.

Issues Raised:

- Truthful Presentation
- Advocacy Advertising

Summary of the Advertiser’s Response

The Advertiser defended the advertisement and provided a range of substantiation it said supports the claims made in the advertisement. These include a link to the website www.foodbank.co.nz which it says lists nearly 200 foodbanks, the Aotearoa/New Zealand Homelessness Action Plan 2020-2023 published by the New Zealand Government which states 41,000 people experience homelessness and information on a selection of charities providing support to children to substantiate the claim that charities are supporting “approx. 400,000 children”.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

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

The Complaints Board said the advertisements before it fell into the category of advocacy advertising and noted the requirements of Rule 2(e) of the Advertising Standards Code. This Rule required the identity of the advertiser to be clear; opinion to be distinguished from factual information and factual information must be able to be substantiated. The Advocacy Principles developed by the Complaints Board in previous decisions considered under Rule 11 of the Code of Ethics remain relevant. They say:

1. That section 14 of the Bill of Rights Act 1990, in granting the right of freedom of expression, allows advertisers to impart information and opinions but that in exercising that right what was factual information and what was opinion, should be clearly distinguishable.
2. That the right of freedom of expression as stated in section 14 is not absolute as there could be an infringement of other people's rights. Care should be taken to ensure that this does not occur.
3. That the Codes fetter the rights granted by section 14 to ensure there is fair play between all parties on controversial issues. Therefore, in advocacy advertising and particularly on political matters the spirit of the Code is more important than technical breaches. People have the right to express their views and this right should not be unduly or unreasonably restricted by Rules.
4. That robust debate in a democratic society is to be encouraged by the media and advertisers and that the Codes should be interpreted liberally to ensure fair play by the contestants.
5. That it is essential in all advocacy advertisements that the identity of the advertiser is clear.

Role of the ASA when considering an advocacy advertisement

The Complaints Board noted its role is to consider the likely consumer takeout of an advertisement and complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

The Board will consider whether the advertisement includes statements of fact or opinion and decide whether any factual claims have been adequately substantiated by the Advertiser. The Complaints Board noted that a fact is something that is objectively true and can be verified as such whereas an opinion is a personal belief. Others may agree or disagree with an opinion, but they cannot prove or disprove it. Some statements contain both fact and opinion. The Board referred to the ASA Guidance Note on Advocacy which says:

“Evidence may be cited in support of the opinion, but it should be clear it supports an opinion rather than being the full factual position. Evidence in support of an opinion should be clearly cited and readily obtainable. Academic studies are often cited as evidence. Such studies are treated as expert opinion rather than the full factual situation...the Board will not determine which of competing academic studies or other evidence is correct. The Complaints Board’s only role is to determine whether there has been a breach of the ASA Codes, taking into account the Advocacy Principles.”

The Complaints Board observed that in a free and democratic society, issues should be openly debated without undue hindrance or interference from authorities such as the Complaints Board, and in no way should political parties, politicians, lobby groups or advocates be unnecessarily fettered by a technical or unduly strict interpretation of the rules and regulations.

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to a precedent decision, Decision 20/042 which was Not Upheld.

The full version of this decision can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 20/042 concerned a NZ National Party Twitter post that included the statement: “Despite her promises, seven out of nine child poverty indicators have worsened under Labour. That’s a fact.” The complaint was not upheld. The Complaints Board agreed the Advertiser had provided adequate substantiation for the claims made in the advertisement about Government action on child poverty. The Board said the advocacy advertisement did not meet the threshold to mislead consumers.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was charities are supporting people in need, including the homeless and children and the fault lies with MPs. The call to action is to Vote Social Credit.

Has the advocacy advertisement been adequately identified?

The Complaints Board agreed the advertisement had been adequately identified as an advocacy advertisement.

The Complaints Board said the advertisement is a sponsored Facebook post for the NZ Social Credit Party in the 2020 election campaign. The Board said the identity of the Advertiser was

clear. The Board said the Advertiser's position on the lack of action to address poverty by the current Government and Members of Parliament was clear.

The Complaints Board confirmed the importance of open debate during an election campaign. However, under the ASA complaints process, the onus is on the Advertiser to support factual statements made in advertisements, if challenged.

Are the statements in the advertisement likely to mislead?

Statement 1: "There are over 150 foodbanks in NZ."

The Complaints Board agreed Statement 1 is presented as a statement of fact.

The Complaints Board ruled the Advertiser had substantiated Statement 1 through information available on the website www.foodbank.co.nz and it is not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

Statement 2: "Charities support approx. 400,000 children"

The Complaints Board agreed Statement 2 is presented as a statement of fact.

The Complaints Board ruled the Advertiser had not substantiated Statement 2. It noted the information provided by the Advertiser included a number of links to charities providing support to children in New Zealand. The Board confirmed it was required to consider whether the information substantiated the specific claim about "approx. 400,000 children". The Board said while some general evidence had been supplied in the Advertiser's response, evidence to support the reference to approximately 400,000, which the Board took to mean almost 400,000, had not been provided. The Board ruled Statement 2 is in breach of Principle 2 and Rule 2(b) of the Advertising Standards Code.

Statement 3: "More than 41,000 people are experiencing homelessness"

The Complaints Board agreed Statement 3 is presented as a statement of fact.

The Complaints Board ruled the Advertiser had substantiated Statement 3 through information available in the Aotearoa/New Zealand Homelessness Action Plan 2020-2023 published by the New Zealand Government and it is not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

Outcome

The Complaints Board unanimously ruled Statement 2 in the advertisement had not been substantiated and the advertisement is in breach of Principle 2 and Rules 2(b) and 2(e) of the Advertising Standards Code.

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed.

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.

APPENDICES

1. Complaint
2. Response from Advertiser

Appendix 1

COMPLAINT

https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=NZ&view_all_page_id=201119943250384

Social Media

The Social Credit Party are running the attached ad. The ad list three data points:

1. there over 150 foodbanks in NZ
2. Charities support approximately 400,000 children
3. 41,000 people experience homelessness.

When I requested citations for the data in this ad I got the following response:

"- Liam McConnell-Whiting

<https://www.foodbank.co.nz/foodbanks>

Kids Can, Barnados, Variety, Salvation Army, Methodist Mission, and numerous smaller ones.

[https://l.facebook.com/l.php?u=https%3A%2F%2Fwww.hud.govt.nz%2Fassets%2FNews-and-Resources%2FProactive-Releases%2Ff41acf93b7%2FCabinet-Paper-Preventing-and-Reducing-Homelessness-in-New-Zealand.pdf%3Ffbclid%3DIwAR3V6eKEIhs3sjea5-xzRQD0hieGSCCRIRsQQAbVDwkqJxronS4K3iviB0k&h=AT0AVQitUQU_f8U4JnKsstsk7Ns7VtubYQ_fOQuQF7-r1sLMyeeCRfveRxSSWbQT1yKQ1hpLT65T3Az8FAk8sB4GrpCmerSR-07y5v6zyt6ekRm_mOE65EpbHIS4Y-8uROruXnBSSO36v3KL7XFqCbM&tn_ =R*F. -"](https://l.facebook.com/l.php?u=https%3A%2F%2Fwww.hud.govt.nz%2Fassets%2FNews-and-Resources%2FProactive-Releases%2Ff41acf93b7%2FCabinet-Paper-Preventing-and-Reducing-Homelessness-in-New-Zealand.pdf%3Ffbclid%3DIwAR3V6eKEIhs3sjea5-xzRQD0hieGSCCRIRsQQAbVDwkqJxronS4K3iviB0k&h=AT0AVQitUQU_f8U4JnKsstsk7Ns7VtubYQ_fOQuQF7-r1sLMyeeCRfveRxSSWbQT1yKQ1hpLT65T3Az8FAk8sB4GrpCmerSR-07y5v6zyt6ekRm_mOE65EpbHIS4Y-8uROruXnBSSO36v3KL7XFqCbM&tn_ =R*F. -)

The ASA code requires accurate and transparent distribution of such data and facts. The Social Credit Party have not met their obligations here.

Rule 2(e): Factual information must be able to be substantiated. Evidence (e.g. academic studies, expert opinion) in support of factual information must be appropriate and robust and must be readily available and obtainable.

The social credit party have failed to meet this requirement. Their Housing and Urban development literature is from 2013 and superceded by 2018 data. (This potentially also contravenes Rule 2(c) however the variance in data in negligible).

The data offered states nowhere that 400,000 children are fed by charities. I asked for clarification on this data point and received no response. The cited data source regarding the number of foodbanks in Aotearoa list 57 foodbanks, not 150 nor more. This demonstrates that their claim is not support by factual information. Rule 2(b): 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.

Relevant guidelines:

- i. Advertisers must hold evidence to substantiate all claims made in an advertisement.
- ii. Advertisers must be able to meet any reasonable demand created by their advertising

The social credit party have breached this rule by not being able to provide evidence to my reasonable request for evidence to their claim on 400,000 children fed by charity, or their claim of 150 foodbanks in Aoteroa. My second request for clarification was ignored and this demonstrates the advertiser does not hold evidence to support the claims of their advert.

Given the above evidence regarding the misleading nature of the advert and likely falsehoods it contains, I propose the reasonable ruling is that the ad be removed.

Appendix 2

ADVERTISER RESPONSE, NZ SOCIAL CREDIT PARTY

We have considered the matters raised in your letter and in the complaint.

We are nonplussed that somebody should want to question the glaringly obvious poverty that children in NZ face every day. Clearly this is a person who is politically motivated, and is more interested in endeavouring to pick holes in an advertisement, than in positively engaging with the real issue – poverty, and how it can be dealt with.

“41,000 people experience homelessness”

Aotearoa/New Zealand Homelessness Action Plan - Phase One 2020 signed by four cabinet ministers and dated 2019 “Under the official definition, there are more than 41,000 people experiencing homelessness in New Zealand”.

<https://www.hud.govt.nz/assets/Community-and-Public-Housing/Support-for-people-in-need/Homelessness-Action-Plan/271a3c7d79/Homelessness-Action-Plan.pdf>

“Charities support approximately 400,000 children”

Kids Can – <https://www.kidscan.org.nz/news/thousands-more-children-head-back-to-school-hungry-as-kidscan-faces-record-demand>

<https://www.kidscan.org.nz/our-work/programme-milestones>

“This term, the charity will help feed almost 44,000 children in 787 schools and 57 early childhood centres nationwide.” “With schools closed, KidsCan distributed food parcels to 4,000 vulnerable families struggling to get support outside main centres.”

Variety, the children’s charity

“And this is just one example of the 4,785 children Variety has and is supporting this year alone, each going without some of the most basic essentials that children deserve.”

<https://www.variety.org.nz/news/a-quarter-of-a-million-nz-kids-are-living-in-poverty-and-it-comes-as-no-surprise/>

Barnardos

In a year:

14,500

children and parents were supported through our Child and Family Services

50,496

children, young people and parents were helped throughout the year

2,447

children and parents were helped to deal with the impact of family violence and abuse

1,100

families went through our LEAP Service

135

children were cared for by our Foster Carers

32,226

calls and web chats were answered

1,799

under 5's enrolled in Early Learning Centres

1,971

under 5's enrolled with home-based educators

378

families were reached through our Te Korowai Mokopuna project

<https://www.barnardos.org.nz/who-we-are/our-story>

Foster Hope

"We collected over 9,525 pairs of pajamas nationwide, sent out 4,881 backpacks and 60 flat packs."

<https://www.fosterhope.org.nz/>

Middlemore Foundation

<https://www.middlemorefoundation.org.nz/>

1. 60,500 winter pajamas to kids in need
2. helped 25,000 kids in the kidzfirst emergency department

We do not intend to research the websites of all the other charities in NZ who support children but list just a few of them below:-

Youthline

Salvation Army branches across NZ

Methodist Mission branches across NZ

Women's Refuge

Presbyterian Support Services

Kidney Kids

Kidcare Foundation

Cure Kids

Big Buddy

Books in Homes

Hohepa

Family Help Trust

Southern Stars
Pillars
Vision West Community Trust
Red Cross - Parcels
Storytime Foundation

In addition we suggest you take a look at this. It covers the school lunch programme boost to feed 200,000 every day plus funding for foodbanks, social service providers, budgeting services etc. While some of the funding for the charities who deliver these programmes comes from the government, the charities themselves contribute financially and significantly with volunteer labour.

<https://www.nzherald.co.nz/nz/budget-2020-school-lunch-programme-boost-to-feed-200000-every-day/N3J2PMG3WDLBRWLT XKQYWXQWJE/>

“There are over 150 Foodbanks in New Zealand”

The Complainant clearly cannot count. The website provided contains closer to 200 foodbanks than 150, and does not include providers of meals to the homeless who set up temporary kitchen outlets on various days of the week on the street or in halls.

If anything, our claims are understated.

Frankly we consider the complaint vexatious and do not intend to spend any further time on the matter. We have better things to spend our time on.

The scale of poverty, especially child poverty in New Zealand, is beyond the comprehension of the majority on New Zealanders and we make no apology for endeavouring to highlight just a small part of it.