

19 COMPLAINT NUMBER	20/604
ADVERTISER	New Zealand Government
ADVERTISEMENT	COVID–19 Unstoppable Summer, Television
DATE OF MEETING	19 January 2021
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about the New Zealand Government's COVID-19 Unstoppable Summer television advertisement. The Complaints Board said the advertisement was not likely to undermine the health and wellbeing of viewers because it was a reasonable assumption that the man also left the party when his partner showed symptoms of being unwell. The Board said not explicitly showing this action did not undermine the important public health safety message.

Advertisement

The COVID-19 television advertisement is one of four COVID-19 health messages in the Unstoppable Summer series issued by the New Zealand Government. The advertisement shows a couple arriving at a party. The woman coughs and the party scene freezes. The man is heard saying "Oh, I think you just stopped summer!" The woman replies, "I think I'm going to sit this one out." The advertisement cuts to a car leaving, a front door shutting, and a dressing gown being put on and the woman going to bed. The rest of the party continues. The final tag line says, "Make Summer Unstoppable." The advertisement contains a Unite against COVID-19 logo, the New Zealand Government identification and the 0800 Healthline number.

Summary of the Complaint

The Complainant is concerned the advertisement shows a couple arriving at a party, but only the woman leaving when she feels unwell. The Complainant said best practise should show the man leaving as well, as he is a close contact.

Issues Raised:

- Social Responsibility
- Health and Wellbeing
- Advocacy Advertising

Summary of the Advertiser's Response

The Advertiser defended the advertisement saying its message was portraying the right behaviour to keep COVID-19 out of our community. The Advertiser said while the video does not explicitly show the male character leaving the party, he is clearly not present in the remaining party scene. The Ministry of Health's Chief Clinical Advisor reviewed the advertisement following the complaint and was comfortable that the assumption was the man left the party. He also supported the position that the benefit of maintaining awareness of COVID-19 key actions outweighs any risk of misunderstanding.

Summary of the Media Response

The Commercial Approvals Bureau said the advertisement was a refreshed message requesting all New Zealanders to abide by strict health and safety rules in an effort to stop COVID-19 spreading. It said the advertisement shows the woman acknowledging she should stay home if possibly feeling unwell. As the party scene continues at the end of the advertisement, without any sign of the couple, it is assumed they have both returned home.

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 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not 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 advertisement 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 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 precedent Decision 20/472 which was Not Upheld.

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

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

Decision 20/472 concerned a television advertisement for BP Oil which showed a nurse wearing a uniform being gifted a coffee at the end of her shift, which the Complainant said went against infection control measures.

The majority of the Complaints Board was of the view that the advertisement was promoting the idea of demonstrating kindness through use of the BPMe app and had demonstrated that by the inclusion of a symbolic healthcare worker. The Board said the depiction of a healthcare worker in a uniform outside of their workplace was unlikely to undermine the health and wellbeing of consumers. The majority of the Complaints Board said the advertisement did not reach the threshold to be socially irresponsible.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was a Government message reminding the public to stay home if feeling unwell in order to limit the potential spread of COVID-19. The message reinforced how fortunate New Zealand is to be about to enjoy summer with other people, and everyone should play their part so that summer is not ruined by an outbreak of the virus.

Has the advocacy advertisement been adequately identified?

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

The Chair confirmed the Advertiser's identity is clear. The advertisement includes the New Zealand Government identification, the Unite against COVID-19 logo and the 0800 Healthline number. The Advertiser's position on the issue is clear. The Government is emphasising its message about New Zealanders uniting against COVID-19 by maintaining key health and safety protocols. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

Does the advertisement undermine the health and well-being of individuals?

The Complaints Board said the advertisement was not likely to undermine the health and wellbeing of viewers. The Board agreed the man and woman featured in the advertisement would be viewed as a couple and it was a reasonable assumption that they would both have left the party following the woman displaying symptoms of being unwell. This assumption is supported by the fact it is the man who brings up that being unwell at a party could "stop summer", showing his understanding of the guidelines, as well as the man's absence at the party once the scene is unfrozen.

Has the advertisement been prepared and placed with a due sense of social responsibility?

The Complaints Board acknowledged the important public health message the advertiser was trying to reinforce within a limited time frame and said the key message of staying home when unwell had not been undermined by not explicitly showing the man leaving the party.

The Complaints Board said the advertisement had been prepared and placed with a due sense of social responsibility, taking into account context, medium, audience and product and when viewed through the lens of advocacy advertising. The Complaints Board said the advertisement was not in breach of Principle 1, Rule 1(h), Principle 2, or Rule 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

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**
 3. **Response from Media**
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Appendix 1

COMPLAINT

Covid Ad not correct.

Keep summer unstoppable. Then both people, the man with the woman who has a cough or sneeze, on arriving at a party address, both need to exit address and go home, isolate and contact health authorities for Covid testing, not just the woman in the couple.

Do we see the couple both exit and say we both need to not attend the party?

Appendix 2

RESPONSE FROM ADVERTISER, DEPARTMENT OF THE PRIME MINISTER AND CABINET

Re: Complaint 20/604, Unite Against COVID-10 “Unstoppable Summer – Stay Home (Party)”

Thank you for your letter of 21 December and the accompanying complaint from a member of the public. The main thrust of the complaint appears to be the implication that a close contact of someone sick is socialising with other people.

Our response is in consultation with our advertising agency, Clemenger BBDO.

The Department of Prime Minister and Cabinet provides the following response in defence of this complaint.

1. This advertisement is one of four executions in the “Unstoppable Summer” series. Each advertisement features the same hero couple pausing to discuss the right behaviour to keep Covid-19 out of our community. The couple then role models the right behaviour in each execution.
2. At no point do we see the male hero hesitate to take the right action. In this execution he does not remain at the party, which continues on without the couple.
3. We need to communicate a lot in 15 seconds and, through necessity, have to short-hand some of the action sequence to reinforce the message of staying home if you are sick. While the video doesn't explicitly show the male hero leaving, we reject the implication that he must have stayed at the party as he is clearly not present in the remaining party scene.
4. The advertisement was initially approved by the Ministry of Health. We asked them to review the ad again in light of the complaint. Dr Doug Lush, Chief Clinical Advisor for the Covid-19 response felt comfortable with the commercial as we do not see the man after that point so can assume he also went home. He also supported our position that the benefit of maintaining awareness of COVID-19 key actions outweighs any risk of misunderstanding.

5. The advertisement appears on TV, social media, VOD and YouTube. It runs from 13 December through to 24 January. At this stage we don't have scheduled activity beyond 24 January. I have attached the digital file of the advertisement, script, and media schedule.

The CAB rating is G, key number DPM/015/814.

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

Complaint 20/604 Ministry of Health DPM 015 814 Classification G

This Advocacy advertisement continues the messages to the public regarding New Zealand's Covid 19 response. The Ministry of Health has run a concerted campaign since March 2020 requesting all New Zealanders to abide by strict health and safety rules in an effort to stop the virus spreading.

Over summer, a different approach from the familiar yellow, black and white script is being used in an effort to refresh the message. Showing different scenarios where staying home if unwell or washing your hands are being used.

As a couple arrive at a bbq the female is shown sneezing into her elbow and the wider scene showing a group of friends immediately freezes. She knows the requirement to stay home if possibly feeling unwell and promptly says "I'd better sit this one out". As the scene of the gathering resumes there is clearly no sign of either her or her partner and it is assumed they have both sensibly returned home.

We do not feel the complaint should be upheld.