

<b>COMPLAINT NUMBER</b>	20/605
<b>ADVERTISER</b>	New Zealand Government
<b>ADVERTISEMENT</b>	COVID-19 Unstoppable Summer, Television
<b>DATE OF MEETING</b>	19 January 2021
<b>OUTCOME</b>	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 agreed the likely consumer takeout of the advertisement was a Government message reminding the public about the importance washing hands before touching food in order to limit the potential spread of COVID-19 and said the advertisement was not likely to undermine the health and wellbeing of viewers. The Board said the scene where a man blows on food was not ideal but was incidental to 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 standing at a barbeque food table. The man picks up a piece of bread and the barbeque scene freezes around him. The woman says "Hey mate, I think you just stopped summer! Did you wash your hands?" The advertisement shows images of hand washing with the tag line "Make Summer Unstoppable." The barbeque scene unfreezes, and activities resume, including a man trying to extinguish a sausage which has caught fire by blowing on it. The advertisement contains a Unite against COVID-19 logo, the New Zealand Government identification and the 0800 Healthline number.

### Summary of the Complaints

Three complainants are concerned the advertisement, which was supposed to be promoting good hygiene practices, shows man blowing on food. The Complainants consider this sends the wrong message to viewers in the context of the COVID-19 Pandemic.

### 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. In this execution the key behaviour being focussed on is washing hands. The scene with the sausage on fire was intended as a light-hearted beat to add interest. The Advertiser confirmed the advertisement had been approved by the Ministry of Health. The Ministry of Health's Chief Clinical Advisor reviewed the advertisement again following the complaints. He supported the position that the benefit of maintaining awareness of COVID-19 key actions over the summer break outweighs any risk of misunderstanding. However, he said it was advisable to remove the scene should the advertisement be rescheduled.

### 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 advertisements focus is on hand washing and the sausage scene was incidental to the message of the advertisement.

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 these complaints the Complaints Board referred to precedent Decision 20/317 which was Not Upheld.

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

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

**Decision 20/317** concerned a television advertisement for New World which showed a customer breathing onto their club card before scanning it, which two Complainants said was not the appropriate behaviour in the midst of a pandemic.

Upon receipt of the complaints the Advertiser removed the advertisement. The Chair of the Complaints Board settled the complaints.

**Complaints Board Discussion***Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was a Government message reminding the public about the importance washing hands before touching food 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 Complaints Board 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 agreed the advertisement did not undermine the health and well-being of individuals considering the likely consumer takeout relating to hand hygiene.

The Complaints Board noted the advertisement had been approved by the Ministry of Health which has a statutory duty to provide information to the public. The Board said the Ministry is an expert body with regard to their statutory role relating to public health matters. Therefore, in accordance with the findings of the Court of Appeal in *Electoral Commission v Cameron* [1997] 2 NZLR 421,424 (Cameron) the Complaints Board was required to “tread carefully” and ensure that it did not substitute its opinion for that of the expert body.

The Complaints Board noted information from the Advertiser the advertisement had been reviewed again in light of the complaints, by the Chief Clinical Advisor for the COVID-19 response, Dr Doug Lush. His view was that maintaining awareness of COVID-19 key actions during the start of the summer holiday period outweighed any risk of misunderstanding. The Complaints Board also noted Dr Lush advised the sausage scene should be removed from any future screenings of the advertisement.

*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 washing hands before touching food had not been undermined by the unfortunate, but incidental background image of a man blowing on a sausage.

The Complaints Board acknowledged the importance of maintaining public awareness of good hygiene practices over the Christmas period and welcomed the Advertiser’s assurance that the sausage scene would be removed if the advertisement is used again.

The Complaints Board said the advertisements 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 had not reached the threshold to breach Principle 1, Rule 1(h), Principle 2, or Rule 2(e) of the Advertising Standards Code.

### **Outcome**

The Complaints Board ruled the complaints were **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](http://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. Complaints
  2. Response from Advertiser
  3. Response from Media
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### Appendix 1

#### COMPLAINT 1

As it is a Public Service ad on Health care - namely Covid behaviour and the "unstoppable Summer". If it is not ok to touch food without washing your hands, It surely cannot be ok to depict someone blowing all over a sausage - even if it is on fire.

#### COMPLAINT 2

Currently on all mainstream [1/2/3/] channels are running a COVID-19 information calling for people to make sure they wash their hands, and if they do not, they run the risk of stopping summer. Fair enough. HOWEVER, what a joke when in the background is an actor blowing out a sausage, that is no fire. What moron was thinking [I suggest they didn't] to show a person blowing and therefore releasing spit [the means that COVID-19 is spread] as acceptable. Blowing / splitting on food is far worse than the idea that a person did not log into their blue tooth app or wash their hands.

#### COMPLAINT 3

Advert is to do the right thing adhering to Covid guidelines or you will stop summer. As the advert restarts a man blows the flames out on a sausage. Not hygienic to blow on food especially a joint bbq. Sends wrong message to viewers.

### Appendix 2

#### RESPONSE FROM ADVERTISER, DEPARTMENT OF THE PRIME MINISTER AND CABINET

Re: Complaint 20/605, Unite Against COVID-10 "Unstoppable Summer – Wash Hands (BBQ)"

Thank you for your letter of 21 December and the accompanying complaint from a member of the public, regarding good practice in the handling of food.

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 the complaints for the immediate holiday period it is intended to run (until 17 January 2021).

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. The focus of the campaign is to encourage people to continue to undertake the four key behaviours, as a level of complacency had developed within the community. In this execution, the focus is on washing hands.
2. The action of washing hands is a critical defence against the virus and needs reinforcing, despite being a familiar message to New Zealanders. The moment that has drawn complaints – a man blowing on a fiery sausage – is a light-hearted beat to help add additional interest to the advertisement.

3. 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 supported our position that the benefit of maintaining awareness of COVID-19 key actions outweighs any risk of misunderstanding, but acknowledged following the Christmas break it would be advisable to remove that scene. We believed there was greater risk in removing the commercial over the Christmas and summer break. If the advertisement is required beyond the immediate period (i.e. after 17 January), we will re-edit to remove the scene.

The advertisement appears on TV, social media, VOD and YouTube. It runs from 13 December through to 17 January. We have no scheduled activity for this advertisement beyond 17 January at this stage.

I have attached the digital file of the advertisement, script, and media schedule.

The CAB rating is G, key number DPM/015/808.

### **Appendix 3**

#### **RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU**

**Complaint 20/605      Ministry of Health      DPN 015 808      Classification G**

This commercial is one of a summer series about the COVID epidemic reminding the public of the importance of washing our hands and staying home if we feel unwell. The idea was to bring a different approach to the repetitive yellow, black and white graphics which played for nine months of 2020.

The focus of this commercial is clearly on the necessity to wash your hands and though shots of the guy blowing on a flaming sausage he has picked up from the barbeque may be considered as unhygienic they are incidental to the message of the advertisement.