

COMPLAINT NUMBER	21/432
ADVERTISER	Te Puni Kōkiri
ADVERTISEMENT	Karawhiua, Television
DATE OF MEETING	6 September 2021
OUTCOME	No Grounds to Proceed

Advertisement: The Te Puni Kōkiri television advertisement shows a small New Zealand town, Te Araroa, and its response to the COVID-19 pandemic. The first scene in the advertisement has the words "Filmed during Alert Level 1" on screen. Various members of the community are shown speaking directly to the camera from a vaccine clinic, a marae, and while sitting outside together. The residents highlight that they are "pull[ing] together", "keeping COVID out" and making informed decisions about vaccination. The advertisement finishes with people grouped together in front of a marae, shouting "Be a doer, karawhiua". This slogan is then shown on screen along with a URL to find COVID-19 vaccination centres, the Te Puni Kōkiri logo and the government COVID-19 logo.

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

Complaint: Tv1 Tuesday 6.23 pm

Advert about an NZ towns response to Covid Lockdown

Why has this advert been allowed that shows how one nz town is responding to covid lockdown

By not wearing masks

By not wearing masks and talking face to face with strangers

By sharing food with friend/strangers

By all meeting up for a social gathering without wearing masks.

What is this about? Is this anti government propaganda?

I have never complained about an ad before and I am shocked

We want covid 19 out of nz - not have it spread around under the false banner of care and friendship.

The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(h), Rule 2(e);

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.

About Advocacy Advertising under the Advertising Standards Code

The Chair confirmed the advertisement from the New Zealand Government on matters relating to the COVID-19 vaccination programme was advocacy advertising under the Advertising Standards Code.

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.

The Chair observed that in a free and democratic society, issues should be openly debated without undue hindrance or interference from authorities such as the Advertising Standards Authority (ASA), and it should not unduly restrict the Government’s role in communicating public health information to the public.

Complainants sometimes ask the ASA to in effect decide which side in an advocacy debate is correct, but the Advertising Standards Complaints Board has consistently declined to have a view. The ASA is not an arbiter of scientific fact. 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. In the first instance the Chair’s role is to decide if there are any grounds for the complaint to proceed.

Under Rule 2(e) Advocacy advertising in 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.

Application of the identity requirements of the Advertising Standards Code

The Chair confirmed the Advertiser’s identity was clear. The advertisement included logos for the New Zealand Government and the Unite against COVID-19 campaign seen throughout the pandemic response. The position of the Advertiser was also clear. It is an advertisement to promote the vaccination rollout. The Chair said the advertisement complied with the identity requirements of Rule 2(e) of the Advertising Standards Code.

The Chair noted the advertisement was part of the Karawhiua campaign, led by Te Puni Kōkiri, a Government ministry. The Chair confirmed the agencies supporting the Government’s COVID-19 approach included the Ministry of Health, an expert body with regard to its statutory role relating to public health matters. The role and jurisdiction of the ASA in advertising from expert bodies was addressed in *Electoral Commission v Cameron* [1997] 2 NZLR 421. In accordance with the findings of the Court of Appeal, the Advertising Standards Authority was required to “tread carefully” and ensure that it did not substitute its opinion for that of the expert body.

Application of the Advertising Standards Code to this advocacy advertisement

In reviewing the complaint about this advertisement, the Chair took into account the role of advocacy advertising, the liberal interpretation of the Codes required by the [Advocacy Principles](#), the application of *Cameron*, the likely consumer takeout, and the context for the advertising; the New Zealand Government's response to the COVID-19 pandemic with an audience of all New Zealanders. The Chair also noted the large amount of information available from a variety of sources about COVID-19, including the Government, the science community, news media and interest groups.

The Chair noted the Complainant was concerned the advertisement was presenting anti-government messaging by showing a lack of mask wearing or social distancing.

The Chair confirmed the Advertiser was Te Puni Kōkiri, the Ministry of Māori Development. The Chair said the advocacy advertisement's purpose was encouraging the public to take up the offer of being vaccinated. The advertisement demonstrated how a small New Zealand town such as Te Araroa was responding to the fight against COVID-19.

The Chair said it was important to note that the advertisement included messaging clarifying that it was filmed during Level 1 restrictions, which meant mask wearing and social distancing was not required as there were no community cases of COVID-19 in New Zealand at the time. The Chair said having the disclaimer on the advertisement meant it was unlikely to undermine the health and well-being of consumers.

Having carefully reviewed the advertisement and the complaint, the Chair said the advertisement had been prepared with a due sense of social responsibility when viewed through the lens of an advocacy advertisement on behalf of the Government. The Chair ruled the advertisement was not in breach Principle 1, Principle 2 or Rules 1(h), or 2(e) of the Advertising Standards Code.

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

Chair's Ruling: Complaints **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. Appeals must be made in writing with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.