

COMPLAINT NUMBER	21/416
APPEAL NUMBER	21/012
APPLICANT	Complainant
ADVERTISER	Chorus NZ
ADVERTISEMENT	Chorus NZ Television
DATE	10 September 2021
OUTCOME	Declined

SUMMARY

The Chair of the Complaints Board ruled on 9 August 2021, the complaint about a Chorus television advertisement for internet fibre was No Grounds to Proceed.

The Complainant appealed the Decision. The appeal application was considered by the Chairperson of the Appeal Board.

The Chairperson ruled that the appeal application be declined.

CHAIRPERSON'S RULING

The Chairperson viewed the application for appeal. She noted that there were five grounds upon which an appeal was able to proceed. These were listed at Clause 6(c) of the Second Schedule of the Advertising Standards Complaints Board Complaints Procedures and were as follows:

- (a) The proper procedures have not been followed.
- (b) There is new evidence of sufficient substance to affect the decision.
- (c) Evidence provided to the Complaints Board has been misinterpreted to the extent that it has affected the decision.
- (d) The decision is against the weight of evidence.
- (e) It is in the interests of natural justice that the matter be reheard.

The Complainant appealed the Chair of the Complaints Board Decision which was No Grounds to Proceed. (A full copy of the appeal is in Appendix 2 and a full copy of the Chair's ruling is in Appendix 3).

The Complainant said they were appealing on the grounds that evidence provided had been misinterpreted to the extent it has affected the ruling.

The Chairperson reviewed the complaint, the advertisement, the Ruling from the Chair of the Complaints Board, and the Complainant's appeal application.

The Chairperson confirmed the appeal process is confined to reviewing the advertisement, the issues raised in the complaint about the content of the advertisement and assessing whether the likely consumer takeout may breach the Advertising Standards Code.

The Chairperson noted the Complainant's concern the advertisement was racist "with the solitary white male portrayed as a technically challenged dunce ... and the white dunce is patronisingly addressed by two ethnic males".

The Chairperson said the advertisement was promoting fibre broadband, to avoid the issues associated with a poor internet connection, sometimes referred to as "badnet".

The Chairperson said she agreed with the Chair of the Complaints Board that the man in the advertisement represented people with poor internet experience, and his ethnicity was not relevant.

The Chairperson said the man in the advertisement also represents people who are not yet receiving broadband and who may not be aware of its benefits. His neighbours show their support for him by encouraging him to get fibre broadband installed.

The Chairperson said the advertisement did not reach the threshold to cause serious or widespread offence for most consumers and had been prepared with the due sense of social responsibility required. The Chair said it was not in breach of Principle 1 or Rule 1(c) of the Advertising Standards Code.

The Chairperson ruled there were no grounds on which the appeal could proceed, and the application was declined.

Chairperson's Ruling: Appeal application **Declined** Complaint **No Grounds to Proceed**

APPENDICES

1. Description of Advertisement
 2. Appeal Application from Complainant
 3. Chair Of Complaints Board Decision
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Appendix 1

DESCRIPTION OF ADVERTISEMENT

Two television advertisements in the Chorus "Badnet" series feature a man with a poor internet connection. The images of him doing everyday tasks such as reading the paper and trimming the hedge are distorted, to illustrate the poor quality of his internet service. His neighbours watch through the window and observe "he's got badnet". They knock on his door and introduce him to a technician, who is there to install fibre. The advertisements end with the Chorus logo and the text "Fibre. It's how we internet now".

Appendix 2

APPEAL APPLICATION FROM COMPLAINANT

Appeal on ground 'Evidence provided to the Complaints Board has been misinterpreted to the extent it has affected the decision'

My grounds for appeal is that the Authority has not considered or misinterpreted the 'reverse test' which is the challenge bolded at the end of the complaint (see below). In my view it is impossible to bring down a finding as the Chair has done i.e. 'the man in the advertisement represented people with poor internet experience, and **his ethnicity was not relevant**' without challenging the ad on the basis: Would it be acceptable with the ethnicities reversed?

It seems to me that the ASA wants to have it both ways. On the one hand ignore the ethnicity reversal challenge yet find that 'ethnicity (is) not relevant'.

The only entity that can answer the challenge is the advertiser but, ASA has not taken that step.

Complaint: My complaint is that the ad detailed is racist. The 'Badnet' series of ads has been broadcast in a number of formats with the same basic caste of characters and scenario. In my view the approach throughout has been basically racist with the solitary white male portrayed as a technically-challenged dunce. The version date/time/platform, complained about takes that a step further and the white dunce is patronisingly addressed by two ethnic males. A majority against a minority. This is the format commonly known as Jim Crow. Jim was perennially portrayed as a dim witted black American in the post-reconstruction South. On vaudeville stages he would be asked by whites to perform simple tasks which he was unable to do. The parallels are too striking and **one can only ask if Chorus would make an ad where the 'dunce' was brown ethnic and his patronisers white? I think not!**

Appendix 3

COMPLAINT NUMBER	21/416
ADVERTISER	Chorus NZ
ADVERTISEMENT	Chorus NZ Television
DATE OF MEETING	9 August 2021
OUTCOME	No Grounds to Proceed

Advertisement: Two television advertisements in the Chorus "Badnet" series feature a man with a poor internet connection. The images of him doing everyday tasks such as reading the paper and trimming the hedge are distorted, to illustrate the poor quality of his internet service. His neighbours watch through the window and observe "he's got badnet". They knock on his door and introduce him to a technician, who is there to install fibre. The advertisements end with the Chorus logo and the text "Fibre. It's how we internet now".

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

Complaint: My complaint is that the ad detailed is racist. The 'Badnet' series of ads has been broadcast in a number of formats with the same basic caste of characters and scenario. In my view the approach throughout has been basically racist with the solitary white male portrayed as a technically challenged dunce. The version complained about takes that a step further and the white dunce is patronisingly addressed by two ethnic males. A majority against a minority. This is the format commonly known as Jim Crow. Jim was perennially portrayed as a dim witted black American in the post-reconstruction South. On vaudeville stages he would be asked by whites to perform simple tasks which he was unable to do. The parallels are too striking and one can only ask if Chorus would make an ad where the 'dunce' was brown ethnic and his patronisers white? I think not!

The relevant provisions were Advertising Standards Code - Principle 1, Rule 1(c);

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

Rule 1(c) Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

The Chair noted the Complainant's concern the advertisement was racist.

Rule 1(c) of the Advertising Standards Code required the Chair to consider whether the use of a white male protagonist with a poor internet service, in this context, was likely to cause serious or widespread offence, in light of generally prevailing community standards. The Chair said that despite the Complainant's objection to the advertisement, it did not reach the threshold to cause serious or widespread offence for most consumers.

The Chair referred to a precedent decision, 21/276, and said it was relevant to the present complaint. That decision concerned a television advertisement for Trade Me Property which

showed a woman and a man attending an open home. When the man openly voiced the questions he had about the property, the woman had the answers straightaway. In that Decision the Complainant was concerned about the portrayal of the white male as a “thorough-going idiot”. The Chair said the advertisement was promoting the Trade Me Property website. The reason the woman knew more about the property they were visiting was because she was reading the information on her phone, thanks to the information provided by Trade Me. The Chair said that despite the Complainant’s objection to the advertisement, it did not reach the threshold to cause serious or widespread offence for most consumers.

Turning to the complaint before her the Chair said the man in the advertisement represented people with poor internet experience, and his ethnicity was not relevant.

The Chair said the advertisement did not reach the threshold to cause serious or widespread offence for most consumers and had been prepared with the due sense of social responsibility required. The Chair said it was not in breach of Principle 1 or Rule 1(c) 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. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.