

COMPLAINT NUMBER	21/525
ADVERTISER	Living Waters Publications
ADVERTISEMENT	Living Waters, Brochure
DATE OF MEETING	22 November 2021
OUTCOME	No Grounds to Proceed

Advertisement: The Living Waters brochure advocates against the idea of evolution in favour of creationism. The front page of the brochure shows a modified image of a man evolving from an ape, with the man turning around to the figure behind him and stating, "STOP following me! We are not related!". The brochure outlines the lack of evidence for the "molecules-to-man" theory and highlights the "God-given" morality of human beings. Contact details for Living Waters Publications are stated on the back page.

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

Complaint: Not only is this conspiracy and propaganda, it discriminates against the LGBTQI+ community.

The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(c), 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(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.

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

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 of 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.

The Chair of 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. The Chair considered the rest of the complaint in conjunction with this liberal interpretation under the application of the Advocacy Principles.

In considering this complaint, the Chair referred to two precedent decisions from similar advertisers

Decision 20/398 concerned a television advertisement for Universal Church of the Kingdom of God about a homosexual man addicted to internet pornography and lonely who underwent a transformation having found God. The Chair of the Complaints Board ruled the complaints had no grounds to proceed as it was an advocacy advertisement with the identity and position of the church clear to viewers to provide context. The Chair also noted that 7.30am to 9am on TVNZ One is an established timeslot for this type of infomercial.

Decision 20/559 concerned a television advertisement for Universal Church of the Kingdom of God. The Faith in Action infomercial included testimonials from women who were having suicidal thoughts until their faith saved them. The majority of the Complaints Board said the advertisement did not reach the threshold to cause serious or widespread offence. This is because of the advocacy nature of the advertisement and the fact that the likely audience for such an extended infomercial would be aware of the nature of this type of content.

About this complaint

Turning to the complaint before her, the Chair acknowledged the Complainant was concerned the unaddressed mail advertisement was spreading propaganda and was discriminatory towards the LGBTQI+ community.

The Chair confirmed the confirmed the brochure is an advocacy advertisement and the Advertiser's identity was clear. The advertisement included the Advertiser's name, website address and a contact phone number. The position of the Advertiser giving their religious opinion on creationism was also clear. The Chair said the advertisement complied with the identity requirements of Rule 2(e) of the Advertising Standards Code.

The Chair considered the nature of the advertisement, presenting the views of the Living Waters Publications, was apparent from the outset, with the brochure posing the question "Do you believe in Evolution? The advertisement advocates for creationism over evolutionary theories and the Advertiser's specific views about morality. This includes listing behaviours which do not align with their beliefs, including "fornication, lust, adultery and homosexual behaviour."

The Chair noted the views expressed in the brochure were offensive to the Complainant and likely to be of concern to others. In assessing whether there had been a possible breach of the Advertising Standards Code, the Chair took into account the Advocacy Principles, the protection afforded to freedom of expression in the New Zealand Bill of Rights Act.

While the Chair acknowledged the concerns of the Complainant, she said the advocacy advertisement had not reached the threshold to breach Principle 1, Principle 2 or Rules 1(c) and 2(e) 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 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.