

COMPLAINT NUMBER	21/529
ADVERTISER	Groundswell NZ
ADVERTISEMENT	Groundswell NZ, Radio
DATE OF MEETING	29 November 2021
OUTCOME	No Grounds to Proceed

Advertisement: The Groundswell NZ radio advertisement encourages people to join their "Mother of All Protests". The advertisement asks people if they are "sick of unworkable regulations" and encourages them to travel into town in their ute, tractor, truck or car on Sunday November 21st at 1PM and await further instructions through the radio. The advertisement directs people to groundswellnz.co.nz for more information.

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

Complaint: Groundswell ad encouraging people unhappy with "unworkable regulations" to drive to their nearest urban centre, gather en masse, and listen for a signal to create a disruption.

Whilst I respect the right to peacefully assemble and protest and indeed protest is an integral part of New Zealand's identity; this is designed to incite fear and distrust in our wider society. Pitting those of us who are content with the advice of tenured experts against those who would rather protest in a 3-year-old fashion: by making enough noise and embarrassing themselves without presenting any facts or compelling arguments until somebody is forced to pay attention for our collective sanity.

Aside from this, the nature of the ad calls to mind the incitement of violence we witnessed in the US on January 6th, championing lawbreakers and insurrectionists as valiant defenders of truth and justice, which is blatantly and provably false as well as harmful to the public good.

The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(f), Rule 1(g), 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(f) Violence and anti-social behaviour: Advertisements must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

Rule 1(g) Fear and distress: Advertisements must not cause fear or distress without justification.

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.

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 including robust expression of opinion.

About this complaint

The Chair acknowledged the Complainant was concerned the advertisement was inciting fear and distrust in the wider community. The Complainant was also concerned the advertisement could be an incitement to violence.

The Chair noted Groundswell is a volunteer group of farmers and rural professionals advocating for grass roots farmers and rural communities.

The Chair said the advertisement is an advocacy advertisement and Rule 2(e) of the Advertising Standards Code applied. She confirmed the Advertiser’s identity and position was clear and the advertisement complied with the identity requirements of Rule 2(e). The radio advertisement made clear that Groundswell NZ was the Advertiser and included the website address, groundswellnz.co.nz for listeners to learn more about the organisation and its position. The Chair said the advertisement was clearly a call to action to peacefully protest against what farmers see as unnecessary and unworkable regulations

The Chair observed that in a free and democratic society, differences of opinion should be openly debated without undue hindrance or interference from authorities, 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 turned to consider the Complainant’s issues regarding offence, fear and inciting violence.

Rule 1(f) of the Advertising Standards Code required the Chair to consider whether the call to action from a volunteer group in the advertisement contained anything that condones, or is likely to show, violent or anti-social behaviour or damage to property. The Chair said there was nothing in the advertisement to suggest the planned protest was anything other than peaceful. The Chair noted the advertisement advised protesters to remain in their cars in accordance with local COVID-19 restrictions. The Chair said the advertisement was not in breach of Rule 1(f) of the Advertising Standards Code.

Rule 1(g) of the Advertising Standards Code required the Chair to consider whether the advertisement was likely to cause fear and distress without justification. The Chair said the aim of the advocacy advertisement was to encourage farmers and others to use the protest to show their concern about regulations they did not agree with. The Chair said there was nothing in the content of the advertisement which was likely to cause fear or distress to those who heard it. The Chair said the advertisement was not in breach of Rule 1(g) of the Advertising Standards Code.

The Chair said the advertisement met the requisite level of social responsibility and was not in breach of Principle 1, Principle 2 or Rules 1(f), 1(g) or 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.