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| <b>COMPLAINT NUMBER</b> | 21/524  |
| <b>ADVERTISER</b>       | Social Credit Party   |
| <b>ADVERTISEMENT</b>    | Why Say No to Mandates and Certificates, Print                      |
| <b>DATE OF MEETING</b>  | 7 December 2021   |
| <b>OUTCOME</b>          | Upheld in Part<br>Advertisement not to be published in current form |

### **Summary of the Complaints Board Decision**

The Complaints Board upheld complaints about a Social Credit print advertisement which advocated for alternatives to vaccination mandates and certificates. The Complaints Board said the advertisement referred to home-based testing and Ivermectin-based treatments as alternatives for unvaccinated people. The Board said in the context of a global pandemic, it was not socially responsible to promote a medicine which has not been approved in New Zealand for treatment of COVID-19.

### **Advertisement**

The Social Credit NZ full-page advertisement in The Press advocates against current government COVID-19 policy. The advertisement calls for readers to "SAY NO to mandates and certificates". It indicates that vaccinated people are still able to contract and transmit COVID-19 and highlights the negative impact of mandates and certificates. The advertisement then states that "home based tests and early treatment" is used successfully in other countries and contains a URL for a webpage stating the effectiveness of Ivermectin-based treatments in India. The Advertiser's name and logo is located at the bottom of the page next to the name of the Party Leader, a Party Principle, and the Party's website.

### **Summary of the Complaints**

Six Complainants were concerned the advertisement undermines the Government's COVID-19 vaccination policy and spreads false/misleading information. Complainant 1 is also concerned the URL link in the advertisement is a recommendation for Ivermectin for treating COVID-19 which is not approved by Medsafe.

### **Issues Raised:**

- Social Responsibility
- Advocacy Advertising
- Truthful Presentation
- Health and Wellbeing
- Inappropriate Use of Medicine

### **Summary of the Advertiser's Response**

The Advertiser said the advertisement is about mandates not vaccinations and the advertisement made a positive statement about vaccinations and referenced a study in the Lancet from which that quote is taken, stating there is little difference in virus transmission rates between unvaccinated and fully vaccinated contacts and vaccination is about reducing the severity of illness, not transmission.

The Advertiser said the link to information about Ivermectin does not claim it is universally accepted and says it is used successfully in other countries such as India and links to other

countries are provided as further evidence. The Advertiser says there is nothing to prevent them contesting the views of Medsafe or the Cochrane review.

In relation to the Therapeutic and Health Advertising Code, the Advertiser said the advertisement is not misleading and does not proffer disinformation as substantiation has been provided. There is no product being offered and information presented in the advertisement is substantiated.

### Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaints 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.

**Principle 2: Truthful Presentation:** Advertisements must be truthful, balanced and not misleading.

**Rule 1(h) Health and well-being:** Advertisements must not undermine the health and well-being of individuals.

**Rule 2(b) Truthful Presentation:** Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be 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.

#### THERAPEUTIC AND HEALTH ADVERTISING CODE

**Principle 1: Social Responsibility:** Therapeutic and Health advertisements shall observe a high standard of social responsibility particularly as consumers often rely on such products, devices and services for their health and wellbeing.

**Rule 1 (a) Mandatory information:** Advertisements shall contain the following mandatory information to encourage responsible prescribing, recommendation, sale and use. This information shall be set out in a way (legible / audible) that ensures it can be readily understood by the audience to whom it is directed.

##### Medicines

Mandatory information as required by the most recent edition of the Medicines Act, Medicines Regulations, Medsafe Guideline on Advertising therapeutic products, Medicines NZ Code of Practice and the Self-Medication Industry Code of Practice.

**Rule 1 (b) Safety and effectiveness:** Advertisements shall not contain any claim, statement or implication that the products, devices or services advertised:

- are safe or that their use cannot cause harm or that they have no side effects or risks.

- are effective in all cases
- are infallible, unfailing, magical, miraculous, or that it is a certain, guaranteed or sure cure
- are likely to lead persons to believe that;
  - they are suffering from a serious ailment, or
  - harmful consequences may result from the therapeutic or health product, device or service not being used.

**Principle 2: Truthful Presentation:** Advertisements shall be truthful, balanced and not misleading. Advertisements shall not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

**Rule 2 (a) Truthful presentation:** Advertisements shall be accurate. Statements and claims shall be valid and shall be able to be substantiated. Substantiation should exist prior to a claim being made. For medicines and medical devices, therapeutic claims must be consistent with the approved indication(s) (for medicines) or the listed intended purpose (for medical devices).

**Rule 2 (b) Inappropriate or excessive use:** Advertisements shall not encourage, or be likely to encourage, inappropriate or excessive purchase or use. Advertisements for prescription medicines shall not encourage, or be likely to encourage, inappropriate or excessive prescriptions or requests for a prescription.

*Does the advertisement fit the definition of advocacy advertising?*

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.

### Relevant precedent decisions

In considering these complaints the Complaints Board referred to two precedent decisions, Decision 19/247, which was Settled in Part and Upheld in Part and 20/440, which was Upheld.

The full versions of these decisions can be found on the ASA website:

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

**Decision 19/247** concerned a competitor complaint about an advertising campaign for Lypo-Spheric Vitamin C product from John Appleton Associates Ltd.

The Panel was of the view that the website advertisements in the campaign were misleading because they directed customers to websites which made unsubstantiated therapeutic claims and used a healthcare professional endorsement. The Advertiser removed these parts of the advertisement and the Panel agreed to Settle the complaint

**Decision 20/440** concerned a print advertisement for the Advance New Zealand Party and the New Zealand Public Party which the Complainants were concerned were misleading, irresponsible and deceitful.

The Complaints Board Upheld the complaints and said the comparison between death rates from COVID-19 and the seasonal flu had not been substantiated and its used to support statements about Government overreach in the response to the pandemic was not socially responsible.

### Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code or the Therapeutic and Health Advertising Code. In deciding whether the Codes have been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
  - Context: The COVID-19 global pandemic and the Government's vaccine certificate and mandate policies
  - Medium: The Press Newspaper
  - Audience: Readers of The Press
  - Product: Political advocacy

#### *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 in recognition of the protection of free expression under the New Zealand Bill of Rights Act.

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.

*Is the identity and position of the Advertiser clear?*

The Complaints Board confirmed the identity and position of the Advertiser was sufficiently clear for the advertisement to be considered as advocacy advertising. The Board took into account the inclusion of the Social Credit name, logo, website address and Party Leader photo. The advertisement also contained an authorisation statement. The Board noted the Advertiser's position was clear and it quoted its Party Principle in the advertisement, that "communism, fascism and political authoritarianism in any form should be opposed."

*Consumer Takeout*

The Complaints Board agreed the overall likely consumer takeout of the advertisement was that the Social Credit Party opposes the Government's vaccine mandates and vaccine certificates. The majority of the Complaints Board agreed there was a secondary takeout that the Social Credit Party believes there are better ways to deal with the unvaccinated sector of society such as homebased tests and early treatment with Ivermectin. The Complaints Board said there would also be some consumers who could take the view the advertisement was advocating an anti-vaccination message, however the Board noted this wording was not used in the advertisement copy.

*Discussion*

The Complaints Board began by considering whether the following statements made in the advertisement were misleading under the Advertising Standards Code.

***"I've been jabbed, can I still catch COVID? Yes"***

The Complaints Board said this statement was presented as a fact and was not in dispute as people who had received two doses of the Pfizer vaccine had still contracted the virus.

***"Can I still pass COVID on to others? Yes"***

The Complaints Board said this statement was presented as a fact and the Advertiser had supported it with The Lancet article – *Community transmission and viral load kinetics of the SARS-CoV-2 delta (B.1.617.2) variant in vaccinated and unvaccinated individuals in the UK.*

***"Vaccinated individuals with a peak viral load similar to unvaccinated cases and can efficiently transmit infection...including to fully vaccinated contacts."***

The Complaints Board said this statement was presented as a fact and was supported by The Lancet article – *Community transmission and viral load kinetics of the SARS-CoV-2 delta (B.1.617.2) variant in vaccinated and unvaccinated individuals in the UK.*

***"Thousands will be locked out of jobs, shops, events, travel, because of mandates and certificates."***

The Complaints Board noted the advertisement was published on 15 November 2021 prior to implementation of the Government mandates. The Board said this was an opinion about a low-level factual claim and there has been sufficient coverage of the proposed vaccination mandates for border, health, education and other sectors for readers to have context for this statement.

The Complaints Board agreed the four statements were not in breach of Principle 2 or Rules 2(b) or 2(e) of the Advertising Standards Code.

The Complaints Board then considered the following statement and website link in the advertisement:

**“Home based tests and early treatment used successfully in other countries makes sense”** <https://medicalupdateonline.com/2021/05/home-isolation>

The Complaints Board noted the website link took consumers to a discussion page with Dr Suryakant about home isolation and ivermectin-based treatment kits. The Complaints Board said the advocacy of a medicine via the link meant this part of the advertisement would be considered under both the Therapeutic and Health Advertising Code and the Advertising Standards Code.

**Determination about statement under the Therapeutic and Health Advertising Code:**

The Complaints Board noted the Medsafe safety information about ivermectin, published on 6 September 2021 which states:

“Medsafe and the Ministry of Health strongly recommends that ivermectin is not used for prevention or treatment of COVID-19.... Ivermectin is NOT APPROVED to prevent or treat COVID-19, which means that Medsafe has not assessed the safety and efficacy for this use. Inappropriate use of ivermectin can be dangerous.”

*Is the statement likely to mislead, deceive or confuse consumers by promoting an unapproved medicine?*

The majority of the Complaints Board said that by linking ivermectin to the statement “... early treatment used successfully in other countries makes sense”, the Advertiser is, by implication, suggesting an unapproved medicine is a viable alternative to vaccine mandates and certificates for the unvaccinated, which could mislead or confuse consumers.

A minority of the Complaints Board disagreed and said the inclusion of the website link in the advertisement was not promoting ivermectin, but rather showed an example of another country’s strategy for dealing with the unvaccinated sector of its population.

*Does the advertisement encourage or be likely to encourage, inappropriate purchase or use?*

The majority of the Complaints Board said the advertisement could encourage the inappropriate use of ivermectin based on the advertisement’s statement “... early treatment used successfully in other countries makes sense”. The Board said the Advertiser had framed the link supporting the use of ivermectin treatment kits around a message of viable alternatives to current policies in New Zealand. The majority of the Board said the advertisement could have delivered its advocacy message without reference to a drug which was not approved for use in New Zealand to treat COVID-19. The majority noted the warning issued by Medsafe, the statutory body that regulates medicines in New Zealand, about ivermectin.

A minority of the Complaints Board did not consider the reference to ivermectin, via a website link in a print advertisement, in the context of its use overseas, would encourage inappropriate purchase or use of the product in New Zealand.

However, in accordance with the majority, the Complaints Board ruled the advertisement was in breach of Principle 2 and Rules 2(a) and 2(b) of the Therapeutic and Health Advertising Code

*Does the advertisement observe a high standard of social responsibility?*

The majority of the Complaints Board said the advertisement was not socially responsible to state “... early treatment used successfully in other countries makes sense” with a link to an

article about the use of an unapproved medicine, which experts warn could actually do harm, as an example of a viable alternative to mandates and certificates.

The majority of the Board said that within the context of a global pandemic and a potentially vulnerable audience, the advertisement did not meet the high standard required under the Therapeutic and Health Advertising Code.

A minority of the Complaints Board disagreed and said the advocacy advertisement had met the requisite level of social responsibility.

However, in accordance with the majority, the Complaints Board ruled the advertisement was in breach of Principle 1 of the Therapeutic and Health Advertising Code.

### **Determination about statement under the Advertising Standards Code:**

#### *Is the advertisement likely to mislead, deceive or confuse consumers?*

The majority of the Complaints Board said that by linking ivermectin to the statement "... early treatment used successfully in other countries makes sense", the Advertiser is, by implication, suggesting an unapproved medicine is a viable option, which could mislead or confuse consumers.

A minority of the Complaints Board disagreed and said the inclusion of the website link in the advertisement was not promoting ivermectin, but rather showed an example of another country's strategy for dealing with the unvaccinated sector of its population.

#### *Does the advertisement undermine the health and well-being of individuals?*

The majority of the Complaints Board said the advertisement did undermine the health and well-being of individuals. This is because the Advertiser had framed the link to the use of ivermectin treatment kits around a message of viable alternatives to current policies in New Zealand. The majority said the advertisement could have delivered its advocacy message without referencing a drug which had not been approved for use in New Zealand and which the Government and the medical regulatory body have explicitly warned against using.

A minority of the Complaints Board did not consider the reference to ivermectin, via a website link in a print advertisement, in the context of its use overseas, reached the threshold to undermine the health and well-being of individuals.

#### *Has the advertisement been prepared and placed with a due sense of social responsibility?*

The majority of the Complaints Board said the advertisement was not socially responsible to advocate that an unapproved medicine, which experts warn could actually do harm, as an example of a viable alternative to vaccine mandates and certificates for the unvaccinated. The majority of the Board said that in the context of a global pandemic and a potentially vulnerable audience, the advertisement had not been prepared and placed with a due sense of social responsibility.

A minority of the Complaints Board disagreed and said the advocacy advertisement had met the requisite level of social responsibility.

However, in accordance with the majority, the Complaints Board ruled the advertisement was in breach of Principle 1, Principle 2 and Rules 1(h) and 2(b) of the Advertising Standards Code.

### **Summary**

The Complaints Board ruled the advertisement was in breach of Principle 1, Principle 2 and Rules 2(a) and 2(b) of the Therapeutic and Health Advertising Code and Principle 1, Principle 2 and Rules 1(h) and 2(b) of the Advertising Standards Code.

The Complaints Board noted the Chair had included Rules 1(a) and 1(b) of the Therapeutic and Health Advertising Code for the Board's consideration. The Board did not consider it necessary to adjudicate the complaints under these requirements as the advertisement had been ruled misleading under Principle 2 and Rules 2(a) and 2(b) of the Code.

**Outcome**

The Complaints Board ruled the complaints were **Upheld in part**.

Advertisement not to be published in current form.

**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 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.



## APPENDICES

1. Complaint
  2. Response from Advertiser
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### Appendix 1

#### COMPLAINT 1

I believe this advertisement breaches the Code principles including in particular rule 1(h) (health and wellbeing) by undermining the New Zealand government's vaccination efforts during the COVID-19 pandemic. Vaccination is safe and effective, and contrary to the claim in this advertisement reduces the risk of passing on COVID-19 to others. The advertisement is also misleading and proffers disinformation which breaches rule 2(b). The URL in the advert links to a site recommending the use of ivermectin for covid-19 which is not an approved treatment in New Zealand. Medsafe advises that inappropriate use of ivermectin can be dangerous and that a Cochrane review found 2 no evidence to support the use of ivermectin for treating COVID19.

#### COMPLAINT 2

This ad is misleading on health. It misleads on the safety of the vaccine.

#### COMPLAINT 3

Social Credit.co.nz advocating against vaccine mandates and certificates in direct opposition to public health measures taken by the government of Aotearoa New Zealand

#### COMPLAINT 4

The information contained in this advertisement is false and dangerous.

#### COMPLAINT 5

This advertisement is misleading and dangerous. It is promoting misinformation that could threaten public health initiatives and lead to more deaths. It also breaches 1(h) (health and wellbeing) and rule 2(b) (truthful presentation) of the Advertising Standards Code.

#### COMPLAINT 6

Breaches at least rule 1(h) (health and wellbeing) and rule 2(b) (truthful presentation) of the Advertising Standards Code.

### Appendix 2

#### RESPONSE FROM ADVERTISER, SOCIAL CREDIT

Re: NZ Social Credit Party Print – Complaint 21/524

Please find below our response to your communication of 23rd of November in regard to advertisements we placed in a number of New Zealand newspapers.

#### Complaint Number 1.

The complainant cites Rule 1(h) health and well-being, suggesting that our advertisement undermines the government's vaccination efforts.

The guidelines to 1(h) refer to the food and nutrition policies of the Government and the Ministry of Health, such as the Food and Nutrition Guidelines or the Eating and Activity Guidelines, food or beverages, promoting a competition, therapeutic or health products, alcohol, and gaming and gambling. Our adverts do not relate to any of those items.

The complainant claims that *“vaccination is safe and effective, and contrary to the claim in this advertisement reduces the risk of passing on COVID-19 to others”*.

Our advert is about mandates. It makes no reference to vaccination being safe and effective or otherwise and therefore cannot be construed as “undermining the New Zealand government’s vaccination efforts during the COVID-19 pandemic”.

More particularly our advert specifically quotes the following positive statement *“Vaccination reduces the risk of Delta variant infection and accelerates viral clearance”* and includes a reference to a study published in the Lancet on 29<sup>th</sup> October 2021 from which that text is taken. [https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(21\)00648-4/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(21)00648-4/fulltext)

The complainant claims that *“vaccination is safe and effective, and .....reduces the risk of passing on COVID-19 to others”*.

As one of a number of conclusions that Lancet study contains the following text – *“Secondary attack rate [SAR – how will the first infected person infect other people] was 41% among unvaccinated and 38% in fully vaccinated contacts”*.

A 3% difference between the two demonstrates there is little difference in the likelihood of transmission between vaccinated and unvaccinated persons.

Microsoft founder and co-chair of the Bill and Melinda Gates Foundation, Bill Gates, a strong advocate of vaccination, and a major investor in companies producing vaccines, made the following comments to the Right Honourable Jeremy Hunt MP in a Policy Exchange interview immediately following the COP 26 conference which has just wrapped up in Scotland. <https://www.youtube.com/watch?v=CZpIF4qdwII>

He said *“It was 2015 that I gave the TED talk and wrote a number of papers titled “We’re not ready for the next pandemic” and sadly that was a better forecast of what would happen than anyone would have wished for. The economic damage, the deaths, it’s been completely horrific. I would expect that will lead the R&D budgets (of the future) to be focused on things we didn’t have today. **We didn’t have vaccines that blocked transmission. We got vaccines that help you with your health but they only slightly reduce transmissions. We need a new way of doing the vaccines”***.

Even our Prime Minister has publicly admitted that vaccination won’t stop a person contracting Covid-19 and nor will it stop them passing it on. So have Director General of Health Ashley Bloomfield, Council of Medical Colleges Chair Dr John Bonning (TV3 News 10/09/2021 *“The vaccine won’t stop you completely getting the illness and it won’t stop you spreading the illness”*), and others.

Therefore the complainant is incorrect in their assertion that our advertisement undermines the government’s vaccination efforts or that vaccination reduces the risk of passing on Covid-19 to others.

With that as a foundation the question our advert posed was that if people, vaxed and unvaxed, can mix at home (as they also can in supermarkets for example), why segregate them in public (at places such as restaurants bars and events) when there is little difference in the possibility of infection or transmission.

That segregation will mean thousands of people losing jobs, income, and family and social connections at a time when that is the worst outcome, especially in the medical and educational areas.

The complainant suggests our advertisement is *“misleading and proffers disinformation which breaches rule 2(b). The URL in the advert links to a site recommending the use of Ivermectin for Covid-19 which is not an approved treatment in New Zealand. Medsafe advises that inappropriate use of Ivermectin can be dangerous and that a Cochrane review found no evidence to support the use of Ivermectin for treating COVID-19”*.

Rule 2(b) relates to obvious untruths, exaggeration, puffery or deliberate hyperbole. An advert must not suggest that claims are universally accepted if there is a significant division of informed or scientific opinion, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

Our advertisement does not claim the use of Ivermectin for Covid-19 is universally accepted. The fact that Ivermectin is not an approved treatment in New Zealand is irrelevant. Our advert does not claim that it is. Our advert claims that it is used successfully in other countries and the link <https://medicalupdateonline.com/2021/05/home-isolation> provides evidence of one country (India) where that is the case. Further evidence can be found at <https://ivmstatus.com/> and <https://indianexpress.com/article/cities/lucknow/uttar-pradesh-government-says-ivermectin-helped-to-keep-deaths-low-7311786/>. There are numerous other references we could provide.

The complainant states that *“Medsafe advises that inappropriate use of Ivermectin can be dangerous and that a Cochrane review found no evidence to support the use of Ivermectin for treating COVID-19”*. Our advert does not claim otherwise and we completely agree that inappropriate use of Ivermectin can be dangerous. The success of the use of Ivermectin in other countries demonstrates that their use of Ivermectin has not been inappropriate and therefore not dangerous.

There is nothing in the codes that suggests we are barred from contesting the views of Medsafe nor that we are barred from providing evidence that demonstrates a different result to that published in a Cochrane review.

We therefore submit that the complaint is without foundation.

### **Complaint Number 2.**

The complainant suggests our advert is *“misleading on health. It misleads on the safety of the vaccine”* but does not detail which of the codes they believe have been breached.

Our advert is about mandates. It makes no reference to vaccination being safe or otherwise. Along with the evidence in respect of complaint number 1, the advert cannot therefore be construed as misleading on the safety of the vaccine.

We therefore submit that the complaint is without foundation.

### **Complaint Number 3.**

The complainant suggests our advert is *“advocating against vaccine mandates and certificates in direct opposition to public health measures taken by the government of Aotearoa New Zealand”*, but does not detail which of the codes they believe have been breached.

Our advert is about mandates. It makes no reference to any other health measures taken by the government of Aotearoa New Zealand. There is nothing in the codes that suggests we are barred from advocating other options, especially when those options are proving successful overseas as our evidence in respect of complaint number 1 shows.

We therefore submit that the complaint is without foundation.

**Complaint Number 4.**

The complainant suggests information contained in our advertisement is “*false and dangerous*” but does not detail which of the codes they believe have been breached. There is no indication in the complaint to specify how information contained in our advertisement is false and dangerous.

Our evidence in respect of complaint number 1 shows that claims contained in our advertisement are not false and are backed up by scientific references and successful overseas experience. Therefore they cannot be construed as false and dangerous. We therefore submit that the complaint is without foundation.

**Complaint Number 5.**

The complainant suggests information contained in our advertisement is “*misleading and dangerous. It is promoting misinformation that could threaten public health initiatives and lead to more deaths*” but does not detail which of the codes they believe have been breached.

Our evidence in respect of complaint number 1 shows that claims contained in our advertisement are not misleading or dangerous and are backed up by scientific references and successful overseas experience. Therefore they cannot be construed as misleading, or dangerous.

Our evidence in respect of complaint number 1 shows that claims contained in our advertisement are not promoting misinformation and therefore could not threaten public health initiatives and lead to more deaths.

Our evidence in respect of complaint number 1 shows that our advert does not breach 1(h) (health and wellbeing) and rule 2(b) (truthful presentation) of the Advertising Standards Code. We therefore submit that the complaint is without foundation.

**Complaint Number 6.**

The complainant suggests information contained in our advertisement “*breaches 1(h) (health and wellbeing) and rule 2(b) (truthful presentation) of the Advertising Standards Code*”.

Our evidence in respect of complaint number 1 shows that our advert does not breach 1(h) (health and wellbeing) and rule 2(b) (truthful presentation) of the Advertising Standards Code. We therefore submit that the complaint is without foundation.

**Further**

Your letter suggests that our advertisement breaches Advertising Standards Code - Principle 1, Principle 2, Rule 1(h), Rule 2(b), Rule 2(e) Therapeutic and Health Advertising Code - Principle 1, Principle 2, Rule 1(a), Rule 1(b), Rule 2(a), Rule 2(b).

The only rules referenced by the complainants are Rule 1(h) and Rule 2(b).

We do not see that there is any requirement for us to provide a response to any of the other principles or rules referenced in your letter as they are not mentioned by any of the complainants. However, for the avoidance of doubt we shall do so.

**Principle 1** states that advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Our advertisements is not misleading and nor does it proffer disinformation. Information is substantiated. Claims are referenced. It makes no reference to vaccination being safe or otherwise. Our advert has therefore been prepared and placed with a due sense of social responsibility to consumers and to society.

**Rule 2(e)** states that -

1. Advocacy advertising must clearly state the identity and position of the advertiser. Our advert clearly does this. It states the name of the organisation, a link to our website, and has an authorisation statement.
2. Opinion in support of the advertiser's position must be clearly distinguishable from factual information. Our advert clearly does this. There is no opinion in the advert. Other than facts, there are two questions which are clearly identifiable as such, and one advocacy statement.
3. Factual information must be able to be substantiated. Our advert clearly does this and it provides the references for substantiation purposes.

### **Therapeutic and Health Advertising Code**

**Principle 1** states that therapeutic and health advertisements shall observe a high standard of social responsibility particularly as consumers often rely on such products, devices and services for their health and wellbeing.

Our advert does not offer any products, devices or services.

**Principle 2** states that advertisements shall be truthful, balanced and not misleading. Advertisements shall not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

Our advertisement is not misleading and nor does it deceive or confuse consumers, abuse their trust, or exploit their lack of knowledge. Information is substantiated. Claims are referenced. It makes no reference to vaccination being safe or otherwise. Our advert cannot therefore be construed to abuse their trust, exploit their lack of knowledge. More particularly our advert does not seek to sell or promote any particular product or device. There are therefore no consumers.

**Rule 1(a)** states that advertisements shall contain certain mandatory information to encourage responsible prescribing, recommendation, sale and use.

Our advertisement is not seeking to prescribe, recommend, or sell any products, devices and services and therefore cannot be construed to breach this principle.

**Rule 1(b)** states that advertisements shall not contain any claim, statement or implication that the products, devices or services advertised:

- are safe or that their use cannot cause harm or that they have no side effects or risks.
- are effective in all cases
- are infallible, unfailing, magical, miraculous, or that it is a certain, guaranteed or sure cure
- are likely to lead persons to believe that;
  - they are suffering from a serious ailment, or
  - harmful consequences may result from the therapeutic or health product, device or service not being used.

Our advertisement does not promote any particular products, devices or services nor does it make any of those claims and therefore cannot be construed to breach this rule.

**Rule 2(a)** states that advertisements shall be accurate and that statements and claims shall be valid and shall be able to be substantiated.

In our advertisement information is substantiated. Claims are referenced. It therefore cannot be construed to breach this rule.

**Rule 2(b)** states that advertisements shall not encourage, or be likely to encourage, inappropriate or excessive purchase or use. Our advertisement does not promote any particular products for purchase or use and therefore cannot be construed to breach this rule.

Frankly, we consider your inclusion of the supposed breaches that have nothing to do with the complaints submitted are an unnecessary and unjustified imposition on our time and resources and may justify a complaint on our part to the Ombudsman.