

<b>COMPLAINT NUMBER</b>	15/107
<b>COMPLAINANT</b>	D. McEntee
<b>ADVERTISER</b>	New Zealand AIDS Foundation
<b>ADVERTISEMENT</b>	Love Your Condom Billboard
<b>DATE OF MEETING</b>	23 March 2015
<b>OUTCOME</b>	No Grounds to Proceed

**Complaint:** The “Love Your Condom” billboard advertisement for the New Zealand AIDS Foundation showed a picture of a boxer standing in a boxing ring. It stated, in part:

“Getting in the ring? Gear Up  
#loveyourcondom.”

**Complainant, D. McEntee, said, in part:** “... ‘Ring’ is a slang word for anus and is offensive. I also want to know how this billboard is explained to children who read it. Sure, promote condoms to gay people, but do it with decency and don't subject everyone to the use of such language ... I am not anti-gay, I am anti slogans that have explicit messages...”

**The relevant provisions were Basic Principle 4 and Rules 4, 5 and 11 of the Code of Ethics.**

**The Chairman** noted the Complainant’s objection to the language used in the advertisement to promote safe sex.

The Chairman then turned to consider the advertisement under Rule 11 of the Code of Ethics and noted that it provided for robust expression of belief or opinion being as expressed by the Advertiser and, therefore, such opinions may be robust. However, opinion should be clearly distinguishable from factual information. The identity of an Advertiser in matters of public interest or political issues should also be clear.

Also applicable were the Advocacy Principles, developed by the Complaints Board in previous Decisions for the application of Rule 11. These said:

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 right 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 Chairman said the billboard was clearly identifiable as a “Love your Condom” advertisement by the New Zealand AIDS Foundation, advocating their stance on safe sex. She said the advertisement was in the category of advocacy advertising and included an important public health message to help reduce the rate of HIV infections within New Zealand. She also noted that the Advertiser was clearly identified by the logo and website address. Having made the above observations, the Chairman said the advertisement was not in breach of Rule 11 of the Code of Ethics.

The Chairman then turned to consider the Complainant’s objection to the wording used in the advertisement and noted where the Complainant said “don’t subject everyone to the use of such language.”

She referred to Complaints Board Decision (14/621) about another advertisement for safe sex by the same Advertiser. In particular, the Chairman noted the Advertiser’s response to using such a high visibility medium to promote safe sex. It stated:

“The decision to place these advertisements in ‘mainstream’ mediums such as billboards was based on two key considerations, the first being that gay and bisexual men live, work and socialise within the wider mainstream community; secondly, we know that the majority of gay and bisexual men cannot be reached through gay media alone.”

The Chairman said the above decision was directly applicable to the Complainant’s concerns about the advertisement being publicly promoted rather than being targeted exclusively to gay and bi-sexual men.

Turning to the Complainant’s objection to advertisements that have “explicit messages”, the Chairman acknowledged it would be apparent to most adults the word “getting in the ring” was an obvious reference to anal sex. However, she said it was only the accompaniment of the text “#loveyourcondom” – text that was subordinate to the main part of the advertisement – that made the wordplay apparent. Without that context, the Chairman said the image was of a boxer in a boxing ring.

Given the reliance of the subordinate text, the Chairman said the advertisement did not reach the threshold to be considered “explicit,” despite the obvious association.

When considering the effect the advertisement may have on children, the Chairman was of the view the double entendre was of a level that would not be readily understood by most children.

Therefore, while she acknowledged the offence the advertisement caused the Complainant, she said any offence caused by the use of the double entendre was mitigated by the importance of a public health message and was unlikely to cause serious and widespread offence to most people or offend against prevailing community standards.

Given these findings, and taking into account precedent Decision (14/621) with regard to public placement of the advertisement, the Chairman said the advertisement had been prepared with a due sense of social responsibility to consumers and society. Therefore, she ruled there was no apparent breach of Basic Principle 4 or Rules 4, 5 or 11 of the Code of Ethics.

Accordingly, the Chairman ruled that there were no grounds for the complaint to proceed.

**Chairman's Ruling:** Complaint **No Grounds to Proceed**