

COMPLAINT NUMBER	16/367
COMPLAINANT	J. Cummings
ADVERTISER	MyRepublic
ADVERTISEMENT	MyRepublic Unaddressed Mail
DATE OF MEETING	29 November 2016
OUTCOME	Not Upheld

SUMMARY

The MyRepublic unaddressed mail advertisement was for a gigabit fibre broadband package half-priced for six months. The wording on one side of the advertisement, in the form of a card, included the MyRepublic logo above the slogan “We know no limits.” The other side of the card included an image of a man in a suit with his hands on a laptop lying in a coffin bearing a wreath with the words “lol in peace” and “Sign up to be in to win this fully pimped internet ready coffin.”

The Complainant said their family and friends had found the advertisement in very poor taste. They felt it would be very upsetting to many people, especially to people who had recently lost a loved one.

The Advertiser said the advertisement was a Halloween promotion intended to make the point that MyRepublic would go to extremes to deliver the fastest fibre internet. The advertisement was part of a wider campaign and the “internet ready coffin” illustrated MyRepublic’s “creative platform” which was: “We Know No Limits – Even in Death”. The promotion began on October 12, 2016, and was last used on November 2, 2016, coinciding with the Mexican Day of the Dead.

The majority of the Complaints Board said the advertisement was only tenuously linked to the Day of the Dead and Halloween. It noted the Advertiser had made an effort not to send the advertisement to people who may have recently suffered a bereavement and agreed, on balance, the advertisement did not reach the threshold to breach the Code. A minority of the Complaints Board disagreed and said the advertisement would be offensive to sections of the population, in breach of Rule 5 of the Code.

However, in accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to

Basic Principle 4 and Rules 4 and 5 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement had been prepared with a due sense of responsibility to consumers and to society. The Complaints Board was also required to consider whether the advertisement contained anything which clearly offended against generally prevailing community standards or was likely to cause serious or widespread offence in the light of prevailing community standards taking into account the context, medium, audience and product (including services).

The Complaints Board ruled the complaint was not upheld

The Complaint

The Complaints Board first considered the Complainant's concern that the unaddressed mail advertisement, in the form of a card and received in their mailbox on October 15, was in extremely poor taste and friends and family members had concurred. The Complainant's belief was that the advertisement would be very upsetting to many people, particularly if they had recently lost a loved one.

The Advertiser's Response

The Complaints Board then turned to the Advertiser's response. The Advertiser, MyRepublic, said that the "Know No Limits Even in Death" direct mail campaign was a Halloween promotion intended to make the point that My Republic was "so dedicated to delivering the fastest fibre internet that we will go to extremes to ensure our customers have the best UFB in New Zealand." The Advertiser believed the advertisement represented a tame version of the festivals of Halloween and Mexican Day of the Dead.

The Advertiser said the now discontinued promotion began on October 12, 2016, and was last used on November 2, 2016, coinciding with The Mexican Day of the Dead. The Advertiser said in part: "We carefully selected a target audience of 132,025 New Zealand households of new fibre address, washing the data against recent deaths and 'do not send' databases."

The Advertiser submitted death was often used as a metaphor to dramatise and promote ideas and was largely accepted and celebrated as a part of culture. The Advertiser explained: "The Internet Ready Coffin dramatises MyRepublic's creative platform - 'We Know No Limits – Even in Death' - in a way that is to be interpreted as humorous. The Direct Mail piece shows the coffin (the prize up for grabs) with a person who, at first glance, looks deceased. However at closer inspection our character is in fact, alive and using his laptop. The out take being – he's been using the coffin's internet so much, that he hasn't seen the light of day for some time and has gone pale and corpse-like, much like many gamers."

Precedents

The Complaints Board considered two possible precedent decisions. The first was 09/236 for Stihl Limited and related to a television commercial that was staged as a deathbed scene. The second, Decision 11/422 was a Chairman's Ruling on a newspaper advertisement from the Hawke's Bay Rugby Union. This showed a priest standing by an open coffin which contained a man in a Magpies rugby jersey – with the words "Not at the game? Better have a bloody good excuse, promoting an upcoming rugby game. The Chairman ruled no grounds to proceed and recognised the use of dark humour to advertise an upcoming rugby game to fans.

The Complaints Board Discussion

The majority of the Complaints Board said the advertisement was in poor taste and only tenuously, if at all, linked to the Day of the Dead and Halloween. It said it could have upset people who had recently suffered a bereavement but acknowledged the advertiser had made an effort not to send the advertisements to some of these households by checking the

mailing data against recent deaths.

The majority viewed the image as of a man looking down at a laptop rather than a deceased man and that he was intended to look pale and corpse-like after gaming at length. The man in the image could be compared to a character in the television series Six Feet Under. The view was that the advertisement was an attempt at black humour. The majority of the Complaints Board accepted the advertiser intended the advertisement to relate to the slogan: "We know no bounds, even in death."

While in questionable taste, the majority of the Complaints Board agreed the advertisement had not met the threshold to cause serious or widespread offence or offend against generally prevailing community standards. The majority said the advertisement was not in breach of Rules 4 and 5 and had been prepared with a due sense of social responsibility as required by Basic Principle 4 of the Code of Ethics.

A minority of the Complaints Board considered the advertisement was in breach of the Code of Ethics. It noted the Advertiser's intent about the timing of the campaign but one side of the card had no reference to those events and focused on a special for a fibre connection. The minority believed the advertisement would be offensive to sections of the population and saw no obvious link between the advertisement and the Day of the Dead and Halloween. The minority's view was that the man in the image looked deceased and that some people would find that offensive.

However, in accordance with the majority, the Complaints Board ruled the Complaint was Not Upheld.

DESCRIPTION OF ADVERTISEMENT

The MyRepublic unaddressed mail advertisement, in the form of a card, was for a gigabit fibre broadband package half-priced for six months. The advertisement included, in large white capital letters on a purple background, the message: "Gigabit fibre is here with 6 months half price." Underneath this was: "\$59.99/mth first 6 months". The wording included contact details and the MyRepublic logo above the slogan "We know no limits." Terms and conditions were set out in small print at the bottom of the advertisement. The other side of the card included an image of a smartly dressed and comatose-looking man with his hands on a laptop, in a half-open coffin bearing a wreath on the closed section with the words "lol in peace" and "Sign up to be in to win this fully pimped internet ready coffin." The coffin appeared to contain a flat screen television and other electronic gear. Wording at the bottom of the coffin lid advised that features were "PS4, Hi-Fi Sound, 10" HD screen (for 'closed casket' entertainment), HD LCD Smart TV (for 'open casket' viewing) adjustable lighting and high-speed gigabit router."

COMPLAINT FROM J. CUMMINGS

"I would like to make a complaint about this advertising card I received in my mail box on Saturday 15th October.

I found it to be of extremely poor taste as did the family members and friends I showed it to.

I feel it would be very upsetting to many people, especially if they have recently lost a loved one."

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 4: Decency - Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).

Rule 5: Offensiveness - Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).

RESPONSE FROM ADVERTISER, MYREPUBLIC

“Please find below the response to our Advertising Standards complaint in relation to MyRepublic’s ‘We Know No Limits Even in Death Direct Mail’ campaign;

As a new entrant to the New Zealand broadband market, we look to challenge creative norms and deliver promotions that break free from old world standards, acting as a challenger brand, delivering more competition, and ultimately benefiting consumers.

The complainant alleges the ASA’s Code of Ethics – Basic Principle 4, Rule 4, Rule 5 has been breached by our ‘We Know No Limits Even in Death Direct Mail’ campaign.

Although we acknowledge the complainant position, our direct mail campaign in promotion of our Halloween activation is making the point that MyRepublic is so dedicated to delivering the fastest fibre internet that we will go to extremes to ensure our customers have the best UFB in New Zealand.

Halloween (31-Oct) is now a common celebration in New Zealand for young and old, and the Mexican Day of the Dead (2-Nov) is also gaining prominence. We believe this creative represents a tame version of these two festivals and one that goes beyond commercial advertising into festivals that are enjoyed by all.

For these reasons we do not believe our direct mail advertising breaches the ASA Code of Ethics - Basic Principle 4, Rule 4 or Rule 5.”

A basic, neutral description of the advertisement	Part of a wider campaign promoting MyRepublic “We Know No Limits Even in Death”, with direct mail advertising promoting our Gigabit Fibre Broadband and Halloween (31-Oct) promotional campaign.
Date advertisement began	Wednesday, 12 th October 2016

Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Direct Mail
Is the advertisement still accessible – where and until when?	Direct mail creative is no longer in use, it was last used Wednesday, November 2 nd 2016. The ending coincided with the Mexican Day of the Dead (2-Nov).
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	High-quality PDF file included.
Who is the product / brand target audience? Please provide a copy of the media schedule.	<p>Promoting Nationwide Gigabit UFB Fibre Broadband and MyRepublic's Halloween (31-Oct) promotion to win an internet ready coffin.</p> <p>We carefully selected a target audience of 132,625 New Zealand households, of new fibre address', washing the data set against the recent deaths and 'do not send' databases.</p>
Clear substantiation on claims that are challenged by the complainant. Please see the Guidance Note.	<p>Death is often used as a metaphor to dramatise and promote ideas. Death is also largely accepted and celebrated as part of culture. i.e. For Halloween this year, coffins, skeletons, gravestones appeared across the country. Death was also delivered, uninvited to people's doorstep in the form of trick or treaters.</p> <p>The Internet Ready Coffin dramatises MyRepublic's creative platform - "We Know No Limits - Even in death", in a way that is to be interpreted as humorous. The Direct Mail piece shows the coffin (the prize up for grabs), with a person who, at first glance looks deceased. However at closer inspection our character is in fact, alive and using his laptop. The out take being - he's been using the coffin's internet so much, that he hasn't seen the light of day for some time and has gone pale and corpse-like, much like many gamers.</p> <p>Please see the examples of other forms of death in New Zealand's culture included.</p>