

<b>COMPLAINT NUMBER</b>	18/340
<b>COMPLAINANT</b>	K Bronlund & 145 others
<b>ADVERTISER</b>	WAVES NZ
<b>ADVERTISEMENT</b>	WAVES NZ, Out of Home
<b>DATE OF MEETING</b>	9 October 2018
<b>OUTCOME</b>	Upheld

## SUMMARY

The billboard advertisement for WAVES NZ showed a photo of a man holding a baby. The man had a prominent tattoo on his right arm, with a Māori inspired design. Next to the photo were the words: “If you knew the ingredients in a vaccine, would you RISK it?” The word “Risk” was in red capital letters. At the bottom right of the advertisement was the text “www.wavesnz.org.nz”

The ASA received 146 complaints about the billboard advertisement for WAVES NZ. The Complainants were generally concerned the advertisement was not socially responsible because it implied that vaccines are not safe, and convincing people not to vaccinate may not only prove harmful to them and their children, but also to wider society. The Complainants also said the advertisement exploited fear in people who do not understand the underlying science behind vaccinations.

The Advertiser, WAVES NZ, said it can see no reason why the advertisement breaches the ASA’s Code of Ethics. The Advertiser said the intention behind the advertisement was to promote informed consent and to encourage parents to research the ingredients of vaccines by visiting the WAVES NZ website to access the MedSafe datasheets.

The majority of the Complaints Board said the identity of the Advertiser, WAVES NZ, was not sufficiently clear and ruled the identification requirement of Rule 11, Advocacy Advertising, had not been met.

A minority disagreed. It said most consumers would be able to identify that the advertiser was anti-vaccination, taking into account the overall context of the advertisement, and the impact of the image and the text combined.

In accordance with the majority, the Complaints Board did not consider the rest of the complaints in conjunction with the liberal interpretation available for advocacy advertisements under the application of the Advocacy Principles.

The Complaints Board said the advertisement was misleading as the likely consumer takeout that vaccination is not safe was not sufficiently substantiated by the Advertiser, the advertisement unjustifiably played on fear and was socially irresponsible.

The Complaints Board ruled the advertisement was in breach of Basic Principle 4, Rule 2, Rule 6 and Rule 11 of the Code of Ethics.

The Complaints Board ruled the complaint was Upheld.

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

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## COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the complaint with reference to Basic Principle 4 and Rules 2, 6 and 11 of the Code of Ethics.

Basic Principle 4 required the Complaints Board to consider whether the advertisement had been prepared with a due sense of social responsibility.

Rule 2 required the Complaints Board to consider whether the advertisement contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge.

Rule 6 required the Complaints Board to consider whether the advertisement exploited the superstitious, without justifiable reason, or played on fear.

The Chair noted that several other Codes and rules were cited by some of the Complainants: Rule 4 - Decency, Rule 12 – Safety, the Therapeutic and Health Advertising Code and The Medicines Act. The Chair ruled that none of these directly applied in this case.

The Complaints Board said the advertisement before it fell into the category of advocacy advertising and noted the requirements of Rule 11 of the Code of Ethics. The Complaints Board noted Rule 11 allowed for expression of opinion in advocacy advertising, provided that the expression of opinion is robust and clearly distinguishable from fact. 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 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 Complaints Board ruled the complaint was Upheld.**

#### **The Complaint**

The ASA received 146 complaints about the billboard advertisement for WAVES NZ. The Complainants raised the following general concerns about the advertisement:

- It implied that vaccines are not safe
- It was not socially responsible, as convincing people not to vaccinate may not only prove harmful to them and their children, but also to wider society
- It is misleading and deceptive. Consumers who may not possess knowledge of the scientific literature on the topic may be unduly manipulated to believe that the risks of vaccination outweigh the benefits – which by all measurable scientific metrics, they do not
- It exploits fear in people who do not understand the underlying science behind vaccinations
- It is scaremongering and false
- The placement of this advertisement in a low decile area is predatory in nature and attempts to mislead a disadvantaged sector of society
- To place this hoarding near a hospital is yet another despicable act of an amoral group of fraudsters
- The advertisement targets Maori and Polynesian parents with a fear-based suggestion that you wouldn't vaccinate if you knew what was in vaccines
- Refusing your child appropriate medical care due to your personal or religious beliefs and opinions should be considered child endangerment and abuse

#### **The Advertiser's response**

The Advertiser, WAVES NZ, said it can see no reason why the advertisement breaches any of the ASA's Code of Ethics.

The Advertiser said the intention behind the advertisement was to promote informed consent and to encourage parents to research the ingredients of vaccines by visiting the WAVES NZ website to access the MedSafe datasheets. The Advertiser's response provided links to datasheets listing the ingredients for 46 different vaccines, as well as a link to the New Zealand 2017 Immunisation handbook, published by the Ministry of Health.

The Advertiser said the father on the billboard is Pākehā and the writing on his tattoo is in English.

The Advertiser said the decision about which billboard site to locate the advertisement was made solely on the basis of the number of cars going past the chosen site.

#### **The Media's response**

The Media said the billboard was installed without going through their normal vetting process and if they had followed it correctly, it would not have been installed.

The Media said once the issues with the billboard came to light they removed the advertisement as quickly as possible.

## Precedents

In considering the issues raised by the Complainants, the Complaints Board referred to two precedent decisions, Decision 14044 Appeal 14004, which was Upheld, Appeal Allowed and Decision 14460, which was Upheld.

Decision 14044 Appeal 14004 concerned a newspaper advertisement authorised by the Fluoride Action Network New Zealand. The advertisement was headed “#1 Fluoride Quiz”. It was one of five multi-choice quizzes about water fluoridation.

In the Decision, the Appeal Board said the advertisement lacked additional context to adequately inform the consumer the advertisement was advocating against fluoridation. While acknowledging the identity of the Advertiser was visible in the advertisement as required by Rule 11, the Appeal Board said a positioning statement would have made it clearer to readers that the quiz format was presenting a perspective and was not an absolute. In the Appeal Board’s view, this was socially irresponsible.

Decision 14460 concerned an advertisement on the Fluoride Free New Zealand website which stated, in part: “Informed Doctors and Dentists say: KEEP FLUORIDE OUT. Keep Rotorua’s water safe. It’s our right to choose. Swallowing Fluoride is unsafe for babies, doesn’t protect teeth and can cause harm.”

The Complaints Board said the claim that trusted authorities say swallowing fluoride is “unsafe for babies” and “can cause harm” played on fear, particularly in the case of parents. It said that as no substantiation was provided to support the claims, the advertisement was likely to mislead and played on fear unjustifiably.

## Complaints Board Discussion

*Was the advertisement Advocacy Advertising?*

The Complaints Board discussed whether the advertisement before it fell into the category of advocacy advertising.

In considering the challenges the Complaints Board can face in dealing with complaints about advocacy advertising, the Complaints Board agreed that clear identification of the Advertiser and their position is essential to provide context for the consumer.

The Complaints Board referred to the ASA “Advocacy Advertising Principles and the Code of Ethics Rule 11” which states:

### Application of Rule 11

“To assist consumers and advertisers and taking into account the advocacy principles and recent precedent decisions, the ASA has agreed, where advertising meets certain conditions, a more liberal interpretation of the Code is appropriate. This allows all sides to advocate their position – clearly identified – and avoid a technical interpretation of potential breaches.”

and

“It must be clear in the advertisement what view the advertiser advocates and ideally this should be clear in their identity...for example: a short advertisement stating ‘Contact the Fluoridation Foundation for information on fluoridation’ would not qualify. On the other hand, the names Pro-Fluoridation Foundation or Anti-Fluoridation Foundation are acceptable along with a clear statement in the advertisement about its purpose – “Stop Fluoridation now” or “Support Fluoridation in the Referendum”.

The Complaints Board agreed care must be taken to ensure the consumer would readily be able to identify the material was an advertisement containing the advertiser's view.

The Complaints Board noted the advertisement included the text: "[www.wavesnz.org.nz](http://www.wavesnz.org.nz)" in white lettering, at the bottom right of the billboard.

A majority of the Complaints Board said the identity of the Advertiser was not sufficiently clear, based on the reference to the website address alone, in the context of a billboard advertisement. The majority said WAVES NZ is not a well-known organisation and the purpose of the organisation is not clear from its name.

A minority disagreed. It said taking into account the overall context of the advertisement and considering the impact of the image and the text together, most consumers would be able to identify that the advertiser was anti-vaccination. The minority said however, that even if the requirements of Rule 11 had been met, the advertisement still, in their view, unjustifiably plays on fear and is therefore socially irresponsible.

Taking into account the above information, and in accordance with the majority, the Complaints Board said the identity of the Advertiser, WAVES NZ, was not sufficiently clear and ruled the identification requirement of Rule 11 had not been met.

As the Advertiser's identity was not sufficiently clear to provide context, the Complaints Board said the more liberal interpretation of the Code which may have otherwise been available under the Advocacy Principles, did not apply in this instance.

#### *Consumer Takeout*

The Complaints Board considered the likely consumer takeout of the advertisement.

The Complaints Board said the advertisement infers there is something dangerous in vaccines that could harm your baby, and if you vaccinate your baby you are taking a risk. The Complaints Board said the words: "If you knew..." imply a bad outcome from giving a baby a vaccination. The Complaints Board noted the use of the image of a man holding a baby meant that the consumer takeout was likely to relate to vaccinations and young children, not vaccinations in general.

The Complaints Board noted the Advertiser's position the billboard site was chosen based on the estimated traffic and not its location near a South Auckland hospital. However, the Complaints Board acknowledged that the image in the billboard and its location was a significant issue for many complainants, who expressed concerns that the advertisement was targeting Māori and Pacific people.

#### *Was the advertisement misleading?*

The Complaints Board then considered whether the advertisement was likely to mislead or deceive the consumer.

The Complaints Board said the Advertiser's response did not provide any evidence to support the implication that vaccinations are dangerous, it simply provided links to MedSafe datasheets.

The Complaints Board said even if consumers did go to the website to read about all the ingredients in vaccines, as provided in the MedSafe datasheets, most people wouldn't have the technical knowledge to understand what they read and whether there were safety implications.

In light of these observations, the Complaints Board ruled the advertisement was misleading and in breach of Rule 2 of the Code of Ethics.

*Did the advertisement exploit the superstitious, without justifiable reason or play on fear?*

The Complaints Board then considered whether the advertisement exploited the superstitious without justifiable reason or played on fear.

The Complaints Board said the advertisement was targeted at a specific audience, including Māori and Pacific people, due to the prominence of the tattoo with a Māori inspired design on the arm of the father figure in the advertisement and the placement of the advertisement near a hospital in South Auckland.

The Complaints Board said the question posed in the advertisement wasn't a genuine question, as the implication is that the ingredients contained in vaccinations make them unsafe. The Complaints Board said the advertisement did not clearly direct the consumer to access the WAVES NZ website for more information or provide the organisation's position for context.

The Complaints Board said the Advertiser's response didn't provide sufficient evidence to support the implication in the advertisement that vaccination is dangerous, and therefore the advertisement played on fear without providing a justifiable reason.

#### *Summary*

The majority of the Complaints Board said the identity of the Advertiser, WAVES NZ, was not sufficiently clear and ruled the identification requirement of Rule 11 had not been met.

Therefore, the Complaints Board did not consider the rest of the complaints in conjunction with the liberal interpretation available under the application of the Advocacy Principles.

The Complaints Board said the advertisement was misleading as the likely consumer takeout that vaccination is not safe was not sufficiently substantiated by the Advertiser, the advertisement unjustifiably played on fear and was therefore socially irresponsible.

The Complaints Board ruled the advertisement was in breach of Basic Principle 4, Rule 2, Rule 6 and Rule 11 of the Code of Ethics.

The Complaints Board ruled the complaint was Upheld.

## **DESCRIPTION OF ADVERTISEMENT**

The billboard advertisement for WAVES NZ showed a photo of a man holding a baby. The man had a prominent tattoo on his right arm. Next to the photo were the words: "If you knew the ingredients in a vaccine, would you RISK it?" (The word "Risk" was in red and in capital letters). At the bottom right of the advertisement was "www.wavesnz.org.nz"

*As 146 complaints were received, the Secretariat chose the following complaints as representative of the issues raised.*

### **COMPLAINT FROM K BRONLUND**

A Billboard advertisement for "waves.org.nz" situated alongside the Southern Motorway in Auckland, facilitated by "billboards.co.nz" trading as Ad-Vantage Media Ltd, contains the following text "If you knew the ingredients in a vaccine would you RISK it" followed by an

image of a person holding a baby. This constitutes numerous breaches of the Advertising Code of Ethics:

Basic Principle 3: No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer. Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society. Rule 2: Truthful Presentation – Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading). Rule 6: Fear – Advertisements should not exploit the superstitious, nor without justifiable reason, play on fear.

As a consumer, I am concerned by the implication here that vaccines are not safe. The wording, combined with the large red text of 'RISK' and the photo of a baby, compound to impress upon the consumer that being administered any vaccine puts them at risk. This is completely odds with the scientific consensus that vaccines are a safe and effective way to combat preventable diseases. There is no longer any widespread scientific contention on this issue, and the efficacy of vaccines in general (which this billboard attacks) is supported by a vast array of peer reviewed studies and systematic reviews. With this in mind, I believe the advertising is misleading and deceptive. Consumers who may not possess knowledge of the scientific literature on the topic may be unduly manipulated to believe that the risks outweigh the benefits – which by all measurable scientific metrics, they do not. This advertisement fails in its social responsibility, in that convincing people not to vaccinate may not only prove incredibly harmful to them and their children, but also to wider society – members of the community who are immunocompromised rely heavily on herd immunity, and reduced rates of vaccinations directly imperil these individuals who have no say in the matter. It is my view that the advertisement creates a false dichotomy, by exaggerating the risks and omitting the vast wealth of scientific knowledge to the contrary. The hyperbolic language and use of babies in its imagery, exploits a lack of knowledge which is further aggravated by the authority implied by being on a gigantic billboard – your average consumer simply doesn't expect to have to discern misinformation on such a large and highly viewable medium. In addition to this, the placement of this advertisement in a low decile area is predatory in nature and attempts to mislead a disadvantaged sector of society.

The advertisement exploits fear in people who do not understand the underlying science behind vaccinations. The use of a small baby in the advertisement particularly, exploits an incredibly strong urge within people to protect children – and in this way, it communicates a serious threat to babies which simply is not present.

In conclusion, I feel that the numerous, serious breaches of the code, and the ongoing potential for harm warrant a swift outcome. It is my understanding that the content on the billboard is slated to stay up for the month of October, at the end of which the damage will have been done. The company hosting the billboard(<http://billboards.co.nz/site-6365>) approximates that this billboard receives 107,556 visuals per day - this is deception on a massive scale which does irreparable social harm each day that it continues to mislead consumers.

#### **COMPLAINT FROM J SCHMIDT**

This billboard on Auckland Motorway violates the advertising code of ethics basic principals 3 and 4: "No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer. All advertisements should be prepared with a due sense of social responsibility to consumers and to society." As well, at least, rule 2 "Truthful Presentation – Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is

misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading)," rule 6 "No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer. All advertisements should be prepared with a due sense of social responsibility to consumers and to society," and rule 12 "Safety – Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety."

For rule 2, this advertisement is misleading viewers to believe that there are dangerous ingredients in vaccines that hasn't been made public to them. They want them to Google it and hopefully come to their site or other anti-science pages based on the search terms that is predicted that people will use.

For rule 6, they are playing on fear. They are trying to promote a fear in people that these ingredients are dangerous and they are putting them in their children.

For rule 12, it is encourage disregard for public safety as well as children's rights to medical care. If the herd immunity is decreased enough, there will be an epidemic just like the distemper outbreak in the SPCA's shelter there where most of the dogs had to be put down. These are people's lives at risk, mainly children because the adults were likely already vaccinated as children.

The business that bought the billboard is <https://wavesnz.org.nz/> and the billboard company is [billboards.co.nz](https://billboards.co.nz/) who should have never allowed this type of advertisement to go up no matter how much they paid. This is not different than a local channel airing commercials for porn during their broadcasting. It is their responsibility to verify that what they are putting out meets advertisement standards.

### **COMPLAINT FROM R HARTLEY**

I believe that this billboard breaches multiple principles and rules.

Basic principles 2. No advertisement should impair public confidence in advertising. This CERTAINLY has wrecked my confidence in advertising standards. I thought NZ was better than this.

3. No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer. This is deceptive and misleading about the relative size of the 'risk' of getting vaccinated vs not.

4. All advertisements should be prepared with a due sense of social responsibility to consumers and to society. This has no due sense of social responsibility to society, as it encourages behaviour that is directly detrimental to society, namely avoiding vaccinations.

Rules 2. Truthful Presentation – Advertisements should not [...] create an overall impression which [...] is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. This preys on lack of knowledge of vaccinations and their safety and benefit and misleads the public to think they pose more risk than they do.

6. Fear – Advertisements should not exploit the superstitious, nor without justifiable reason, play on fear. This preys on new parents' fear over their child's safety.

12. Safety – Advertisements should not, [...] contain [...] any description of dangerous [...] situations which encourage a disregard for safety. The anti-vaccination movement is DANGEROUS to society in a very real way

#### **COMPLAINT FROM J BEAZER-CARLSON**

The message on billboard goes against public health policy in NZ and is a deliberate attempt to target misinformation at vulnerable new parents with its placement near Middlemore Hospital. It breaches at least two clauses of the advertising ethics standards.

#### **COMPLAINT FROM R JARVIS**

This billboard promotes misleading and non-scientific information that is against government policy. The billboard is in a highly visible location and is in an area where there is a high risk population. It has the potential to directly and adversely impact population health outcomes. It should therefore be taken down.

141 other Complainants shared similar concerns that the advertisement had not been prepared with a due sense of social responsibility and played on the fear that vaccinations might harm children.

### **CODES OF PRACTICE**

#### **CODE OF ETHICS**

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

**Rule 2: Truthful Presentation** - Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

**Rule 6: Fear** - Advertisements should not exploit the superstitious, nor without justifiable reason, play on fear.

**Rule 11: Advocacy Advertising** - Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. 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 issue should be clear.

## RESPONSE FROM ADVERTISER, WAVES NZ

WAVESNZ response to **COMPLAINT 18340** regarding the billboard placed on **6365 - Ōtahuhu, seen travelling south on the Southern MW before the Princess street exit:**



WAVESNZ has received two files...thus the total of complainants is 146.

Most complainants were unable to accurately identify the location of the billboard and simply used media pictures to illustrate it.

WAVESNZ's **intention behind the billboard** was to promote and provide informed consent.

**Complainants** can be grouped according to the source of the complaints.

### **Medical complainants:**

Thirty complainants were doctors who, along with a few non-doctors, sent in complaints formulated through a discussion in an internet group-think.

Twenty doctors copied and pasted the group-formulated statement:

Complaint	High visibility promotion of misleading and non scientific information against government policy to a
Details:	high risk population with potential to directly and adversely impact population health outcomes

Seven doctors slightly reworded it and three chose to complain in their own words.

### **Overseas complainants:**

There were six overseas complainants.

(NB. *These names were provided, but they have not been included in this decision.*)

### **Layperson complainants:**

The rest were layperson complainants, with most complaints originating from group-think discussions on internet groups – three public gatherings were: [Reddit](#), the [The Standard](#) and [Sciblogs](#), though it's notable that no complaints to the ASA were forthcoming from the core medical persons, or group moderators and admins discussing and organising the wording of the proposed complaints for those willing to submit complaints.

Because WAVESNZ is aware of these discussions, the wording use by these complainants did not come as a surprise.

***What did surprise us, were the nasty email attacks sent to the company that erected the billboard. The company removed the billboard due to fears for their staff, premises and future business. Publicly, they have stated they felt the need to tread carefully and that they were naïve.***

The **complaints** to the ASA can be separated into two groups:

- 1) Those who cite the ASA basic principle codes of ethics. The main rules alleged to have been broken regarding the billboard are 1, 2, 3, 4, 6, 11 and 12, including three who complained about the WAVESNZ website. Two complainants (page 75 and 92) cited rule 1 (c) and 2 (a) of the Therapeutic and Health advertising code.
- 2) The rest, who cited no rules, made comments such as:
  - “image exploitation”
  - “condones dangerous practice of not vaccinating”
  - “promoting fear”
  - “misleading and inflammatory”
  - “nonsense, contrary to scientific and medical advice”
  - “false and misleading”
  - “no evidence to support it”
  - “Advocating against vaccines”
  - “Immoral anti vaccine propaganda”
  - “Anti-intellectual, anti vaccine, abuses trust, exploits superstition”
  - “Targets maori [sic]”
  - “Dangerous avocation”
  - “Copy of American billboard”
  - “Prays [sic] on fear”
  - “Warning people against vaccinations”
  - “inappropriate” (GP)
  - “lies, against advice” (ADHB)
  - “Disgusting blatant attack”
  - “Fake news”
  - “Totally false claims”
  - “Offends against community standards”
  - “Advocating not vaccinating”
  - “Tantamount to child abuse and biological terrorism”
  - “Misleading vulnerable population”
  - “Lacking sense of social responsibility”
  - “Misleads, deceives, scaremongers, no evidence to back up implied risks”
  - “WAVES have been involved in tragic events, long history of vaccine misinformation”
  - “Promotes dangerous behaviour”
  - “Spreading fears and lies about safety of vaccines”
  - “This will kill children” (p 142)
  - “disgusting” – a word used several times.
  - “promoting unsafe and life threatening lifestyle”

One complainant (p 34) complained about six billboards and another (p 35) about billboards plural. Most complainants were unable to give the accurate location of the billboard, because their complaint was based on internet-grapevine outrage, rather than fact gathering.

Five complainants (pp 71, 77, 101, 108 and 110) maintained the billboard was based on the discredited work of a doctor who admitted fraud (*name removed*).

### **Website complaints:**

The three separate complaints in the small file, also in the large file, focus more on the WAVESNZ website, not the billboard. WAVESNZ can find no basis for these three complaints.

Now to the actual facts and matters pertaining to the ASA codes relating to the billboard.

### **Billboard image:**

The New Zealand father of the baby in the image was delighted to be part of the billboard project because, to him, informed consent, regarding all facets of any medical intervention, is vital. WAVESNZ did the photography and design, so there is no question of any breach on those grounds. It has been widely alleged that the billboard was intended to appeal to Māori. The father on the billboard is Pākehā and the writing on his tattoo is in English.

### **The Choice of Site for the Billboard:**

Ad-Vantage Media supplied WAVESNZ with three quotes.

Site	Cars per day
6343 Neilson St, Ōnehunga	45,000
6356 South Eastern HW, Mt Wellington	45,000
6365 Southern MW, Ōtāhuhu	107,000

The cost was the same for all locations, therefore the site decision was made solely on traffic numbers.

### **The purpose of the billboard:**

To encourage parents to research the ingredients of vaccines. The link on the billboard provides that information.

WAVESNZ's URL was put on the billboard, even though [The Spinoff](#) deliberately removed it. The purpose of the URL was so that when people visit the website, (<https://wavesnz.org.nz/>) they could click on the billboard where it says, "[Click image to find out what's in a vaccine.](#)"

Clicking on that [link](#) leads the reader to see the following under the billboard:



### What are the ingredients in a vaccine?

#### Datasheets for Childhood-Schedule Vaccines

CDC excipient list: the media and other additives to vaccine antigens

<https://www.cdc.gov/vaccines/pubs/pinkbook/downloads/appendices/B/excipient-table-2.pdf>

BOOSTRIX Combined diphtheria-tetanus-acellular pertussis (DTaP) vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/b/Boostrixinj.pdf>

GARDASIL 9 Human Papillomavirus 9-valent (Types 6, 11, 16, 18, 31, 33, 45, 52, 58) vaccine, recombinant

<http://www.medsafe.govt.nz/profs/Datasheet/g/gardasil9inj.pdf>

HIBERIX Haemophilus influenzae type b (Hib) vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/h/Hiberixinj.pdf>

INFANRIX-hexa Combined diphtheria-tetanus-acellular pertussis, hepatitis B, enhanced inactivated polio vaccine and Haemophilus influenzae type b vaccine

<http://www.medsafe.govt.nz/profs/datasheet/l/Infanrixhexainj.pdf>

INFANRIX -IPV Combined diphtheria-tetanus-acellular pertussis, and enhanced inactivated polio vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/i/InfanrixIPVinj.pdf>

INFANRIX-penta Combined diphtheria, tetanus, acellular pertussis, hepatitis B and inactivated polio vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/i/Infanrixpentainj.pdf>

PRIORIX Live trivalent attenuated measles, mumps and rubella vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/p/Priorixvac.pdf>

European Medicines Agency: Evaluation of Medicines for Human Use, SCIENTIFIC DISCUSSION on the MMR

[https://cdn.fbsbx.com/v/t59.2708-21/18537825\\_10156104362099018\\_4906152253301194752\\_n.pdf/060406-EMA-mmr-scient-disc.pdf?\\_nc\\_cat=102&oh=e1e8a13d61af8753018e22b29df76e73&oe=5BB4D478&dl=1](https://cdn.fbsbx.com/v/t59.2708-21/18537825_10156104362099018_4906152253301194752_n.pdf/060406-EMA-mmr-scient-disc.pdf?_nc_cat=102&oh=e1e8a13d61af8753018e22b29df76e73&oe=5BB4D478&dl=1)

ROTARIX ORAL VACCINE Rotavirus vaccine (lyophilised formulation)

<http://www.medsafe.govt.nz/profs/Datasheet/r/Rotarixliquidvac.pdf>

SYNFLORIX Pneumococcal polysaccharide conjugate vaccine, 10 valent, adsorbed

<http://www.medsafe.govt.nz/profs/Datasheet/s/synflorixinj.pdf>

VARILRIX (human albumin-free) live attenuated varicella vaccine

<http://www.medsafe.govt.nz/profs/datasheet/v/Varilrixinj.pdf>

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### **Vaccines other than recommended childhood schedule:**

Act-HIB Haemophilus Influenzae type b Vaccine Conjugated to Tetanus Protein

<http://www.medsafe.govt.nz/profs/Datasheet/a/acthibinj.pdf>

ADACEL Pertussis Vaccine Acellular combined with Diphtheria and Tetanus Toxoid (adsorbed)

<http://www.medsafe.govt.nz/profs/Datasheet/a/Adacelinj.pdf>

ADT Booster Diphtheria and Tetanus Vaccine (adsorbed) for re-vaccination

<http://www.medsafe.govt.nz/profs/Datasheet/a/ADTBoosterinj.pdf>

AVAXIM Hepatitis A vaccine (inactivated, adsorbed)

<http://www.medsafe.govt.nz/profs/Datasheet/a/Avaximinj.pdf>

BCG Vaccine SSI

<http://www.medsafe.govt.nz/profs/datasheet/b/BCGCSLinj.pdf>

BEXSERO Multicomponent Meningococcal group B Vaccine (recombinant, adsorbed)

<http://www.medsafe.govt.nz/profs/Datasheet/b/bexseroinj.pdf>

BOOSTRIX-IPV Combined diphtheria-tetanus-acellular pertussis (DTaP) and inactivated polio vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/b/Boostrix-IPVinj.pdf>

ENGERIX-B Recombinant DNA hepatitis B vaccine

<http://medsafe.govt.nz/profs/datasheet/e/Engerix-Binj.pdf>

DUKORAL Oral inactivated cholera and ETEC vaccine

<http://www.medsafe.govt.nz/consumers/cmi/d/dukoral.pdf>

Fluarix Inactivated split influenza vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/f/Fluarixinj.pdf>

Fluvax Inactivated Influenza Vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/f/Fluvaxinj.pdf>

GARDASIL Quadrivalent Human Papillomavirus (Types 6, 11, 16, 18) Recombinant vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/g/Gardasilinj.pdf>

HAVRIX Junior inactivated hepatitis A virus (HM 175 hepatitis A virus strain)  
<http://www.medsafe.govt.nz/profs/Datasheet/h/Havrixinj.pdf>

HBvaxPRO hepatitis B vaccine (recombinant) injections  
<http://www.medsafe.govt.nz/profs/Datasheet/h/HBvaxPROinj.pdf>

INFANRIX Combined diphtheria, tetanus, acellular pertussis vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/i/Infanrixinj.pdf>

INFLUVAC inactivated influenza vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/l/InfluvacInj1.pdf>

INFLUVAC TETRA Inactivated influenza vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/i/InfluvacTetrainj.pdf>

MENACTRA Meningococcal (Groups A, C, Y and W135 polysaccharide diphtheria toxoid vaccine)  
<http://www.medsafe.govt.nz/profs/Datasheet/m/menactrainj.pdf>

Merieux Inactivated Rabies Vaccine (MIRV)  
<http://www.medsafe.govt.nz/profs/Datasheet/m/merieuxinj.pdf>

M-M-R II Measles mumps and rubella virus vaccine live  
<http://www.medsafe.govt.nz/profs/Datasheet/m/MMRIIinj.pdf>

NeisVac-C Meningococcal group C polysaccharide conjugate vaccine (tetanus toxoid protein conjugate)  
<http://www.medsafe.govt.nz/profs/Datasheet/n/NeisVacCinj.pdf>

NIMENRIX injection with diluent, Meningococcal polysaccharide groups A, C, W-135 and Y conjugate vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/n/nimenrixinj.pdf>

ONCOTICE Bacillus Calmette-Guerin (BCG, strain TICE)  
<http://www.medsafe.govt.nz/profs/Datasheet/o/Oncoticeinj.pdf>

PNEUMO 23 Polysaccharide polyvalent pneumococcal vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/p/Pneumovax23inj.pdf>

PNEUMOVAX 23 Pneumococcal vaccine polyvalent, MSD  
<http://www.medsafe.govt.nz/profs/Datasheet/p/Pneumovax23inj.pdf>

PREVENAR 13 Pneumococcal conjugate vaccine, 13-valent adsorbed  
<http://www.medsafe.govt.nz/profs/Datasheet/p/prevenar13inj.pdf>

POLIO (injected/IPV)  
<http://www.medsafe.govt.nz/profs/Datasheet/i/lpolinj.pdf>

RotaTeq rotavirus vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/r/RotaTeqsusp.pdf>

STAMARIL Yellow Fever Vaccine  
<http://www.medsafe.govt.nz/profs/Datasheet/s/Stamarilvac.pdf>

TWINRIX and TWINRIX JUNIOR Inactivated hepatitis A and recombinant DNA hepatitis B vaccine

<http://www.medsafe.govt.nz/profs/datasheet/t/Twinrixinj.pdf>

TYPHIM Vi Purified polysaccharide capsule of Salmonella typhi

<http://www.medsafe.govt.nz/profs/Datasheet/t/TyphimVlinj.pdf>

VARIVAX Varicella/Chicken Pox Virus Vaccine Live (Oka/Merck)

<http://www.medsafe.govt.nz/profs/Datasheet/v/Varivaxinj.pdf>

VIVOTIF Oral Oral Typhoid Vaccine

<http://www.medsafe.govt.nz/profs/Datasheet/v/Vivotifcap.pdf>

ZOSTAVAX Zoster Vaccine Live for shingles

<http://www.medsafe.govt.nz/profs/Datasheet/z/zostavaxinj.pdf>

New Zealand 2017 Immunisation handbook:

<https://www.health.govt.nz/publication/immunisation-handbook-2017>

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The page covers vaccine ingredients, what you need to know for the childhood schedule promoted by general practitioners in New Zealand (and other vaccines as well) and a link to the Ministry of Health Immunisation Handbook.

Why has the Billboard question created complaints? Is it the question asked? If so, . . . why?

**Billboard Text:**

The generic question is “If you knew the ingredients in a vaccine, would you **RISK** it?”

On [The Standard](#), where complaints to the ASA were discussed, one person understood the intent of the question which can be seen in this interchange:

Reply

3.  xanthe

[2 October 2018 at 10:54 am](#)

So can i take it that these commenters above are well informed on the ingredients used in making up vaccines and have come to an informed opinion that they pose no risk?

Reply

o  Stunned Mullet

3.3

[2 October 2018 at 11:26 am](#)

Xanthe I am completely informed about the make up of all the vaccines on the NZ schedule and recommend everyone is vaccinated unless there is a medical reason whereby they are unable.

Reply

■  dV

3.3.1

[2 October 2018 at 11:38 am](#)

Agreed SM.

Reply

<https://thestandard.org.nz/bigots-billboard/>

■  xanthe

3.3.2

[2 October 2018 at 12:01 pm](#)

Very good !..... Now we are discussing the content of the billboard instead of just trashing its authors

Can i take it that your knowlege of vaccines includes culture, transport, and preservatives used?

What would be the medical conditions that would counterindicate vaccination?

Reply

■  McFlock

3.3.2.1

[2 October 2018 at 1:06 pm](#)

All of those vary according to the specific vaccine. That's why each one comes with its own information sheet, and often a contraindication checklist (been a while since my last tetanus shot, but the flu one my workplace does every year has a checklist).

Do you not read the information provided? It's all there. It's called "informed consent".

So on the basis of the rhetoric and epithets in the complaints to the ASA, the question is now, ***How does the billboard, the intent behind it and the information available to the public on the WAVENZ website, breach responsible medical practice and the ASA code of ethics WAVESNZ is alleged to have breached?***

WAVESNZ is alleged, by some, to have breached all the ASA codes, but the primary ones complained about from the [codes to be retired](#) are highlighted in red:

## Rules

1. **Identification** – Advertisements should be clearly distinguishable as such, whatever their form and whatever the medium used; when an advertisement appears in a medium which contains news or editorial matter, it must be presented so that it is readily recognised as an advertisement.
2. **Truthful Presentation – Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).**
3. **Research, Tests and Surveys** – Advertisements should not use tests and surveys, research results or quotations from technical and scientific literature, in a manner which is misleading or deceptive.
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).**
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).
6. **Fear – Advertisements should not exploit the superstitious, nor without justifiable reason, play on fear.**
7. **Violence** – Advertisements should not contain anything which lends support to unacceptable violent behaviour.
8. **Denigration** – Advertisements should not denigrate identifiable products or competitors.
9. **Testimonials** – Advertisements should not contain or refer to any personal testimonial unless it is genuine, current, related to the experience of the person giving it and representative of typical and not exceptional cases. The claims in the testimonial should be verifiable.
10. **Privacy** – Unless prior permission has been obtained an advertisement should not portray or refer to any persons, whether in a private or public capacity, or refer to any person's property, in a way likely to convey the impression of a genuine endorsement.
11. **Advocacy Advertising** – Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. 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 issue should be clear.
12. **Safety – Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.**

Under the [Therapeutic Health and Advertising codes](#) WAVESNZ is alleged to have violated:

**Rule 1 (c)** Advertisements should not portray unrealistic outcomes or prey on or misrepresent vulnerable audiences (e.g. sick, elderly, pregnant women, overweight people).

**And Rule 2 (a)** 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).

On the basis of the information provided and press releases during the time the billboard was up, WAVESNZ can see no reason why the billboard breaches any of the ASA Code of Ethics.

The billboard question does not “**pose an unrealistic outcome**”. The aim was to prompt the public to consider the question and visit the WAVESNZ billboard page to access MedSafe datasheets etc., because we know that most health professionals do not provide that information.

A question does not require substantiation, but nevertheless, WAVESNZ provides the information on the billboard page, on our website (<https://wavesnz.org.nz/>), to inform those wanting further information relating to the question.

The **reason the question we asked, was not offensive** to “McFlock”, on The Standard forum, appears to be because his medical practice always observes his right to informed consent and provides him with datasheets, so he can say, “***I know what is in the vaccines and I’m happy to take the risk.***”

Aren’t the HDC consumer rights and informed consent considered to be the Gold Standard of medical care?

To those who complained to the ASA with accompanying rhetoric, rather than defining the codes breached, what seemed to matter to them was unquestioned personal conformity with government policy, regardless of possible risk and rights to informed consent.

In other words: just do as you are told, no questions asked, or else it’s “child abuse” and “biological terrorism”.

WAVESNZ do not believe that conformed compliance on autopilot qualifies as informed consent.

Vaccines are classified under the broad heading of a medical procedure, though sometimes they are referred to as “biological”. WAVESNZ believes that every parent and patient has the right to all information on the need for, and the reality of, any medical procedure offered and should be provided documentation detailing the ingredients and excipients of all compounds,

drugs or vaccines offered, as well as enough information to gain a working understanding of the risks involved.

The web page linked to the billboard provides that information, which isn't "myths", "falsifications", "lies", or "fake news" from "a discredited doctor". On the contrary, the billboard website references are [CDC, Medsafe and Ministry of Health](#) URLs, and answer the question that the billboard asks.

Many complainants assert that the billboard encourages "**a disregard for safety**".

How does knowing the ingredients of a vaccine result in a disregard for safety? Surely it should improve safety, both in terms of the doctor's knowledge of the vaccine and parents' understanding of what they need to be aware of after a vaccine.

Many parents, whose children had serious problems after vaccines, later realise that they were not given the opportunity for truly informed consent.

WAVESNZ believes parents need to know the answers to responsible questions like: "Do you know what the ingredients in a vaccine are?" WAVESNZ also believes the same question should apply to all medical procedures, drugs, foods and anything else that can have a direct impact on our bodies and lives.

Knowing what you are doing, and why, is basic to responsible choices and informed consent. We believe that this billboard encouraged personal responsibility and knowledge, and being able to answer our question is a mark of mature personal thought and autonomy.

Yesterday, in two articles, one on [The Spinoff](#) and the other in [Stuff](#), N Turner asserted that asking this question was based on a lack of trust of the medical system and the government.

*The Advertiser referred to three advertisements they say are about informed consent, from Choose Wisely and asked whether they should also be removed because they constitute a lack of trust.*

## **RESPONSE FROM MEDIA, AD-VANTAGE MEDIA**

I refer to your letter regarding the WAVES NZ billboard erected on our Billboard in Otahuhu on 1st October.

Unfortunately, the billboard was installed without going through our vetting process and if we had followed it correctly it would not have been installed. In these circumstances, if we have any doubts regarding a creative we run it past the ASA for their initial thoughts.

What transpired was the client sent an initial design and my understanding was the creative was to be changed. In fact, all that happened was a higher resolution file was sent. A staff member thought it was good to print and went ahead and did so.

Once the problem came to light we removed the skin as quickly as possible at 1 pm on 2nd October.

For your information the terms and conditions of our contract requires that the client ensure the design complies with all relevant controls including TAPS.

*8 The Advertiser / Agency confirms the advertising material complies with all relevant controls and guidelines set down by the Advertising Standards Authority or any other body empowered by law and failure in doing so does not release the advertiser from any obligation due under this agreement.*

*10. The Advertiser / Agency confirms that all advertising material has the appropriate approval of any relevant authority if required, and that any alcohol or pharmaceutical advertisements having been LAPS or TAPS approved, and failure in doing so does not release the advertiser from any obligation due under this agreement.*

We do not feel they have complied with these requirements and await the ASA decision.

**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 via email or letter within 14 days of receipt of this decision.