

COMPLAINT NUMBER	19/064
COMPLAINANT	S Le Brun
ADVERTISER	Family First
ADVERTISEMENT	Out of Home
DATE OF MEETING	18 February 2019
OUTCOME	No Grounds to Proceed

Advertisement: On the left of the billboard advertisement is the statement “Marijuana has a ‘kids menu’”. In the centre are images that appear to be sweets and lollies and on the right are the words “Don’t legalise”. At the bottom of the billboard is the website address www.SayNoToDope.org.nz and an authorisation statement confirming the advertiser is Family First.

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

Complainant, S Le Brun, said: I find the advertisement offensive not because of its message, (which is not based on fact/reality and something this organisation lacks on most topics) but primarily its use of th term "marijuana" whcih was used historically during the early era of Cannabis prohibition in what was essentially a racist meme, Historically during the 1930s in the campaign to prohibit it, racial attacks were used to try and justify the ban on Cannabis with the term "marijuana" to make it seem more exotic, Such claims were made that it "made blacks forget their place in the world" and there were stories circulated of "urban black men who enticed young white women to become sex-crazed and instantly addicted to marijuana."

Additionally, the term was coopted from mexican migrants and the prohibition of "marijuana" became a drug policy intended as a method to discriminate against them, much like opium laws were primarily aimed at controlling Chinese immigrants.

For these reasons the slang term marijuana has become a term offensive to African Americans and Mexican Migrants despite its wide acceptance previously.

A parallel could be drawn from Golliwogs, which were popular and widely available once upon a time but are now taboo due to their historical background

The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(c), Rule 2(e);

The Chair noted the Complainant’s concerns the advertisement is offensive as the use of the slang term “marijuana” is offensive and racist.

The Chair confirmed the advertisement before her is an advocacy advertisement and the Advocacy Principles are applicable. These have been developed by the Complaints Board in previous Decisions. These state:

- 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.

Rule 2(e) of the Advertising Standards Code requires the identity of the advertiser in an advocacy advertisement to be clear. The Chair said the website address, in conjunction with the authorisation statement, provided sufficient information for consumers to identify the advertiser in this instance.

Turning to the Complainant's issue that the term "marijuana" was racist and offensive, the Chair confirmed Rule 1(c) of the Advertising Standards Code requires that "Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule."

The Chair noted the information provided by the Complainant about the origin of the term "marijuana" and that its use would be offensive to some. The Chair said the threshold to breach Rule 1(c) was serious or widespread offence and that threshold had not been met in this instance. The Chair said the majority of New Zealanders would not be aware of the historical context of the term "marijuana".

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

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

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.