

COMPLAINT NUMBER	19/157
COMPLAINANT	S Inaba
ADVERTISER	Family First
ADVERTISEMENT	Family First Out of Home
DATE OF MEETING	15 April 2019
OUTCOME	No Grounds to Proceed

Advertisement: The billboard advertisement from Family First had an image of a cannabis joint and the words “You can’t legalise marijuana *and* promote mental health”. At the bottom of the billboard were the words “Don’t legalise: saynottodope.org.nz”.

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

Complainant, S Inaba, said: Another billboard by Family First NZ, these are getting more absurd; now they are now claiming that legalization of cannabis is mutually exclusive with the promotion of mental health. How? This seems like an unsubstantiated claim at best and a false statement at its worst.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b), Rule 2(e)

The Chair acknowledged the Complainant’s concern that the statement in the advertisement about legislative reform for cannabis use and mental health was unsubstantiated.

The Chair confirmed the advertisement was 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.

The Chair referred to a precedent Decision, 19/056 about a different billboard from Family First on the cannabis debate. The Decision said in part:

“The Complaints Board said the advertisement draws the public’s attention to some of the different types of cannabis products that might be available for sale in New Zealand, if recreational cannabis is made legal.

The Complaints Board agreed the advertisement did not contain anything indecent, exploitative or degrading, did not cause fear or distress and was socially responsible.”

The Chair said this precedent applied to the advertisement before her, as it was another example of a billboard showing Family First’s position on the legalisation of cannabis.

The Chair observed that in a free and democratic society, differences of opinion about matters of public interest 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. Therefore, the Chair considered the complaint in conjunction with this liberal interpretation under the application of the Advocacy Principles.

The Chair said the billboard complained about, promoted the Advertiser’s view on a topic of public interest, the debate on the referendum on the legalisation of cannabis. The statement in the advertisement was clearly the Advertiser’s position and it was not likely to mislead consumers. The advertisement was not in breach of the Advertising Standards Code.

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.