

<b>COMPLAINT NUMBER</b>	19/173
<b>COMPLAINANT</b>	D Pentz
<b>ADVERTISER</b>	Xero NZ
<b>ADVERTISEMENT</b>	Xero NZ, Television
<b>DATE OF MEETING</b>	6 May 2019
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The Xero television advertisement shows the Xero logo and says “This business insight is brought to you by Xero – beautiful accounting software to power your small business.” The advertisement has a presenter talking about ACC levies coming down and how this could affect small businesses. The advertisement ends with the voiceover saying “Xero is passionate about helping small Kiwi businesses thrive. Our on-line accounting software lets you focus on what’s important.”

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

**Complainant, D Pentz, said:** Immediately at the start of an ad break during Location, Location, Location, there is a spot where Xero brings you "a business insight", that looks like a standard, albeit sponsored news report.

I believe this to be an ad disguising itself as something other than an advertisement, and abuses trust in a particular networks news programming.

Other than the Xero bookends, the report lacks any kind of obvious branding to find information about the spot, or to say who actually produced it, despite clearly being locally made using local news footage. The only signs are a Newshub car in the background, and the fact that the archive footage resembles the kind captured by Newshub’s cameras specifically, but that isn’t enough to definitively say they produced it.

That this looks like a regular news report, that the Xero bookends use the same style as sponsored news segment lead-ins, and is showed at the beginning of an ad break, means that someone looking at this would be reasonable to assume it’s a news report.

But because it does not contain branding that would either tie it to a news agency or make it explicitly clear that Xero produced it themselves, a viewer might simply assume it to be a report from that channels news team. The ad playing on TVNZ 1 might lead someone to assume it’s a 1 News report. This is especially problematic if the spot was indeed produced in part by Newshub.

The need for the ownership to be clear is necessary here, even if the content is entirely factual, since the report has messaging that is within Xero’s interest. Namely, by making things look good for small businesses and the self-employed going forward, it encourages people to form small businesses, that might in turn use Xero’s software.

A video of the ad is included in a Twitter thread I wrote about my feelings towards it. [https://twitter.com/VodBox\\_IO/status/1120999989939851264](https://twitter.com/VodBox_IO/status/1120999989939851264)

**The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(a); Code for Financial Advertising - Guideline 2 (a), Principle 1, Principle 2;**

**The Chair** noted the Complainant’s concern the advertisement was not clearly identified as such and consumers may consider it to be part of a news bulletin.

The Chair carefully reviewed the advertisement noting it was one minute in duration, and that most television advertisements are 15 or 30 seconds. The Chair observed it showed the Xero logo at the start and finish of the advertisement. The Chair also heard the voiceover begins by saying “This business insight is brought to you by Xero.” The last line of the advertisement begins with “Xero is passionate about helping small businesses thrive.” The advertisement then goes on to talk about its accounting software.

Rule 2 of the Advertising Standard Code states:

“Advertisements must be identified as such.”

A supporting Guideline states:

“Content controlled, directly or indirectly, by the advertiser must not be disguised as something other than an advertisement. It must be obvious to, and well understood by, the audience that they are engaging with an advertisement regardless of the form the advertisement takes or the platform where it appears.”

The Chair also referred to the *Guidance Note on Identification of Advertisements* and in particular the type of devices used to signal commercial content.

The Guidance Note states in part:

“Advertiser controlled content may be made clear through a number of devices, including from:

- The nature of the advertisement content
- Where the content is placed
- How the audience is directed to the content
- The theme, visuals and language used in the messaging
- The use of brand names, logos or labels (which may indicate commercial intent)
- The audience in the context of the medium used.”

The Chair agreed it was important that consumers could identify the content as an advertisement.

The Chair said the content screened in an advertising break during a programme, *Location, Location, Location*, which was the first signal to consumers it was likely to be an advertisement. While it was a longer format than most advertisements, the Advertiser used its logo as an identifier early in the advertisement and at the end, along with the verbal statements about Xero’s involvement. In the Chair’s view, it was sufficiently clear that the content was advertising.

The Chair ruled the advertisement was not in breach of Principle 2 or Rules 2(a) or 2(b) of the Advertising Standards Code or Principle 1, Principle 2 or Guideline 2(a) of the Code for Financial Advertising.

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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.