

COMPLAINT NUMBER	19/195
COMPLAINANT	P Le Beau
ADVERTISER	Medicines NZ
ADVERTISEMENT	Medicines NZ Digital Marketing
DATE OF MEETING	18 July 2019
OUTCOME	Settled

Advertisement: Nine articles sponsored by Priorities NZ (a platform funded by Medicines NZ) were published on the Newshub website. The articles all related to medicines that are not funded by Pharmac. Two examples of the headings for these articles are: “The man who should be four years dead” and “The Kiwi patients that New Zealand’s health system won’t help”.

The Chair ruled the complaint was Settled.

Complainant, P Le Beau, said: This complaint is in regard to "advertorial" content on the NewsHub website.

The attached screenshot and link is one of a series of nine articles that have appeared on the NewsHub site. All of which have been "Sponsored by priorities.nz". This list of all the articles can be found here:

[https://www.google.com/search?q=site%3Anewshub.co.nz+\"priorities.nz\"](https://www.google.com/search?q=site%3Anewshub.co.nz+\)

All the articles relate to medicines that are unfunded by Pharmac. They all feature explicit or implicit criticisms of Pharmac, without any attempt at balanced coverage of the issue.

1. All the articles are labelled "Sponsored by priorities.nz". at the top. And "This story was created for priorities.nz" at the bottom. With links to the priorities.nz website.

(<https://www.priorities.nz/>)

I don't believe this label meets the ASA's Advocacy guideline that

"Advertorial style advertisements must be clearly labelled ~Advertisement or Advertorial"

2. Even if most readers understood that it is an advertorial, would they actually understand that it is actually content paid for by large international pharmaceutical companies? It takes a bit of effort to work that out. The priorities.nz website does mention that it is linked to "Medicines NZ". But there are no links anywhere to the Medicines NZ website. You have to locate that web address yourself. It's only once you go to the Medicines NZ website and hunt around, that you discover that this is a Big Pharma industry lobby group.

3. Use of the "Priorities NZ" name is clearly intended to obfuscate who is actually responsible for the advertisements. That this is direct lobbying by the pharmaceutical industry. I believe this does not fairly meet Principle 1 (Social Responsibility) of the code.

Also the Advocacy guidelines states that

"The identity of the advertiser must be obvious and easily recognised."

Which I don't believe is the case here.

4. At least six of the nine articles feature patient testimonials. Which according to the ASA's Therapeutic and Health Advertising Code, is illegal.

"The Medicines Act Section 58 (1) (c) (iii) prevents the use of patient testimonials in advertisements to consumers for medicines.."

I believe these articles qualify as "advertisements to consumers for medicines". They are attempting to build public pressure on Pharmac to fund specific medicines or devices.

5. At least two of the nine articles feature endorsements for particular treatments by medical professionals (one oncologist and one pharmacologist). Which may also be illegal.

"The Medicines Act Section 58 (1) (c) (ii) prevents the use of healthcare professional endorsement in advertisements to consumers for medicines or medical devices or methods of treatment where a therapeutic benefit is obtained..."

In summary, I believe that there a number of significant problems with these articles with respect to honesty, transparency, and social responsibility.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(a); Therapeutic and Health Advertising Code - Principle 1, Principle 2

The Chair noted the Complainant's concerns the articles featured explicit or implicit criticism of Pharmac, and the identity of the Advertiser was not sufficiently clear.

Prior to considering the substance of the Complaint, the Chair advised parties that she had formed a preliminary view that the nine articles were advertising and subject to the ASA Codes of Practice.

The Chair confirmed the ASA definition of advertising is: "Advertising and advertisement(s) are any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed."

Following receipt of the complaint the Advertiser and the media permanently removed the articles from the Newshub website.

Given the co-operative engagement with the process and the self-regulatory action taken in removing the articles, the Chair said that it would serve no further purpose to place the matter before the Complaints Board. The Chair ruled that the matter was settled.

Chair's Ruling: Complaint **Settled**

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.