

COMPLAINT NUMBER	20/052
ADVERTISER	NZ National Party
ADVERTISEMENT	NZ National Party, Facebook
DATE OF MEETING	7 May 2020
OUTCOME	Upheld Advertisement to be Removed

Summary of the Complaints Board Decision

The Complaints Board Upheld a complaint about the number of beneficiaries created during Labour's time in Government versus the number of jobs created during National's time in Government. The Complaints Board said the advertisement did not contain sufficient qualifiers to indicate the Advertiser was referring to a specific time period when making the broad claim that National had created "Nearly 10,000 jobs every month under National." The Complaints Board said this meant the advertisement was likely to confuse or mislead some consumers.

Description of Advertisement

The advertisement on the New Zealand National Party Facebook page is headed "Labour is better at creating beneficiaries than jobs. National will get people joining the morning commute to work rather than the dole queue"

The red box says "1,000 more on the dole every month under Labour", with source information in fine print. The blue box says, "Nearly 10,000 more jobs every month under National" with the authorisation statement.

Summary of the Complaint

The Complainant said the advertisement is misleading as it does not accurately compare statistics and it is inaccurate to say Labour is better at creating people on the dole than jobs. The Complainant says using data on beneficiaries during the 2017-2019 under Labour and job creation during 2015-2017 under National is not a fair comparison. The Complainant considers the advertisement overinflates the figures by using language such as "Nearly 10,000" and questioned some of the statistics used. The Complainant also says the use of the word "dole" is offensive.

Issues Raised:

- Truthful Presentation
- Advocacy Advertising

Summary of the Advertiser's Response

The Advertiser said that the Complainant not liking the comparisons used does not make it misleading as the two sets of data are explicitly and intentionally labelled.

The Advertiser said the evidence provided by the Complainant actually justifies the point made in the advertisement that the National Government was creating jobs while benefit numbers dropped. Meanwhile under Labour the rate of job creation has dropped and the number on the benefit has increased.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(b) Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

Rule 2(e) Advocacy advertising: Advocacy advertising must clearly state the identity and position of the advertiser. Opinion in support of the advertiser's position must be clearly distinguishable from factual information. Factual information must be able to be substantiated.

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/465 Appeal 20/002 which was Not Upheld and 18/200 which was Upheld in Part.

The full versions of decisions since 2015 can be found on the ASA website:
<https://www.asa.co.nz/decisions/>

Decision 19/465 Appeal 20/002 concerned an advertisement on the National Party Facebook and Twitter Platforms about the relative fuel taxes under National versus Labour led Governments.

The Complaints and Appeal Boards were of the view that the hyperbole used in the graphic illustrations in the advertisement were mitigated by the presence of the actual figures used from a credible data source. The Boards noted the placement of the advertisement on the Advertiser's own social media platforms and the context of robust debate about fuel pricing at the time of posting.

Decision 18/200 concerned an advertisement on the National Party Facebook page which compared the cost to Kiwi families over a range of measures to what they would have incurred if National had retained power.

The majority of the Complaints Board said three of the five statements were misleading due to insufficient substantiation provided by the Advertiser.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement is that the National Party in Government was better at creating jobs than the current Labour Government, who creates more beneficiaries. The Board agreed consumers would expect the statistics quoted in the advertisement to substantiate the statement made that 1,000 more people are receiving the job seeker allowance every month while Labour has been in Government, while nearly 10,000 jobs were created every month while National was in Government.

Is the advertisement advocacy advertising?

The Complaints Board said the advertisement before it fell into the category of 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 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.

The Complaints Board confirmed that political advertisements were not only acceptable but encouraged, as they were an essential and desirable part of the functioning of a democratic society.

The Complaints Board also observed that in a free and democratic society, differences of political opinion 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.

Is the identity of the Advertiser clear?

The Complaints Board agreed the Advertiser had met the identity requirements for advocacy advertising under Rule 2(e) of the Code. The advertisement was posted on the New Zealand National Party Facebook page, the identity of the Advertiser was clear and an authorisation statement from Simon Bridges, Leader of the National Party, was included.

Is the advertisement stating a fact or opinion?

The Complaints Board said the advertisement is stating facts about the number of job seekers claiming benefits under the Labour Government versus the number of jobs created under National. The Board said this required substantiation. The Complaints Board said that while the Advertiser had provided substantiation of the Ministry of Social Development Benefit Fact sheets and the Household Labour Force Survey, it was how the information was presented in the advertisement which needed consideration.

Is the presentation of the advertisement misleading?

The Complaints Board said there is nothing in the body of the advertisement to indicate a caveat to the "every month under National" statement. The fine print with the source

information, which appears on the Labour side of the graphic rather than the National side, is the only indication the “every month” statement for National refers to job creation figures during a specific two year period from 2015 Q3 to 2017 Q3, sourced from the Household Labour Force Survey.

The Complaints Board agreed that using the phrase “every month” in both the Labour and National statements was likely to be interpreted as every month that each party was in Government. The Complaints Board said the source information does not clearly qualify that the “every month” is for a particular period for each party, but rather only indicates where the data was sourced from.

The Complaints Board said the advertisement before it, is making a bold statement, with broad claims which are not sufficiently qualified in the body of the advertisement. This was likely to make the advertisement confusing and misleading to some consumers.

Comparison to precedent decision 19/465 Appeal 20/002

The Complaints Board differentiated the advertisement before it from the advertisement subject to complaint in Decision 19/465 Appeal 20/002, which was Not Upheld by the Complaints Board and the Appeal Board. The advertisement in that case claimed petrol was more expensive under the current Labour Government than the average price during the nine years the National Party were in Government. The Complaints and Appeal Boards said the advertisement clearly showed the figures used, the basis for comparison and a credible data source, all of which prevented the different sampling timeframes and exaggerated graphic from being misleading. In particular, the comparison and qualifier was made clear by an asterix under each bar graph stating the period of time that each price related to.

Is the comparison of beneficiary numbers to job creation during different time periods a fair one?

The Complaints Board said that despite finding the presentation of the data in the advertisement to be misleading, it did not have an issue with the idea of the comparison. The Board said the very nature advocacy advertisement meant the Advertiser could present specific data with a bias in its favour in order to make a political point.

The Complaints Board said there was no obligation for the Advertiser to present a balanced argument in an advocacy advertisement. The Board noted the Complainant had suggested reasonable datapoint comparisons. The Complaints Board agreed that in most advocacy advertising there may be a more balanced way to present data and viewpoints, but that is not the purpose of this type of communication which by its nature supports the Advertiser’s position.

Is the term “dole” offensive in the advertisement

The Complaints Board said while the use word “dole” may be becoming outdated, it is still identifiable by consumers as a colloquial term for a benefit received by people who are unemployed. The Board said it did not consider the word to be offensive in this context as it is used to criticise a political party rather than people who are unemployed.

Does the term “Nearly 10,000 jobs” overinflate the figures?

The Complaints Board considered the wording “Nearly 10,000 jobs” would not have overinflated the figures if the advertisement had clearly qualified the phrase “every month” as being for the final two-year period in which National was in government. The Board said based on the substantiation, the actual number of jobs created by National during the two-year period appeared to be an average of 9,800 per month which is within a 10% range of the 10,000 jobs quoted. The Board agreed this would not have been misleading. However, given the consumer takeout of the advertisement is that it refers to the whole period the

National Party was in Government, the Complaints Board agreed this was not relevant to its decision.

In Summary

The Complaints Board said the statement “Every month under National” was not sufficiently qualified in the advertisement and was likely to mislead some consumers. The Complaints Board said the Advertiser was able to compare the number of beneficiaries to the number of jobs created. The Complaints Board said the use of the word “dole was not offensive in the context in which it was used.

The Complaints Board unanimously ruled the advertisement was in breach of Principle 2 and Rule 2(b) and 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed.

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 calendar days of receipt of this decision.

APPENDICES

1. Complaint
2. Response from Advertiser

Appendix 1

COMPLAINT

https://www.facebook.com/NZNATS/?epa=SEARCH_BOX

This advert is misleading in its comparison which does not accurately compare statistics. The post itself is inaccurate in its claim Labour is better at creating people on the dole than jobs. See attached statistics.

[Complaint to the ASA re National Party advertisement](#)

10 February at 17:00 · 🌐

Labour is better at creating beneficiaries than jobs.
National will get people joining the morning commute to work rather than the dole queue.

Labour

1,000

more on the dole every month under Labour

Source: MSD benefit fact sheets, September 2017 – December 2019 & Household Labour Force Survey, total employed, seasonally adjusted, 2015Q3 to 2017Q3.

National

Nearly 10,000 more jobs every month under National

Funded by the Parliamentary Service. Authorised by Simon Bridges, Leader of the Opposition, Parliament Buildings, Wellington.

👍 😂 ❤️ 1.1K

948 comments 90 shares

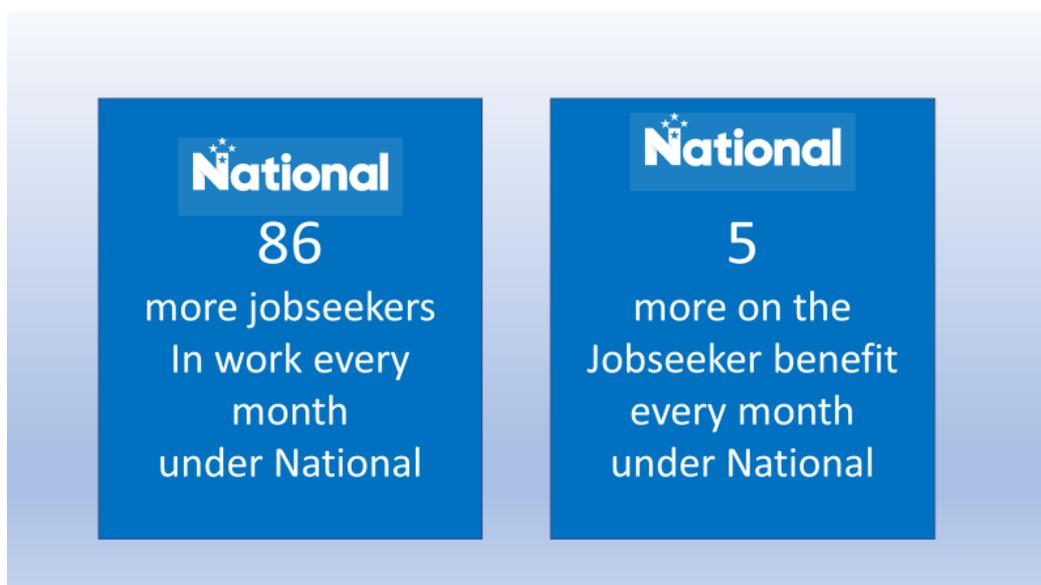
This advertisement is misleading because in the statement National used when posting it they claim, “Labour is better at creating beneficiaries than jobs”. The graph does not show this, instead it shows data on beneficiaries during the period 2017 to 2019 under Labour, and job creation during the period 2015 to 2017 under National. This is not a fair comparison.

A fairer comparison would be job creation under Labour alongside beneficiaries under Labour which would look like this –



This clearly shows that under Labour more jobs were created than people went on the Jobseeker benefit. The ad is also misleading as when you analyse the 'work ready' quota from the MSD Jobseeker data the figure reduces from 1018 to 729 per month. I also object to National calling it the 'dole' when they were the government which amalgamated various benefits into the Jobseeker. The word 'dole' is pejorative and used to bash beneficiaries which is abuse in my view.

The other part of the ad that is misleading is the claim National made in posting it, that "National will get more people joining the morning commute to work rather than the dole queue." While this is true because during the 2015 to 2017 period, they averaged 86 people off the 'dole' per month and 5 people a month went onto the 'dole queue' for a net of 81, it doesn't look nearly as impressive as 'nearly 10,000' which is again misleading because it was only 9292. In fact, National only created 5917 more jobs per month than the Coalition over a two-year period.



Additionally, the stats National use fail to take into consideration the working age population increase and the fact that from Q4 2017 to Q4 2019 the Jobseeker support has only risen from 4.2% to 4.9% an increase of 0.7% and some of that was non work ready beneficiaries.

References:

Benefit fact sheets Dec 2015 to Dec 2019

<https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/benefit/latest-quarterly-results/jobseeker-support.html>

Household Labour Force Survey total employed adjusted 2015 Q3 to 2019 Q3

<https://www.stats.govt.nz/information-releases/labour-market-statistics-september-2019-quarter>

Workings:

	Q3	Q3	Q3		
	2017	2018	2019		
Labour	2560000	2618000	2641000		
Difference		58000	23000	81000	Total
	Q3	Q3	Q3	3375	per month
National	2015	2016	2017		
	2337000	2472000	2560000		
Difference		135000	88000	223000	Total
				9291.667	per month

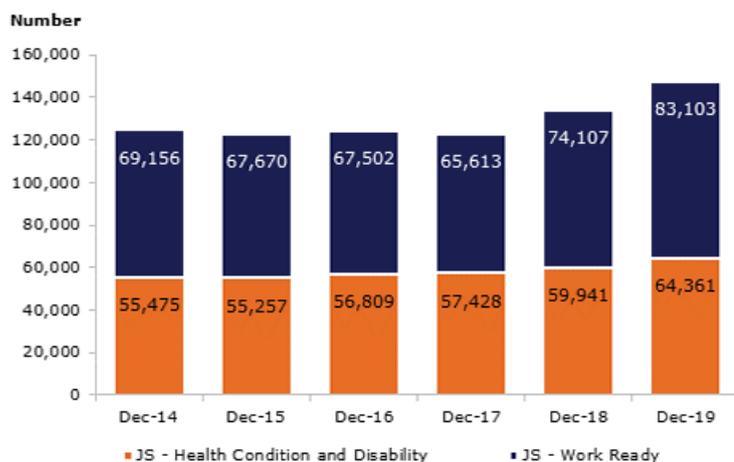
Jobs created

Q4	Q4	Q4		
2017	2018	2019		Labour
123041	134048	147464		
	11007	13416	24423	total
			1018	per month
Q4	Q4	Q4		
2015	2016	2017		National
122927	124311	123041		
	1384	-1270	114	

Total Jobseeker including disability beneficiaries

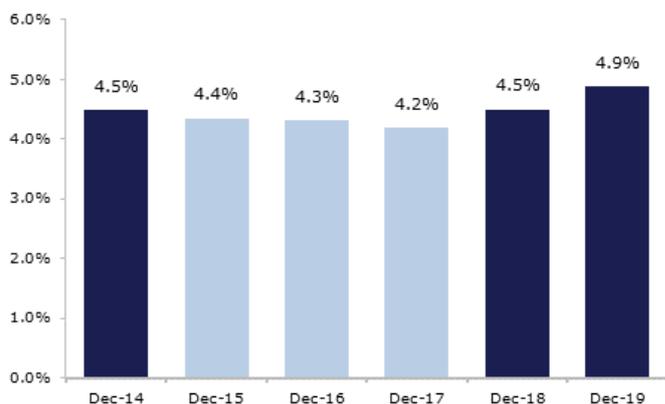
Work ready beneficiaries				
Q4	Q4	Q4		
2017	2018	2019		National
67670	67502	65613		
	-168	-1889	-2057	Total
			-86	per month
Q4	Q4	Q4		
2015	2016	2017		Labour
65613	74107	83103		
	8494	8996	17490	total
			728.75	per month

Figure 2. **Jobseeker Support recipients by benefit sub-group**, as at the end of December 2014–2019

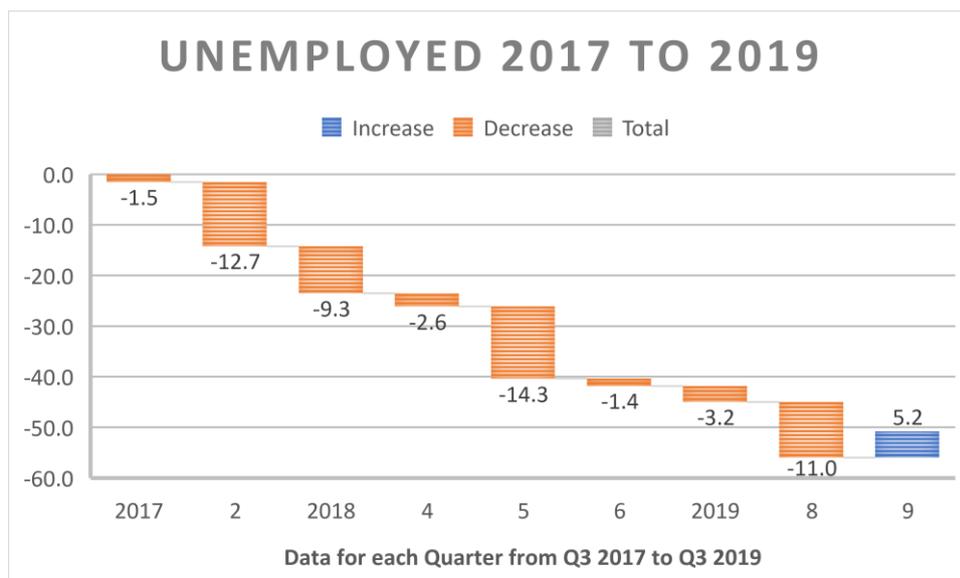


As at the end of December 2019, 4.9 percent of the working-age population received Jobseeker Support, or a slight increase of 0.4 percentage points when compared with 2014 and 2018.

Figure 3. **Proportion of working-age population receiving Jobseeker Support**, as at the end of December 2014–2019



Note: Proportion of working-age population is based on Statistics New Zealand's estimated resident population year ended as at the end of June for the relevant years (i.e. the population estimates as at the end of June 2019 have been used for this quarter's report).



<https://www.stats.govt.nz/information-releases/labour-market-statistics-december-2019-quarter>

Appendix 2

RESPONSE FROM ADVERTISER, NZ NATIONAL PARTY

In regard to advocacy advertising, and particularly regarding political matters, it has been the previous view and practice of the Advertising Standards Authority that the spirit of the Code is more important than any minor technical breaches. People have a right to express their views and this right should not be unduly or unreasonably restricted by Rules.

Furthermore, in very recent previous rulings the Chair of the ASA Board noted that political advertisements were not only acceptable but encouraged, as they were an essential and desirable part of the functioning of a democratic society. The Chair also observed that in a free and democratic society, differences of political opinion should be openly debated without undue hindrance or interference from authorities 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.

As the evidence provided by the complainant shows, National's social media post is entirely accurate.

Firstly, the complainant may not like this comparison being made but that does not in any way make it misleading. In fact, the only way the complainant knows this graphic is showing two different sets of data is because it is explicitly and intentionally labelled so.

Secondly, the complainant has successfully justified the point made in the social media post. In their complaint, you can see the National Government was creating jobs at a rapid rate while the number of people on the benefit was dropping. As is also clear in the evidence provided in the complaint, the rate of job creation has dropped significantly under Labour while the number of people on the benefit has increased significantly. The complainant's evidence justifies the claim Labour is better at creating beneficiaries than jobs.

FURTHER RESPONSE FROM ADVERTISER

September HLFS data referred to is attached also.

“Nearly 10.000 more jobs every month under National”

- The Sep 2017 HLFS (final HLFS under National) shows in the previous 2 years the total labour force grew from 2,485,000 (Table 1, cell G38) to 2,720,000 (Table 1, cell G46).
- That is an increase of 235,000 jobs.
- An average of 9,800 per month (“Nearly 10,000”).

“1,000 more on the dole every month under Labour”

- In Sep 2017, the jobseeker (“dole”) number was 120,726.
- In Dec 2019, the jobseeker (“dole”) number was 147,464.
- That is an increase (over 27 months) of 26,738.
- An average of 990 (rounded up to 1000).