

COMPLAINT NUMBER	20/210
ADVERTISER	Alt New Zealand Limited
ADVERTISEMENT	Alt New Zealand Limited Radio
DATE OF MEETING	2 June 2020
OUTCOME	No Grounds to Proceed

Advertisement: The voiceover for the radio advertisement for Alt New Zealand says: “over 40,000 Kiwis have switched to Alt... Alt, the definitive alternative to smoking, R.18”.

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

Complaint: I would like to complain about an advertisement that I heard on The Breeze on 7th May around 4.30pm.

The product being advertising is ALT, a nicotine replacement device.

It is falsely advertised as ‘the definitive alternative to smoking’.

Since most New Zealanders find smoking ugly and bad for your health, having false advertising like this is very poor.

Surely then, the definitive alternative to smoking is ‘not smoking’, not another addictive and expensive habit.

So, the claim is false.

I really enjoy listening to their programme but, as a health professional working every day amongst Maori and Pacific people needing help not to smoke, I would like to see a more accurate and socially responsible advertisement if they are to continue to advertising such products.

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

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.

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.

The Chair noted the Complainant’s concerns the advertisement is misleading.

The Chair referred to a precedent decision, 20/126, regarding a newspaper advertisement for Stratus vaping device, which was also ruled No Grounds to Proceed.

The following is an extract from that decision:

The Chair noted the Complainant's view that the use of the superlative "most" was misleading because it implies that of all the possible alternatives to smoking, including "not smoking", vaping is the cheapest alternative. The Chair said the statement that vaping is "the most affordable alternative to smoking" is not misleading. This is because the likely consumer takeout of the advertisement is when compared to similar products, particularly cigarettes, vaping is more affordable. The Chair noted that vaping is generally cheaper than smoking.

The Chair said the average consumer would view this advertisement in the context of a promotion for a commercial product, and not see it as a public health message. The Chair said it is currently legal to advertise vaping products and this advertisement did not meet the threshold to undermine the health and well-being of individuals.

The Chair said this precedent decision was relevant to Complaint 20/210. The Chair said the use of the phrase "definitive alternative" in the context of this advertisement, is word play which has a subjective element to it and could be described as puffery.

The Chair said the advertisement did not reach the threshold to be misleading or to undermine the health and well-being of individuals.

The Chair said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1, Rule 1(h), Principle 2 or Rule 2(b) 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 calendar days of receipt of this decision.