

COMPLAINT NUMBER	20/182
ADVERTISER	NZME
ADVERTISEMENT	New Zealand Herald website
DATE OF MEETING	8 June 2020
OUTCOME	No Grounds to Proceed

Advertisement: The New Zealand Herald website has a black panel down the left-hand side, with an index of different headings. There is a red banner across the top, where breaking news is written. Across the bottom of the page is a panel which is white in the middle and yellow at either side. There is a diagonal stripe where these yellow and white panels meet. The banner advertisement promotes the New Zealand Herald digital subscription service.

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

Complaint: The banner at the bottom of the New Zealand Herald website has a very striking resemblance to the Ministry of Health's COVID-19 branding in terms of the white and yellow colours arranged in diagonal lines.

In light of NZ Herald being a news website, it would be easy for one to assume that the banner might actually contain relevant information about COVID-19 from the Ministry of Health, if you were not paying close attention.

Clicking on the banner takes you to the NZ Herald's subscription signup page, which also has the same yellow and white colours present.

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

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 concern the advertisement had a striking resemblance to the Ministry of Health's COVID-19 branding.

The Chair said while there was some similarity between the New Zealand Herald website and the Ministry of Health's COVID-19 branding, with the use of yellow and white stripes, there were also significant differences. The Chair said the New Zealand Herald website used uneven yellow and white stripes, with just one panel of white, while the Ministry of Health's COVID-19 branding uses thinner, more regular and more numerous yellow and white stripes. The Chair also noted this branding had been used by The New Zealand Herald to promote its premium service since it launched in 2019.

The Chair said the average consumer is not likely to be confused about the identity of the two advertisers and the New Zealand Herald's advertisement for its premium service was not misleading.

The Chair said the advertisement was not in breach of 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.