

COMPLAINT NUMBER	20/233
ADVERTISER	Voice for Life
ADVERTISEMENT	Voice for Life Out of Home
DATE OF MEETING	15 June 2020
OUTCOME	No Grounds to Proceed

Advertisement: The Voice for Life NZ billboard advertisement has a photo of a woman who is holding a photo of a foetus against her pregnant belly. The text says: "Both lives matter. Both deserve better than an extreme abortion law. Voiceforlife.org.nz"

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

Complaint: Seen 12:30p on 8 June 2020.

Its completely tone deaf to piggy back off the global movement BLACK LIVES MATTER - that in itself is infuriating and grossly insensitive to All black people Everywhere. However, used in the context of anti-abortion is abhorrent and I cannot comprehend how this was even allowed to go live. The messaging indicates its targeted towards black people, assuming they are more exposed to abortions which is extremely upsetting and very very untrue. While I know there maybe little legal leg to stand on here, please please please do the right thing and force them to shut these disgustingly RACIST ads down. You also have corporate social responsibility to uphold too.

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

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

Rule 1 (c) Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

Rule 1 (g) Fear and distress: Advertisements must not cause fear or distress without justification.

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.

The Chair noted the Complainant's concerns the advertisement was insensitive to black people.

The Chair said this billboard advertisement was created prior to the incidents which sparked the recent media attention on the BLACK LIVES MATTER movement, and complaints about this advertisement have previously been considered by the ASA, in 2019. The Chair referred to a precedent decision, 19/391, which was ruled No Grounds to Proceed. In that decision the Chair said the following:

...the advertisement fell into the category of advocacy advertising and noted the requirements of Rule 2(e) of the Advertising Standards Code. This Rule requires 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.

Turning to the complaint before her, the Chair said the Advertiser had met the identity requirements for an advocacy advertisement. The billboard advertisement in Cuba Street, Wellington was authorised by Voice for Life and contained a website address, which would allow consumers to obtain more details about the organisation's views. The Voice for Life position regarding abortion was also clear.

Having established the advertisement was from Voice for Life, the Chair noted that political commentary within advertising was not only acceptable but encouraged, as it is 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 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. Therefore, the Chair considered the rest of the complaint in conjunction with this liberal interpretation under the application of the Advocacy Principles.

The Chair said the precedent decision was relevant to the complaint before her. The Chair said the Advertiser is presenting its opinion regarding the Government's changes to abortion legislation, which it opposes. The Chair noted the Abortion Legislation Bill was passed in March 2020 and the billboard could be seen in the context of that.

The Chair acknowledged the distress the advertisement had caused the Complainant, the similarity between the phrase "Both Lives Matter" and "Black Lives Matter" and the widespread publicity of the BLACK LIVES MATTER movement internationally.

The Chair said the advertisement did not meet the threshold to cause serious or widespread offence and had been prepared with a due sense of social responsibility to consumers.

The Chair said the advertisement was not in breach of Principle 1, Principle 2, Rule 1(c), Rule 1(g), Rule 2(b) or Rule 2(e) 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.