

COMPLAINT NUMBER	20/177
ADVERTISER	The Department of Internal Affairs
ADVERTISEMENT	Keep it Real Online, Television
DATE OF MEETING	23 June 2020
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold complaints about the Keep it Real Online advertisement about young people accessing pornography online. The Complaints Board said the execution and placement of the advertisement was justifiable on educational grounds to address the fact that many young people are using pornography to learn about sex.

Description of Advertisement

The Department of Internal Affairs television advertisement promotes its campaign 'Keep It Real Online' which suggest ways parents can engage with their children about online pornography. The advertisement shows two naked people visiting a house because a young person had accessed their pornographic content online. The pair tell the mother about the devices he watches them on and that they normally perform for adults. They are concerned because their performance does not talk about consent or reflect how they would normally act. The mother calls her son to the door and he is surprised to see the couple at the door. The mother says, "It's time to have a talk about what you see online versus real life relationships." The advertisement ends with the line "Many young kiwis are using porn to learn about sex, keep it real online" followed by a web address for viewers to visit and the New Zealand Government logo.

Summary of the Complaint

Eight Complainants are concerned the advertisement played at inappropriate times when children were likely to be watching television. The Complainants are concerned about the use of the words 'porn' and 'sex' and that the advertisement forces parents to have conversations with their children in response to the issues raised. This takes away parents control over when and how they discuss sex and pornography with their children.

Issues Raised:

- Social Responsibility
- Decency and Offensiveness
- Advocacy Advertising

Summary of the Advertiser's Response

The Advertiser defended the advertisement as part of a public awareness campaign to encourage age appropriate conversations between parents/caregivers and children and young people. Humour and mild shock are used to portray the fact young people can be harmed by learning about sex through pornography. The Advertiser said there is no explicit nudity in the advertisement. The words "sex" and "porn" are used once in context.

The advertisement played during PGR programming or news programming. The OnDemand placement was to subscribers 18+ years of age.

In terms of advocacy advertising the Advertiser said it clearly meets the identity requirements and provided substantiation for the factual statement that many young people use porn to learn about sex by providing the report Growing up with porn – Insights from young New Zealanders' published by the Office of Film and Literature Classification in April 2020.

Summary of the Media's Response

The Commercial Approvals Bureau (CAB) said the PGR (parental guidance recommended) advertisement is part of a campaign aimed at keeping families safe while online. The message being portrayed is that it is important for parents and caregivers to talk with children about online safety. Teenagers are more likely to seek out sites about pornography. The PGR rating means the advertisement will only play in Parental Guidance airtime post 7:00pm in order to encourage family discussions.

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 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.

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

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/158 which was Not Upheld and 08/181 which was Settled.

The full versions of decisions since 2015 can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 19/158 concerned an NZTA advertisement which showed a driver under the influence of drugs who causes an accident and included a flashback scene which depicted the smoking of drugs.

The Complaints Board was of the view that the GXC advertisement which played in a G programme was justifiable on educational grounds due to the number of car accidents and road deaths in New Zealand caused by drivers impaired by drugs.

Decision 08/181 concerned an advertisement from the Alcohol Advisory Council of New Zealand which showed a drunk relative swinging his young nephew around, hitting his head on furniture.

The Complaints Board said there was general support for the message, however the violent content was more appropriate for adult viewing times. The advertisement was reclassified to AO (Adults Only) and the complaints were settled.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement is that it is a Government message highlighting that children and young people may be accessing inappropriate sexual content online and suggesting how parents and caregivers might deal with this.

Does the advertisement fit the definition of advocacy advertising?

The Complaints Board agreed the advertisement fitted the definition of advocacy advertising as it is an advertisement from Government and related agencies to raise awareness about the dangers of content children and young people could be viewing online.

The Complaints Board confirmed Rule 2(e) of the Advertising Standards Code applies to advocacy advertising. Under Rule 2(e):

- 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

Also applicable were the Advocacy Principles, developed by the Complaints Board in previous decisions under Rule 11 of the Code of Ethics, the predecessor to Rule 2 (e). These said:

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 right 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.

Is the identity and position of the Advertiser clear?

The Complaints Board agreed the identity of the Advertiser was clear due to the inclusion of the All of Government logo "New Zealand Government" and the supporting website address, keepitreonline.govt.nz, for viewers to seek help and advice on the issues raised. The Board

confirmed the Advertiser's position on the risks associated with accessing pornography online was clear.

The Complaints Board ruled the advertisement was not in breach of Principle 2 or Rule 2(e) of the Advertising Standards Code.

Does the advertisement contain anything that is indecent or likely serious or widespread offence?

The Complaints Board noted the words "sex" and "porn" were referred to once during the course of the advertisement. The Complaints Board agreed the references were justified within the context of the safety message the Advertiser was promoting. The nudity in the advertisement was implicit rather than explicit and humour was employed to help portray a serious subject in an accessible way. The Board did not consider the advertisement encouraged young people to access online sexual material. The Board agreed the accessibility of online pornography justified the use of the words and images in the advertisement in the mainstream television environment.

The Complaints Board ruled the advertisement did not meet the threshold to cause serious or widespread offence and was not in breach of Rule 1(c) of the Advertising Standards Code.

Has the advertisement been prepared and placed with a due sense of socially responsible?

The Complaints Board noted the majority of Complainants supported the safety message regarding the potential danger of children and young people accessing online pornography. However, they considered the advertisement should be played at a later time when it would not be likely to be seen by young children. The Board noted the advertisement had been given a PGR (Parental Guidance Recommended) rating by the Commercial Approvals Bureau.

The Complaints Board confirmed a number of expert bodies had been involved in the 'Keep it Real Online' campaign together with the lead agency, the Department of Internal Affairs. These included Netsafe, the Ministry of Education and the Office of Film and Literature Classification. The research underpinning the campaign "Growing Up with Porn" concluded young people would value the opportunity to have safe, honest and non-judgemental discussions with adults about sex and pornography.

Placement

The Complaints Board noted that five Complainants had viewed the advertisement during the programme *Seven Sharp* on 8 June 2020, which is categorised as Unclassified Programming.

The Broadcasting Standards Authority refers to Unclassified Programming as "news, current affairs, sports and live content that is not, because of its distinct nature, subject to classification. However, broadcasters must be mindful of children's interests and other broadcasting standards and include audience advisories (i.e. a warning) where appropriate."

The Complaints Board were able to confirm viewing figures obtained from TVNZ showed that viewers under 17 years of age made up 1.01% of the total *Seven Sharp* audience on 8 June 2020.

The Complaints Board noted two Complainants had viewed the advertisement while watching TVNZ OnDemand. The Board confirmed that advertisements are served through the TVNZ OnDemand platform using the account holder profile information, such as age and gender. The Board noted the Advertiser had confirmed the Keep it Real Online advertisement was targeted at user profiles who were registered as over 18 years of age. The Complaints Board

said viewers with these profiles should expect to be served advertisements based on the registered user's profile.

The Complaints Board noted that one Complainant had viewed the advertisement during the programme *Bondi Rescue* which is rated PGR at 8:15pm. The Board confirmed the advertisement had played within the constraints of its afforded rating.

Having examined the placement of the advocacy advertisement, the majority of the Complaints Board agreed it had been placed with a due sense of social responsibility given the unclassified nature of the programming which routinely included subject matter unsuitable for children, the rating and timing of *Bondi Rescue* and the targeted OnDemand adult profiling. The majority of the Board said the advertisement was not in breach of Principle 1 of the Advertising Standards Code.

A minority of the Complaints Board disagreed. The minority said the timing of the advertisement meant there would be a proportion of the viewing audience who would be children. The minority said the advertisement which featured a child and pixelated nudity had visual cues that were likely to engage children more than the adult themes featured within a news and current affairs programme. The minority of the Board considered this content could prompt questions from children which parents or caregivers were unprepared for. The minority of the Complaints Board said while it supported the intent of the advertisement, the placement during programming with classifications other than Adult Only risked parents being unable to set the agenda for how they addressed the serious subject of accessing and understanding the realities of online pornography. The minority said the advertisement had not been placed with a due sense of social responsibility.

However, in accordance with the majority, the Complaints Board ruled the advertisement and its placement were socially responsible, taking into account context, medium, audience and product and it was not in breach of Principles 1 and 2 or Rules 1(c) and 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaints were **Not Upheld**.

No further action required.

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. Complaints
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT

Bedtime for our 4 children (ages 11, 9, 7 and 2) is usually around 7.30pm. We hope that until that time, the adverts and programmes on TV are socially appropriate for our children. As our children were getting ready for bed tonight, and advert for “keepitrealonline” came on the TV. Although the advert does not show that the (“Pornstar”) couple in the doorway are unclothed, it is obvious (including to our children) that they are naked, and they are standing very close to each other. The advert then progresses to use the words “sex” and “porn”. I absolutely appreciate that internet safety is an important issue and that advertising regarding this is positive, and hopefully beneficial. However, I do not believe that explicitly stating the words “porn” and “sex” on television at a time of day when children are likely to hear those words is sensible. We are aware that our children may become aware of porn and sex by the use of the internet, which is what the advert is of course concerned with. However, at this stage in our children’s lives, we ensure our children only use their devices in the presence of adults, and we do not believe that our very curious and interested young children should be first exposed to knowledge of porn in particular (and sex) for the first time from an advert. I also wonder if children are likely to search a term online (such as “porn”) if they have heard such a word and are curious as to its meaning. The advert is also aimed at parents, and there does not therefore seem to be a reason why it needs to be on before 7.30pm. I note that a young child appear on the advert also makes it more likely that other children will pay attention to it- as ours did.

COMPLAINT 2

An advert came on showing a naked couple at a door asking to see the woman's teenage son. We were watching with our kids. having no idea what this advert was about we were all caught out when it mentioned that teenagers needed to know the difference between porn and real life. We were shocked...now my 8 year old son is asking what porn is. This is highly inappropriate at this early time and I am extremely disappointed.

COMPLAINT 3

The advert related to educating families about safe net but the use of the words, sex, porn and parents being aware of what their children are watching online was not suitable for that time of night as my primary school aged children were in the room watching TV with us. Agree with the purpose of the campaign but completely disagree with the time and way this ad was shown.

COMPLAINT 4

During seven sharp tonight a “let’s talk about porn” ad came on. My four children aged 7,9,11,12 were all watching. I was shocked! I totally understand that this is an issue that needs to be discussed, but not at 7 and 9 years old. I believe it was just too early to show this ad. It should be up to parents what age they want to discuss porn with their kids, my youngest three had no idea what porn was but the ad told them that a quick search on the internet would give them all the answers they needed. My kids go to bed staggered between 7.30 and 8.30 so they don’t stay up late.

COMPLAINT 5

I am complaining about the add “explaining the difference between pornography and real life relationships “to be of extremely poor taste.

I am even more horrified of the time frame used for this add. During children’s prime time. Children I know would even know what that add meant. This would cause much distress to both children and parents. How would you explain pornography to a young child ?

COMPLAINT 6

I was horrified when sitting with my 12year old twin girls and 14 yr old son yesterday that an ad featuring male and female nude actors, knocking on a door of a parents house to complain about her son watching them have sex on his laptop (or iPad, Xbox, PS4 etc). The ad was solely about " our young children watching porn" and was called out as such. It was a government ad. I cannot believe I then had to explain to my children what this was about. Completely inappropriate. It was still showing this morning when I showed a friend. This needs removing or moving to a 9pm slot so children do not see it. Its one thing to raise awareness for parents, quite another to expose children to this.

COMPLAINT 7

Ad featuring pornography stars arriving at home of young teenager.

Whilst I feel the ad has an important message, my 7 year old was watching tv at that time and the verbal content of the ad was not appropriate for her. This ad being displayed to a young audience is exposing them to things they otherwise would not have been exposed to. I feel the time slot for airing should be targeted to parents.

COMPLAINT 8

The New Zealand Government Keep It Real online ad in the middle of Bondi Rescue, the only show on tv the whole family watches, had both my 6 and 10 year old asking what porn and sex is! This is not an appropriate time slot for an ad like this during a family show. I know so many other families that watch this show with kids younger than mine. Not appropriate at all! So disappointing!

Appendix 2**RESPONSE FROM ADVERTISER, DEPARTMENT OF INTERNAL AFFAIRS****New Zealand Government Television – Complaint 20/177**

Thank you for your letters dated 9 June 2020 and 12 June 2020 alerting us to the complaints you have received about our ‘Keep it real online’ campaign, particularly the television advertisement highlighting the use of pornography by young people.

We wish to **defend** this ad. We maintain that the ads have been prepared and placed with due care to the Principles of the Advertising Codes.

Advertising Standards Code - Principle 1, Rule 1(c)

Under this Rule, “Sexual imagery or language must be appropriate to the audience and medium”.

The public awareness campaign, of which this ad is part, is designed to encourage age-appropriate conversations between parents/caregivers and children and young people. These conversations are often awkward and uncomfortable, which is acknowledged and reflected in the advertising.

It uses humour and mild shock to convey the fact that many young people learn about sex by watching pornography. Research and evidence support that this may cause harm in young people.

In terms of imagery, although the couple appear to be naked, they are covered during the advertisement and at no time is there any explicit nudity. In terms of language, 'sex' and 'porn' are used one time each and in context to the situation.

When the ads were submitted to television networks, we asked for the ads only to be shown during PGR programming and above. While some complaints relate to the ad appearing on Seven Sharp (TVNZ), it was run as a news item.

With regards to the ad appearing on TVNZ OnDemand, our package with TVNZ is for the ad to be played to viewers aged 18+, as defined by TVNZ and the viewer's OnDemand profile settings. For context, TVNZ has a 'Kids' viewing option where programming suitable for children is housed.

As a precedent for our defence under this Principle, I refer to Complaints Board Decisions 09/088 and 20/175.

In support of our position, I attach our television advertising schedule.

Advertising Standards Code - Principle 2, Rule 2(e)

Under this Rule, "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 ad clearly displays the New Zealand Government logo as the identity of the advertiser.

The fact stated in the ad, that many young people use porn to learn about sex, comes from the research report 'Growing up with porn – Insights from young New Zealanders' published by the Office of Film and Literature Classification in April 2020.

In support of our position, I attach a copy of the report and a screen grab from the ad showing the New Zealand Government logo.

Thank you for the opportunity to defend our advertising campaign.

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVAL BUREAU

Complaint 20/177 Ministry of Social Development Key number MSDIA 060 0005 Classification PGR

We have been asked to respond to complaints regarding the social responsibility and truthful presentation of this commercial.

This Government advertisement for 'Keep It Real Online' is just one of several topics scheduled to air aimed at keeping families safe while online. The site gives useful information about managing screen time, options to both filter and restrict content and also discusses the necessity of speaking to your children about internet safety. Though the internet has many positive uses, there are also risks with access to inappropriate content and the approach of unwanted contact. Schools have content filters to protect students while in their care, but outside those school boundaries, and with such widespread use of digital devices, it is possible

for a child to access unsafe websites. It is important for parents and caregivers to talk with their children about online safety. Younger children can come across inappropriate material quite by accident as many sites are free, but teenagers are more likely to seek out such information.

This Advocacy advertisement has a PGR classification so may only play in Parental Guidance airtime post 7pm, thus encouraging family discussions about keeping children safe while accessing their devices. We do not believe the complaints should be upheld