

COMPLAINT NUMBER	20/313
ADVERTISER	SAM (Smart Approaches to Marijuana) NZ Coalition
ADVERTISEMENT	Say Nope To Dope, Print
DATE OF MEETING	27 July 2020
OUTCOME	No Grounds to Proceed

Advertisement: The Smart Approaches to Marijuana NZ Coalition newspaper advertisement in the Dominion Post advocates its Say Nope to Dope campaign. The advertisement refers to the upcoming referendum on the Cannabis Legalisation and Control Bill. One half of the advertisement shows a female doctor with accompanying text saying, "In NZ medicinal cannabis is already legal". On the other half of the advertisement, a man is shown smoking with the text "Vote NO to keep recreational dope illegal". Along the bottom of the advertisement text states that the referendum is for recreational cannabis use and that medicinal cannabis can already be prescribed by doctors. Vote Nope to Dope is used as a banner along the bottom of the advertisement. The advertisement contains an authorisation statement.

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

Complaint 1: Checking out the press today I caught a full page advertisement pushing a political agenda.

The way this advertisement is done is incredibly misleading with the bright imaging with the doctor to the dark and dangerous image of the man.

For the main user base of the printed press this is incredibly misleading and is swaying votes. This has also been done very subliminally with a road transport ad where a girl is holding up signs and providing 3 examples for drug driving being dangerous.

In all 3 weed is listed and in all 3 weed is listed first. From my understanding the most dangerous drug while driving is alcohol yet is only featured in one of these examples.

A narrative is being pushed to sway votes on the referendum and I do not believe this is legal, fair or just. We should all be given a fair chance to make a vote and not be manipulated by someone else's agenda.

Complaint 2: This advert in page 9 of the Dominion Post 22/07/20 perpetuates harmful stereotypes of typical cannabis users. It portrays them as an unhealthy drug user and implies criminality. With 80% of New Zealanders having tried cannabis this advert is unfair and extremely offensive to upstanding members of our communities who consume or have consumed cannabis.

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

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 Complainants' concerns the advertisement was misleading by pushing a particular agenda about the cannabis referendum and used an offensive stereotype of a cannabis user.

The Chair referred to the ASA Guidance Note on Advocacy Advertising, which includes the following definition of Advocacy Advertising: "Advocacy advertising is often characterised by parties having differing views that are expressed in robust terms. This is especially so when there is proposed legislation or a referendum on an issue. Examples include abortion, fluoridation, immunisation and legalisation of marijuana. Government advertising on a range of health and safety initiatives is also likely to be advocacy advertising.

The Chair noted the requirements of Rule 2(e) of the Advertising Standards Code. This Rule requires the identity and position 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 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 advertiser 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 Chair said the identity and position of the Advertiser is clear from the "Say Nope to Dope" statement and the advertisement contains an authorisation statement and website link for viewers to obtain further information. The advertisement therefore met the criteria for an advocacy advertisement.

The Chair said the advocacy advertisement presented a specific viewpoint about the issue of the legalisation of recreational cannabis. The Chair said there was no obligation for the

Advertiser to present a balanced argument in an advocacy advertisement. The imagery in the advertisement shows juxtaposition of the bright coloured picture of the female doctor with the darkened image of a man smoking in order illustrate its stance on the cannabis debate.

The Chair noted Complainant 1 also referred to concerns about a NZ Transport Agency advertisement highlighting the dangers of drug driving and whether this could unduly influence voters in the referendum. The Chair said this issue had been addressed in Precedent Decision 20/008. That decision said in part:

“The Chair noted regardless of any possible changes in the law relating to cannabis, as a result of the referendum, driving under the influence of drugs has been and is likely to continue to be a public health concern and part of road safety advertising.”

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

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

The Chair said the advertisement before her was not likely to mislead or deceive consumers, taking into account context, medium, audience and product and when viewed through the lens of advocacy advertising. The Chair ruled the advertisement was not in breach of Principle 2 or Rules 2(b) and 2(e) of the Advertising Standards Code.

The Chair ruled there were no grounds for the complaints 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.