

OMPLAINT NUMBER	20/484
ADVERTISER	SAM (Smart Approaches to Marijuana NZ Coalition)
ADVERTISEMENT	Say Nope to Dope, Print
DATE OF MEETING	30 September 2020
OUTCOME	No Grounds to Proceed

Advertisement: The full-page newspaper advertisement from SAM (Smart Approaches to Marijuana NZ Coalition) has a grid design of 12 boxes. One box says: “Why are we voting no to legalising recreational cannabis?” The eleven other boxes have images of people and statements about why they support a no vote. Examples include former All Black Eroni Clark and the quote: “Over the past 10 years I’ve worked in mental health & addictions and I’ve seen the negative impact of cannabis on our communities” and Reverend Pane Kawhia, Minister Ruatoria, Ngāti Porou and the quote: “Aotearoa New Zealand is too precious to be wasted, that’s why I’m encouraging you to vote NO to cannabis”. At the bottom of the advertisement is the call to action, “say nope to dope” and a website address and promoter’s statement.

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

Complaint 1: The ad is making claims to influence a part of the election without statistics and misrepresenting elements of the community. These are claims being represented as facts which is a danger to the referendum. It is also using people with celebrity status to push its agenda.

Complaint 2: This ad is promoting opinion as fact and is completely misleading. The people featured in the advertisement have no qualifications or education to back up the opinions which are being published in order to influence the public to vote a certain way in the Cannabis referendum.

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

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

Rule 2 (f) Use of testimonials and endorsements

Advertisements must not contain or refer to any personal testimonial unless permission to use the testimonial has been obtained and it is verifiable, genuine, current, and representative of the typical not the exceptional. Advertisements must not claim or imply endorsement by any individual, government agency, professional body or independent agency unless there is prior consent and the endorsement is current and verifiable.

About Advocacy Advertising

Complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

In assessing whether an advocacy advertisement complies with the Advertising Standards Code, the freedom of expression provisions under the Bill of Rights Act 1990 must also be considered.

Section 14 of the Act says: “Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.” This freedom of expression supports robust debate on current issues in a democracy.

Under Rule 2(e) Advocacy advertising of the Advertising Standards Code:

- The identity of the advertiser must be clear
- Opinion must be clearly distinguishable from factual information, and
- Factual information must be able to be substantiated.

If the identity and position of the Advertiser is clear, a more liberal interpretation of the Advertising Standards Code is allowed.

About this complaint

The Chair acknowledged the concerns in Complaint 1 the newspaper advertisement is misleading because it presents claims as facts and uses people with celebrity status to push its agenda. The Chair also noted the concerns in Complaint 2 the advertisement used people who “have no qualifications or education to back up the opinions which are being published in order to influence the public to vote a certain way in the Cannabis referendum”.

The Chair confirmed the Advertiser’s identity and their position on the issue was clear. The Advertiser, Smart Approaches to Marijuana (SAM) NZ Coalition, supports a no vote in the Cannabis Legalisation and Control Referendum. The advertisement includes the website SayNopeToDope.nz and a promoter’s statement. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair said real people expressing their views on the referendum and the way they will vote has been used by organisations on both sides of the debate. It is permitted under the Advertising Standards Code. The Chair confirmed the advertisement identified the people featured alongside their statements in quotation marks. The Chair said this style of advertising makes it clear the statements are opinion and do not require substantiation.

The Chair said the Cannabis Legalisation and Control Referendum is a significant social issue and it is important the New Zealand public has context for the differing views on it, in order to be able to take an active part in the debate. The Chair confirmed the Advertiser’s position against the Cannabis Legalisation and Control Bill provides context for consumers when viewing this advertising.

The Chair said the advertisement was not in breach of Principle 2, Rules 2(b), 2(e) and 2(f) of the Advertising Standards Code.

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

Chair's Ruling: Complaints **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. **NOTE:** Under the fast track process one month prior to the Election, appeals must be made in writing via email or letter within three (3) calendar days of receipt of this decision.