

<b>COMPLAINT NUMBER</b>	20/535
<b>ADVERTISER</b>	Yes for Compassion
<b>ADVERTISEMENT</b>	Yes for Compassion, Television
<b>DATE OF MEETING</b>	15 October 2020
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The television advertisement for Yes for Compassion shows Heather speaking about Richard's terminal illness with details about his suffering and his decision to end his life. Wording on screen states: "Give terminally ill adults the CHOICE to end their unbearable suffering. Pass a compassionate law with strict safeguards." The call to action is to vote yes to the End of Life Choice referendum. The advertisement includes a promoter's statement.

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

**Complaint:** I am writing to inform you of a very distressing situation that has happened to my family today around the euthanasia campaign and to formally complain.

I have just received a message from my older sister. My older sister has only recently found out that her breast cancer has advanced and she has liver mets. She informed me that this afternoon she was sitting in her lounge with her 16 year old son watching TV on demand when an add came on in support of euthanasia. It talked about a man with liver mets whose suffering was so great and not able to be helped by palliative care that he committed suicide. The add used this to suggest NZers need to vote yes to the End of Life Choice Act, 2019.

My sister was horrified at the add, as was her 16 year old son. She became extremely distressed and upset. It is the last thing she and any of our family need to be seeing. I realise I do not need to explain to you the many ways this add caused her and her son harm.

I am sure she is not the only person in NZ living with cancer who would find this type of add distressing.

**The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(c), 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.

**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

### **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 Complainant's genuine concerns regarding the details in the advertisement about Richard's terminal illness and decision to end his life and how upsetting this is could be for individuals and families dealing with serious illness.

The Chair confirmed the Advertiser's identity is clear. Yes for Compassion is a registered promoter for the End of Life Choice referendum. The Advertiser's position on the issue is clear. The advertisement draws attention to its support for a yes vote in the upcoming End of Life Choice referendum. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair referred to a number of previous Rulings (18/298, 14/551 and 13/456) from people who had made complaints about advertisements after other real-life events such as the Christchurch earthquakes and other tragedies including fatal car accidents. Those Rulings acknowledged the trauma that many people have experienced and the distress certain scenes in the advertisements had caused them. However, they had all been ruled No Grounds to Proceed as any unintended similarity in an advertisement to a real-life event while unfortunate, did not reach the threshold to cause widespread offence or breach the Advertising Codes.

Turning to the complaint before her, the Chair said from time to time scenarios in advertising do resonate with viewers, for tragic reasons and it would be difficult to mitigate this in every case.

Therefore, while she noted the Complainant's sincere concerns, she said the advertisement for Yes for Compassion did not reach the threshold to be considered offensive, in the context of an advocacy advertisement supporting the End of Life Choice referendum.

The Chair said the End of Life Choice 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 End of Life Choice Act provides context for consumers when viewing this advertising.

The Chair said the advertisement was not in breach of Principle 1 and Rule 1(c) or Principle 2 and Rule 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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.