

<b>COMPLAINT NUMBER</b>	20/472
<b>ADVERTISER</b>	bp Oil New Zealand
<b>ADVERTISEMENT</b>	bp Oil New Zealand, Television
<b>DATE OF MEETING</b>	28 October 2020
<b>OUTCOME</b>	Not Upheld No Further Action Required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about two versions of a bp Oil television advertisement which showed a healthcare worker receiving a free coffee as a result of the BPMe app's thank you initiative. The majority of the Complaints Board said the advertisement was promoting the idea of demonstrating kindness through use of the BPMe app and had demonstrated that by the inclusion of a symbolic healthcare worker. The depiction of a healthcare worker in a uniform outside of their workplace was unlikely to undermine the health and wellbeing of consumers. The majority of the Complaints Board said the advertisement did not reach the threshold to be socially irresponsible.

### **Advertisement**

#### **30 second version**

A woman wearing a healthcare worker uniform pulls into a bp garage and orders a flat white coffee. When she attempts to pay for the coffee the bp employee shakes his head and says, "It's from another customer." The woman smiles at the gesture. The coffee cup she is handed has a label which says "Free Thank You Coffee. This is from a kind New Zealander who wanted to share their thanks with you #bpThankYouCoffee. The voiceover says "Download bp free and unlock your free coffee to enjoy or pay it forward to another New Zealander."

#### **15 second version**

A woman wearing a healthcare worker uniform is handed a coffee from the bp employee who says, "It's from another customer." The woman smiles at the gesture. The voiceover says "Download bp free and unlock your free coffee to enjoy or pay it forward to another New Zealander." The advertisement also shows clips of other customers receiving a free coffee and one customer using the app to gift a free coffee.

### **Summary of the Complaint**

The Complainant is concerned the advertisements show a nurse at the end of a shift who is wearing her uniform which they believe goes against infection control and prevention measures and hospital uniform policies during the COVID-19 pandemic.

### **Issues Raised:**

- Social Responsibility
- Health and Wellbeing

### **Summary of the Advertiser's Response**

The Advertiser defended the advertisements and said it was part of a brand campaign promoting the BPMe app which allows a free coffee to be enjoyed or gifted to another customer. Its aim is to showcase an act of kindness for those working in the community.

It said the advertisements do not suggest nor should be interpreted that healthcare professionals should not follow their own safety procedures. It said it specifically shows there is no hand-to-hand transfer of the coffee cup.

### **Summary of the Media's Response**

The Commercial Approval Bureau said there is nothing in the advertisements which undercut the Ministry of Health's COVID-19 advice and provided a guidance notification to health professionals and carers. It said the code standard of undermining is not the same as advertisers being obligated to depict all recommended guidelines in their advertisements.

### **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(h) Health and well-being:** Advertisements must not undermine the health and well-being of individuals.

### **Relevant precedent decisions**

In considering this complaint the Complaints Board referred to Precedent Decision 20/317 which was Settled by the Advertiser.

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

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

**Decision 20/317** concerned a television advertisement for New World which showed a woman at the checkout blowing on her club-card before scanning it. The Complainants were concerned the advertisement set a bad example in the context of the COVID-19 global pandemic.

The Chair of the Complaints Board settled the complaints following the removal of the advertisement by the Advertiser.

### **Complaints Board Discussion**

#### *Consumer Takeout*

The Complaints Board all agreed that both advertisements were promoting the idea of demonstrating kindness through use of the BPM app. The app enables a person to gift a free coffee to others.

However, they had differing opinions on the likely consumer takeout of the advertisements.

The majority of the Board said the main woman featured in both of the advertisements is symbolic of a generic healthcare worker, who could have been coming from or going to work, and is seen as a worthy recipient of the pay it forward free coffee being gifted to her. For the majority, this was reinforced in the 15 second version of the advertisement which also showed a first responder receiving free coffee via the app.

A minority of the Complaints Board mostly agreed with this takeout, however it did consider most consumers would believe the woman was a nurse and her profession made her a deserving recipient of thanks for her role caring for others during the pandemic.

A further minority of the Complaints Board had a more specific consumer takeout and said the recipient of the free coffee is a nurse who has just finished her shift and is breach of COVID-19 infection control and prevention measures and the advertisement portrays the poor practice of wearing a potentially contaminated uniform to a public place.

*Does the advertisement undermine the health and wellbeing of consumers?*

For the majority of the Complaints Board the overriding message in the advertisements is giving recognition to those who help the community by passing on a free coffee. The focus was not about public health rules or personal protective equipment (PPE) requirements. The majority of the Board did not consider the advertisements would encourage specialist workers, who are well versed in the correct safety protocols, not to follow the rules.

The majority of the Complaints Board said the advertisements did not reach the threshold to undermine the health of the general public and were not in breach of Rule 1(h) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said the level of precaution which continues to be taken around clothing worn in any facility where there is the potential for COVID-19 contamination is very high and is reflected in the strong rules about uniforms not being worn to or from the workplace. The use of a coat to over the uniform does not mitigate this.

The minority of the Complaints Board said the poor practice shown in the advertisement could undermine official safety messaging and the advertisements were in breach of Rule 1(h) of the Advertising Standards Code.

*Is the advertisement socially responsible?*

The majority of the Complaints Board said the positive message of kindness in the advertisements was likely to be the general audience takeout from the advertisements and those viewers more informed about uniform protocol during the pandemic would be unlikely to alter their behaviour based on what is shown.

The majority of the Complaints Board said the advertisements were socially responsible, taking into account context, medium, audience and product and were not in breach of Principle 1 of the Advertising Standards Code.

The minority of the Complaints Board disagreed and said the COVID-19 rules are in place to protect the whole community. It said the Advertiser should have undertaken due diligence when choosing to include a health worker, particularly when in the minority view, the likely consumer takeout is that the woman is a nurse.

The minority of the Complaints Board said the advertisements were not socially responsible and were in breach of Principle 1 of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board ruled the advertisements were not in breach of Principle 1 or Rule 1(h) of the Advertising Standards Code.

### **Outcome**

The Complaints Board ruled the complaint was **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](http://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. Complaint
  2. Response from Advertiser
  3. Response from Media
- 

### Appendix 1

#### COMPLAINT

The BP advert is about paying a coffee 'forward'. While this is a great idea, the advert shows a nurse in uniform calling into a petrol station to buy a coffee. The implication is that it is after a shift. As we are currently in the middle of a pandemic this is inappropriate given the need for meticulous infection prevention and control measures required. It is also against many hospitals uniform policy. I have emailed BP and received an unsatisfactory answer. I would be interested to hear your views about the appropriateness of this advert at this time.

### Appendix 2

#### RESPONSE FROM ADVERTISER, bp OIL NEW ZEALAND

We refer to your email of 15 October 2020 and the accompanying complaint made to the Advertising Standards Authority (ASA). bp does not believe that the advertisement referred to breaches the Advertising Standards Code (ASC) Principles and Rules including *Principle 1, Rule 1(h) - Advertisements must not undermine the health and well-being of individuals.*

The advertisement was part of a brand campaign designed to let our customers know that they can unlock a free Wild Bean Cafe coffee to enjoy themselves or to gift to another customer anonymously, using the BPMe app. The key message that the advertisement was trying to showcase was an act of kindness and generosity for those who do amazing work in our communities. This builds on the bp "*Thank You Button*" campaign last year that made it easier for drivers to show care and kindness to others on the road.

The advertisement in no way suggests nor could be interpreted to mean that health care professionals, and the other professionals shown across our campaign (courier driver, community volunteer, first responders) shouldn't follow their own safety procedures.

bp prepared the advertisement with a due sense of social responsibility to consumers and to society, and given health and safety is bp's number one priority, bp did give particular consideration to safety issues and any specific implications of the COVID-19 pandemic when planning this brand campaign, including following the ScreenSafe COVID-19 guidelines for filming and specifically showing that there was no hand-to-hand transfer of the coffee cup.

Given this, we do not believe this advert is either inappropriate or in breach of *Principle 1, Rule 1(h)* or its guidelines, as shown below.

<b>Principle 1, Rule 1(h) Guidelines</b>	<b>bp Response</b>
Advertisers must not undermine the food and nutrition policies of the Government and the Ministry of Health, such as the <u>Food and Nutrition Guidelines</u> or the <u>Eating and Activity Guidelines</u> .	<i>This does not apply to this advert</i>

Advertisements for food or beverages must not: Condone or encourage excessive consumption or show a quantity of food or beverage that exceeds the portion size that would be appropriate for consumption by the person or people of the age depicted in the advertisement; or Promote inactive or unhealthy lifestyles, or portray people who choose a healthy, active lifestyle in a negative manner	<i>One free medium coffee for an adult is appropriate consumption This does not apply to this advert</i>
Advertisements promoting a competition, premium or loyalty/continuity programme must not encourage excessive repeat purchases of foods high in fat, salt or sugar	<i>This does not apply to this advert</i>
Advertisements for therapeutic or health products and services must also comply with the ASA's <u>Therapeutic and Health Advertising Code</u> .	<i>This does not apply to this advert</i>
Advertisements for alcohol must also comply with the ASA's <u>Code for Advertising and Promotion of Alcohol</u> .	<i>This does not apply to this advert</i>
Advertisements for gaming and gambling must also comply with the ASA's <u>Code for Advertising Gaming and Gambling</u> .	<i>This does not apply to this advert</i>

bp takes compliance with its obligations under the ASC Rules, and all other requirements, incredibly seriously. bp does not believe the use of a nurse in uniform in the context of this advertisement in any way breaches any ASC Rule.

A basic, neutral description of the advertisement	The bp TV commercial is a brand campaign designed to demonstrate the spirit of generosity and kindness – and to let our customers know that they can unlock a free Wild Bean Cafe coffee to enjoy themselves or pay it forward anonymously to keep the kindness going.
Date advertisement began	6 July 2020  (TVC last aired 12 October 2020)
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	<b>30"</b> TV, VOD, bp Website, bp Facebook  <b>15"</b> TV, VOD  <b>Static image</b> Billboard, bp Email, bp Facebook
Is the advertisement still accessible – where and until when?	Yes  <b>30"</b> bp Website  <b>Static image</b> bp Email

<p>A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.</p>	<p><a href="#">Download</a></p>
<p>Who is the product / brand target audience?</p>	<p>All Adult Drivers, 25-54</p>
<p>Clear substantiation on claims that are challenged by the complainant.</p>	<p>The complainant suggests that it is not appropriate to show a nurse in uniform calling in to a cafe to purchase a coffee during a pandemic.</p> <p>The advertisement was part of a brand campaign designed to let our customers know that they can unlock a free Wild Bean Cafe coffee to enjoy themselves or to gift to another customer anonymously, using the BPMe app. The key message that the advertisement was trying to showcase was an act of kindness and generosity for those who do amazing work in our communities. This builds on the bp “Thank You Button” campaign last year that made it easier for drivers to show care and kindness to others on the road.</p> <p>The advertisement in no way suggests nor could be interpreted to mean that health care professionals, and the other professionals shown across our campaign (courier driver, community volunteer, first responders) shouldn’t follow their own safety procedures.</p> <p>bp prepared the advertisement with a due sense of social responsibility to consumers and to society, and given health and safety is bp’s number one priority, bp did give particular consideration to safety issues and any specific implications of the COVID-19 pandemic when planning this brand campaign, including following the ScreenSafe COVID-19 guidelines for filming and specifically showing that there was no hand-to-hand transfer of the coffee cup.</p> <p>Given this, we do not believe this advert is either inappropriate or in breach of Principle 1, Rule 1(h).</p>

<p>The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.</p>	
<p><b>For Broadcast advertisements:</b></p>	
<p>A copy of the script</p>	<p><b>Nurse:</b> <i>Flat white please</i></p> <p><b>bp CSR:</b> <i>Anything else?</i></p> <p><b>Nurse:</b> <i>No thanks</i></p> <p><b>bp CSR:</b> <i>It's from another customer</i></p> <p><b>VO:</b> <i>Download BPMe and unlock your free Thank You Coffee to enjoy or to pay it forward to another New Zealander.</i></p>
<p>A copy of the media schedule and spot list  (Please remove all financial information)</p>	<p><i>See email attachment</i></p>
<p>CAB key number and rating</p>	<p>Key Number: <b>BPN 0025 30</b> CAB Approval Number: 00624074 CAB Rating: GXC</p> <p>Key Number: <b>BPN 0025 15</b> CAB Approval Number: 90801024 CAB Rating: GXC</p>
<p><b>For Digital advertisements:</b></p>	



What platform tools have you used to target your audience?	Nielsen Arianna via TV Map, Facebook Business Manager, TVNZ Demographic Data.
--	---

### Appendix 3

#### RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

##### BP Oil NZ Ltd Television – Complaint 20/472 (Key # BPN 0025 30, Classification: GXC)

We have been asked to comment on the complaint that the above commercial is in breach of Advertising Standards Code Rule 1 (h) as it has the potential to “undermine the health and well-being of individuals”.

To the best of our knowledge there is nothing in this commercial that undercuts the Ministry of Health’s current COVID-19 advice to healthcare professionals (see attached). We note that these guidelines were issued during New Zealand’s level 4 lockdown so, in our interpretation, are more than adequate for the current level 1 restrictions.

Finally, and more generally, the ASA’s requirement is that advertisements do not “undermine” health advice. There is no obligation for advertisers to depict all the recommended guidelines in their advertisements, for example, hand sanitising and using the COVID tracker app before entering a retail outlet.