

COMPLAINT NUMBER	21/095
APPEAL NUMBER	21/002
ADVERTISER	Victoria University of Wellington
APPLICANT	The Complainant
ITEM	Victoria University of Wellington Twitter Post
DATE OF MEETING	1 April 2021
OUTCOME	Appeal Declined Complaint No Jurisdiction

SUMMARY

The Chair of the Complaints Board ruled the Complaints Board did not have jurisdiction to consider a complaint made about a Twitter post for Victoria University of Wellington.

The Chair noted the Complainant's concerns the username "Te Herenga Waka – Wellington Uni@WellingtonUni" for the Victoria University of Wellington Twitter post was misleading.

The Complainant appealed the decision. The appeal application was considered by the Chairperson of the Appeal Board. The Chairperson said the appeal did not meet any of the five grounds for appeal. The Chairperson agreed with the Ruling by the Chair of the Complaints Board, that the Complaints Board did not have jurisdiction to consider the complaint.

The Chairperson said there were no grounds on which the appeal could proceed, and the application was declined.

Please note this headnote does not form part of the Decision.

CHAIRPERSON'S RULING

The Chairperson of the Appeal Board viewed the application for appeal. She noted there are five grounds upon which an appeal is able to proceed. These are listed at Clause 6.4 of the Second Schedule of the Advertising Standards Complaints Board Complaints Procedures and are as follows:

- (a) The proper procedures have not been followed.
- (b) There is new evidence of sufficient substance to affect the decision.
- (c) Evidence provided to the Complaints Board has been misinterpreted to the extent that it has affected the decision.
- (d) The decision is against the weight of evidence.
- (e) It is in the interests of natural justice that the matter be reheard.

The Chairperson reviewed the complaint, the Twitter post, the Ruling from the Chair of the Complaints Board, and the Complainant's appeal application.

The Chairperson confirmed the appeal process was confined to reviewing the issues raised in the complaint and assessing whether the Advertising Standards Code applies.

The Chairperson noted that in the Twitter post Victoria University of Wellington referred to itself as "Te Herenga Waka – Wellington Uni@WellingtonUni" and "Wellington Uni".

On appeal, the Complainant said: *'I would like to appeal on the basis that my complaint actually referred to the use of "Wellington Uni" beyond the account name as well...'* and that the Chair of the Complaints Board misunderstood the complaint. The Chairperson considered the grounds for appeal and whether the Chair had misinterpreted the complaint.

The Chairperson agreed with the Ruling by the Chair of the Complaints Board, that the Complaints Board did not have jurisdiction to consider the complaint.

The Chairperson said consideration of the name which an organisation uses to refer to itself, in external communications, is a matter of choice for the organisation concerned. It is not a matter for the Advertising Standards Authority. The same applies whether the reference is a Twitter account or other forms of external communication.

The Chairperson ruled there were no grounds on which the appeal could proceed, and the application was declined.

Chairperson's Ruling: Appeal application **Declined** Complaint **No Jurisdiction**

APPENDICES

1. Chair of the Complaints Board Decision:
No Grounds to Proceed Ruling
 2. Appeal Application
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Appendix 1

Chair of the Complaints Board Decision: No Jurisdiction Ruling

COMPLAINT NUMBER	21/095
ADVERTISER	Victoria University of Wellington
ADVERTISEMENT	Victoria University of Wellington Twitter
DATE OF MEETING	8 March 2021
OUTCOME	No Jurisdiction

Advertisement: The Twitter post for the username “Te Herenga Waka – Wellington Uni@WellingtonUni” said “WellingtonUni’s Professor Colin Simpson co-authored a study lead by @EdinburghUni that revealed the #COVID19 #vaccine is linked to a substantial reduction in hospital admissions”. The post was dated 23 February 2021.

The Chair ruled the Complaints Board did not have jurisdiction to consider the complaint.

Complaint: I make my complaint under 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.

The ad claims a researcher belongs to a university called "Wellington Uni", however:

- no such entity exists in a legal sense as listed in Schedule 13 of the Education Act 1989:
<https://www.legislation.govt.nz/act/public/1989/0080/latest/DLM187975.html>

- no such entity exists from a branding perspective for the university, as it was announced in 2019 that Victoria University of Wellington would remain the university’s name and that attempts to rename the university would cease, with the name "Victoria University of Wellington" remaining with simply more branding emphasis on the word Wellington:
<https://www.stuff.co.nz/national/education/114024643/victoria-university-of-wellington-changing-its-name-all-but-officially>

- no such colloquial usage of the term "Wellington Uni" exists, with the university social media accounts being the only entities that have used it in a way that isn’t sarcasm about its use

With the university’s social media accounts (and other digital platforms, such as their new website url wgtn.ac.nz) referring to a tertiary institution that doesn’t legally exist and isn’t

colloquially used, these adverts, breach the Advertising Standards Code 2(b) in several respects as they:

- Mislead people as to the university's legal or accepted name
- Deceive people as to the acceptance of the name they are pushing
- Confuse people by creating the impression the university has a new name or that the name has any level of popular acceptance, when it does not
- Abuses their trust, in that university's are meant to uphold high standards of communication, and that by pushing a name for the tertiary institution that doesn't exist, it is attempting to make people accept a name that was massively opposed (e.g. 13,000 people signed a petition opposing it, with submissions on the proposed name change in overwhelmingly opposing it)
<https://www.change.org/p/victoria-university-of-wellington-victoria-university-of-wellington-to-abandon-their-name-change-proposal>
- It exploits their lack of knowledge in that it is counting on that people don't know that the university's proposed name change was defeated
- Inaccuracy (Wellington Uni does not exist legally or colloquially)
- Ambiguity - it creates ambiguity around the name of the university
- False representation - See above, no institution called Wellington Uni exists either in law, through the university's branding (which refers to Victoria University of Wellington), or via colloquial usage

I ask the Advertising Standards Authority to not just look at this ad, but across Victoria University of Wellington's digital platforms and other advertising channels to ensure they are not breaching Truthful Representation elsewhere.

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

The Chair noted the Complainant's concerns the username "Te Herenga Waka – Wellington Uni@WellingtonUni" for the Victoria University of Wellington Twitter post was misleading.

The Chair noted that Twitter users often choose usernames which are different to their official names. The Chair said this matter was not covered by the Advertising Standards Code.

The Chair ruled the Complaints Board has no jurisdiction to consider the complaint.

Chair's Ruling: Complaint **No Jurisdiction**

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.

Appendix 2

APPEAL APPLICATION FROM COMPLAINANT

I would like to appeal on the basis that my complaint actually referred to the use of “Wellington Uni” beyond the account name as well, e.g you can see I mention that the text of the post itself referring to a researcher belonging to “Wellington Uni”, which as per my original complaint, does not exist as a legally recognised tertiary institution.

The Chair appears to have misunderstood my complaint as just being limited to the use of “Wellington Uni” in the account’s username, where as I included how the term “Wellington Uni” is being used within the material content of this ad (and many others since).

On that basis, the Authority does have grounds to consider the complaint and I look forward to this matter being considered. I am happy to discuss this further with the Chair if they need additional clarification.

FURTHER INFORMATION FROM COMPLAINANT

I would also add that if the university claims they’re using “WellingtonUni” to try and save on characters due to Twitter’s character limits in the body of their posts, “VicUniWgtrn”, which they used to use takes up only 10 characters, versus 13 for “WellingtonUni”, and only the former is an accepted abbreviation for a legally recognised tertiary institution.