

COMPLAINT NUMBER	21/306
ADVERTISER	New Zealand National Party
ADVERTISEMENT	New Zealand National Party, Facebook
DATE OF MEETING	21 June 2021
OUTCOME	No Grounds to Proceed

Advertisement: The New Zealand National Party Facebook advertisement is headed with the text “Need a ute of work? Labour will tax you to fund subsidies for wealthy people’s EVs.” The advertisement shows a picture of a ute beside the wording, “A \$2,780 Tax on a Tradie.” The advertisement then shows a luxury car with the wording, “To fund a \$8,625 subsidy on a millionaire’s EV.” The small print quotes the source of the tax and discount figure as being from NZTA and includes an authorisation statement.

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

Complaint: This concerns two specific advertisements by the New Zealand National Party in response to the Clean Car Package recently announced by the incumbent Labour Government. Two Facebook posts (which they appear to be doubling down on) make some rather unrealistic claims regarding this new policy.

The first post claims that this policy is a "car tax" which imposes "a \$2,780 tax on a tradie... ..to fund a \$8,625 subsidy on a millionaire’s EV".

The clear implication here is that only millionaires can afford to purchase an electric car. This claim is demonstrably false. This also leads people to believe that the rebates are only applicable to electric vehicles, something which is also not true, as fuel-efficient petrol models also receive rebates.

Further, the post omits the fact that only newly-registered (brand-new or imported used vehicles) are included in the clean car package - meaning that many excellent ex-lease and second-hand vehicles already on the market will attract neither a levy nor an incentive.

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.

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 concern the National Party advertisement is misleading and misrepresents Government’s proposed car tax.

The Chair confirmed the Advertiser’s identity as a political party and position was clear. The advertisement therefore met the criteria for advocacy advertising.

The Chair turned to the content of the Facebook advertisement and noted it presented the National Party’s opinion on the subject of a proposed car tax aimed at encouraging the uptake of electric vehicles.

The Chair confirmed it is important that political parties can freely communicate their policies and that opposition parties can critique those in Government. The Chair said this advertisement was the National Party critiquing the Labour Party’s clean car package by the hyperbolic use of a luxury example of an electric vehicle, which they label a “millionaires” car to make the political point those opposed to the policy are raising about the potential inequity of the subsidy scheme. The Chair said most consumers viewing this advertisement were unlikely to have the takeout that only millionaires can afford an electric vehicle.

The Chair noted the Complainant was also concerned the advertisement did not include information about vehicles other than electric models which could receive a rebate and omitted to mention the rebate was only for newly registered vehicles. The Chair said in the context of an advocacy advertisement there was no requirement for the Advertiser to present a balanced viewpoint by including information that did not support its political position.

The Chair said the placement of the advertisement on the National Party’s Facebook page meant that viewers were likely to have a political interest in what the opposition party has to say about the Government’s policies and an appreciation of the political stance a party’s own Facebook page was likely to present.

The Chair said the political advocacy advertisement was not in breach of Principle 2, Rule 2(b) or Rule 2(e) of the Advertising Standards Code.

The Chair ruled there were no grounds for the complaint 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.