

<b>COMPLAINT NUMBER</b>	21/307
<b>ADVERTISER</b>	ACT Party
<b>ADVERTISEMENT</b>	ACT Party Facebook
<b>DATE OF MEETING</b>	8 June 2021
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The Facebook post advertisement on David Seymour’s Facebook page showed an image of Marama Davidson (Green Party Co-Leader) and Willie Jackson (Minister for Maori Development) standing in front of an image of a Mongrel Mob gang patch. The Act Party logo is in the bottom right corner. The text says “...Yet another Government Minister has held secret meetings with gang members. Willie Jackson has met with Black Power in his Beehive office three times and with the Mongrel Mob in the Waikato once...”

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

**Complaint:** Image is misleading and suggests the MPS on the image are associated with the Mongrel Mob and that they are members

**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.

The Chair said the advertisement is an advocacy advertisement because it promotes the views of a political party.

### **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 confirmed the Advertiser’s identity and position on the issue was clear.

The Chair noted the Complainant’s concern the advertisement was misleading.

The Chair carefully reviewed the advertisement and said the likely consumer takeout of the advertisement was some Government Ministers have meet with gang members to korero.

The Chair said that while this advertisement suggests the two Ministers pictured have met with gang members, it was not likely that the consumer takeout would be that the Ministers themselves were gang members.

The Chair said the advertisement did not reach the threshold to be misleading.

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