

COMPLAINT NUMBER	21/316
ADVERTISER	Voices for Freedom
ADVERTISEMENT	Voices for Freedom Unaddressed Mail
DATE OF MEETING	20 July 2021
OUTCOME	Upheld in part Advertisement not to be further distributed

Summary of the Complaints Board Decision

The Complaints Board upheld in part complaints about a leaflet suggesting that significant information about COVID-19 was being censored. The Board said four statements made in the leaflet had not been adequately substantiated. The leaflet was published and distributed by Voices for Freedom.

Advertisement

The text in the Voices for Freedom leaflet included the following:

“ARE YOU FED UP WITH COVID YET? ... The harsh reality is that critical data and **facts are being censored countrywide** in an effort to prevent you from thinking for yourself... Discover the truth they don't want you to know...

Things that make you go Hmm...

1. SARS-CoV-2 isn't new – there is evidence it has been around since March 2019
2. There is no evidence that lockdowns work to reduce overall mortality in a population
3. We're not allowed to know if we've had Covid-19: Public SARS-CoV-2 antibody testing is banned in New Zealand
4. Asymptomatic people are not established to be significant transmitters of infection
5. The average age of death attributed to Covid-19 is higher than the regular average age of death
6. Typical mask wearing does not reduce SARS-CoV-2 infection rates (COVID-19)
7. The PCR test on its own is not an appropriate diagnostic tool for Covid-19
8. The Pfizer vaccine is experimental & has not been shown to stop you catching SARS-CoV-2 or passing it on to others
9. We've heard nothing about proven therapeutics. Why are our health authorities ignoring the science on vitamin D and Ivermectin?”

The leaflet had the Voices for Freedom logo, website and email contact details. The leaflet also had a disclaimer “The information on this leaflet is educational only and does not constitute medical or legal advice”.

Summary of the Complaint

There were four complaints about this advertisement. The Complainants were concerned:

- the advertisement contained false information which could not be substantiated.
- the information was scaremongering and preying on vulnerable people.
- it was damaging to the national vaccination programme.

Issues Raised:

- Social responsibility
- Fear and distress

- Health and well-being
- Truthful presentation
- Advocacy advertising

Summary of the Advertiser's Response

The Advertiser defended the advertisement and said each of the nine statements made in the leaflet were substantiated on their website at www.voicesforfreedom.co.nz/fed-up

The Advertiser said the Fed Up Leaflet was designed to

- encourage readers to think more deeply about masks and whether “mandatory” coverings on public transport and domestic flights is the right solution.
- Ask readers to think more deeply about the covid response with a list of facts for consideration, inviting them to “discover the truth”.

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(g) Fear and distress: Advertisements must not cause fear or distress without justification.

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 Complaints Board said the advertisement before it fell into the category of advocacy advertising and noted the requirements of Rule 2(e) of the Advertising Standards Code. This Rule required the identity of the advertiser to be clear; opinion to be distinguished from factual information and factual information must be able to be substantiated. The Advocacy Principles developed by the Complaints Board in previous decisions considered under Rule 11 of the Code of Ethics remain relevant. They say:

- 1 That section 14 of the Bill of Rights Act 1990, in granting the right of freedom of expression, allows advertisers to impart information and opinions but that in exercising that right what was factual information and what was opinion, should be clearly distinguishable.

2. That the right of freedom of expression as stated in section 14 is not absolute as there could be an infringement of other people's rights. Care should be taken to ensure that this does not occur.
3. That the Codes fetter the rights granted by section 14 to ensure there is fair play between all parties on controversial issues. Therefore, in advocacy advertising and particularly on political matters the spirit of the Code is more important than technical breaches. People have the right to express their views and this right should not be unduly or unreasonably restricted by Rules.
4. That robust debate in a democratic society is to be encouraged by the media and advertisers and that the Codes should be interpreted liberally to ensure fair play by the contestants.
5. That it is essential in all advocacy advertisements that the identity of the advertiser is clear.

Role of the ASA when considering an advocacy advertisement.

The Complaints Board noted its role is to consider the likely consumer takeout of an advertisement and complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

The Board considers whether the advertisement includes statements of fact or opinion and then decides whether any factual claims have been adequately substantiated by the Advertiser. The Complaints Board noted that a fact is something that is objectively true and can be verified as such whereas an opinion is a personal belief. Others may agree or disagree with an opinion, but they cannot prove or disprove it. Some statements contain both fact and opinion.

The Complaints Board observed that in a free and democratic society, issues should be openly debated without undue hindrance or interference from authorities such as the Complaints Board, and in no way should political parties, politicians, lobby groups or advocates be unnecessarily fettered by a technical or unduly strict interpretation of the rules and regulations.

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to a precedent decision, Decision 21/215 which was Upheld in part.

The full version of this decision can be found on the ASA website:

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

Decision 21/215 concerned a leaflet warning about the risks of the COVID-19 vaccine. The leaflet was published and distributed by Voices for Freedom. The Complaints Board agreed the advertisement had been adequately identified as an advocacy advertisement. The Board agreed the likely consumer takeout of the advertisement was the Advertiser is concerned there

are risks associated with the COVID-19 vaccine that consumers are not aware of. The leaflet included eight facts about the vaccine and links to more “Hard Vaccine Facts” and encouraged consumers to “learn the truth”. The Board confirmed that a wide audience may be reached by the leaflet given the breadth of distribution and that the COVID-19 Vaccine roll-out was relevant to all New Zealanders over 16 years of age. The Board said six of the eight facts in the leaflet had not been adequately substantiated and therefore the leaflet was misleading.

Complaints Board Discussion

The Chair noted that the Complaints Board’s role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: A nationwide roll-out of the COVID-19 vaccine in response to a global pandemic
 - Medium: Unaddressed mail to letterboxes
 - Audience: Adult New Zealanders
 - Product: An advocacy message about the COVID-19 vaccine

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was this is a view about COVID that isn’t the same as the Government’s, and people should check it out, to see what they think. In the Advertiser’s view, all the true information is not getting out to the public. The Complaints Board noted the advertisement had a disclaimer: “The information on this leaflet is educational only and does not constitute medical or legal advice”.

Was the identity and position of the Advertiser clearly stated and was any factual information able to be substantiated?

Identity

The Complaints Board agreed the advertisement had been adequately identified as an advocacy advertisement and the Advertiser’s identity was clear. The advertisement included the Voices for Freedom logo, website address www.voicesforfreedom.co.nz/info and an email address.

Position

The Advertiser’s position on the issue was also clear. The Advertiser, Voices for Freedom, had concerns the consumer had incomplete information about the COVID-19 pandemic and encouraged consumers to seek more information. The Complaints Board agreed the advertisement met the identity requirements of Rule 2(e) of the Advertising Standards Code and a more liberal interpretation of the Code applied.

Was any factual information substantiated?

The Complaints Board agreed that some of the factual information in the advertisement was not adequately substantiated by the Advertiser. Further detail about this is provided below.

Were any of the statements in the leaflet misleading?

The Complaints Board agreed four of the statements made in the advertisement were misleading, because they had not been adequately substantiated.

The Complaints Board considered each of the nine statements in turn. Where factual claims were made, the Board decided whether they had been adequately substantiated in the context of advocacy advertising. While a more liberal interpretation of the requirement for truthful presentation was provided for in advocacy advertising, statements presented as facts needed to be adequately supported.

1. SARS-CoV-2 isn't new – there is evidence it has been around since March 2019

The Complaints Board agreed this statement was presented as a fact, and it had been adequately substantiated. The Board noted the article provided by the Advertiser titled "Sentinel surveillance of SARS-CoV-2 in wastewater anticipates the occurrence of COVID-19 cases", which is available on the medRxiv website. It is an internet site distributing unpublished health research manuscripts. The article refers to tests on waste water in Barcelona.

2. There is no evidence that lockdowns work to reduce overall mortality in a population

The Complaints Board agreed this statement was presented as a fact, but it had not been adequately substantiated. The Board said it is difficult to prove that no evidence exists for something. The Board said the evidence provided by the Advertiser, an article titled "Opinion: Safety at all costs – costs lives" and the HART document titled "Covid-19 Response" were both opinion. The Board noted these opinions were based on evidence that had been gathered by the authors.

3. We're not allowed to know if we've had Covid-19: Public SARS-CoV-2 antibody testing is banned in New Zealand

The Complaints Board agreed the first part of this statement "We're not allowed to know if we've had Covid-19" was an opinion. The second part "Public SARS-CoV-2 antibody testing is banned in New Zealand" which was presented as a fact, had not been adequately substantiated. The Board said the substantiation provided showed SARS-CoV-2 antibody testing had not been "banned" as such, rather it must be authorised first, so that only approved testing methods can be used.

4. Asymptomatic people are not established to be significant transmitters of infection

The Complaints Board agreed this statement was presented as a fact, and it had been adequately substantiated. The Board noted the references provided by the Advertiser on the Centre for Disease Control and Prevention, the medRxiv and the Nature websites.

5. The average age of death attributed to Covid-19 is higher than the regular average age of death

The Complaints Board agreed this statement was presented as a fact, and it had been adequately substantiated. The Board noted the references provided by the Advertiser on a range of different websites, from around the world. The Board noted that it is commonly acknowledged that elderly people can be especially vulnerable to the effects of COVID-19.

6. Typical mask wearing does not reduce SARS-CoV-2 infection rates (COVID-19)

The Complaints Board agreed this statement was presented as a fact, and it had been adequately substantiated. The Board noted the references provided by the Advertiser on the American College of Physicians website. The Board also noted that while the link to this website did not appear to be working on the "ARE YOU FED UP WITH COVID YET? website, it was still available on another Voices for Freedom website: "WHAT'S ALL THE FUSS ABOUT MASKS?"

7. The PCR test on its own is not an appropriate diagnostic tool for Covid-19

The Complaints Board agreed this statement was presented as an opinion and therefore, in the context of an advocacy advertisement, did not need to be substantiated.

8. The Pfizer vaccine is experimental & has not been shown to stop you catching SARS-CoV-2 or passing it on to others

The Complaints Board considered this statement in two parts. The Board agreed the first part of this statement “The Pfizer vaccine is experimental” was presented as a fact, and it had not been adequately substantiated. The Board referred to precedent decision 21/215, which said: “The Board said the claim that all COVID – 19 vaccines are currently experimental had not therefore been substantiated, so was misleading and in breach of Rule 2(b) of the Code.” The Board noted that one of the links provided by the Advertiser, to evidence on the BMJ website, did not appear to be working. The Board noted the following statement on the New Zealand Ministry of Health website:

“The Pfizer vaccine (Comirnaty) has been provisionally approved (with conditions) for use in New Zealand. This means it’s been formally approved after a thorough assessment, but Pfizer must give Medsafe ongoing data and reporting to show that it meets international standards.”

The Board said the second part of this statement that it “has not been shown to stop you catching SARS-CoV-2 or passing it on to others” was presented as a fact, and it had been adequately substantiated. The Board noted that it is generally acknowledged that no vaccines are regarded as 100% effective and there have been reported cases of people who have had the vaccine passing COVID-19 on to others.

9. We’ve heard nothing about proven therapeutics. Why are our health authorities ignoring the science on vitamin D and Ivermectin?

The Complaints Board agreed this statement and question were presented as fact, but they had not been adequately substantiated. The Board said the likely consumer takeout of this question and statement together was: Vitamin D and Ivermectin are proven treatments for COVID-19, and their effectiveness has been hidden. The Board said none of the references provided by the Advertiser support this takeout.

Did the advertisement cause fear or distress without justification?

A majority of the Complaints Board said the advertisement did not reach the threshold to cause fear or distress without justification. The majority noted that under the Bill of Rights Act 1990 the Advertiser has the right to express an opinion providing they have met the conditions for an advocacy advertisement. In this case the Advertiser believes the expression of their opinion is justified, despite the level of fear or distress this may cause.

A minority disagreed. The minority said the advertisement did cause fear without justification. The minority said the misleading implication that the Government is withholding important information about COVID-19 could make some people unnecessarily fearful, and this was not justified. The minority said the level of fear created by this advertisement was enhanced in the context of the current global pandemic.

Was the advertisement prepared and placed with a due sense of social responsibility to consumers and society?

A majority of the Complaints Board said the advertisement had not been prepared and placed with a due sense of social responsibility to consumers and society. The majority said the wide distribution of a leaflet containing claims which had not been adequately substantiated, was not socially responsible.

A minority disagreed. The minority said the advertisement had been prepared and placed with a due sense of social responsibility to consumers and society. The minority said the Advertising Standards Code provides for the expression of diverse and at times controversial opinions, providing the identity and position of the Advertiser was clear.

Summary

The Complaints Board ruled the advertisement was misleading in part and was in breach of Principle 2 and Rule 2(b) of the Advertising Standards Code. The Board ruled the advertisement was also in breach of Rule 2(e) as although the Advertiser was identified, four of the statements in the advertisement had not been adequately substantiated.

A majority of the Complaints Board ruled the advertisement was also in breach of Principle 1 and not in breach of Rule 1(g) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Upheld in part**.

Advertisement not to be further distributed.

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.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT ONE

This brochure was placed in my letterbox during a neighbourhood wide drop. The 'information' on it is absolutely false and blatant scaremongering. The claims they make have been proven to be inaccurate and I do not believe this organisation should be distributing things like this at all let alone in people's letterboxes. I am very concerned that they are distributing misinformation to prey on vulnerable people and undermine the hard work of our country in controlling covid-19.

COMPLAINT TWO

Dropped in letterbox 19/5/21. "Facts" included are false. Emotional marketing used to manipulate people who are less informed. On arriving at website on using the QR code, top of page clearly shows items are for sale with an empty cart.

COMPLAINT THREE

This brochure advocates the misinformation and spreading of false data to the public, relating to the Covid-19 pandemic. A danger to New Zealand public health as well as the wider population of the world given the current global pandemic. They use buzz phrases such as "common sense detector", "countrywide censorship", and "REAL FACTS" are available on their website (knowing full well those aren't 'facts', merely made up propaganda to promote their own misinformation) On the back there are 10 statements, leading to force the receiver to view are facts, however all the claims are either false, unsubstantiated or both. As a current student in healthcare, i believe it is of utmost importance that this company be penalized for the spreading of and advocating the spread of misinformation. I am unsure as to how many of these brochures have been distributed, but i believe the company should be held liable for the spreading of misinformation about an ongoing global pandemic and fearmongering among the local public.

COMPLAINT FOUR

This is the second unsolicited brochure I've received (despite a NO CIRCULARS sign on my letterbox), with this one arriving today and the first arrived about a month ago. The content is disinformation - pure lies - and many people in the neighbourhood are easily misled. This is doing huge damage to our national vaccination effort

Appendix 2

RESPONSE FROM ADVERTISER, VOICES FOR FREEDOM

www.voicesforfreedom.co.nz/fed-up/

1. We understand the Advertising Standards Association ("**the ASA**") has received certain complaints annexed here concerning our "Are you Fed Up With Covid Yet?" Flyer ("**the Fed Up Flyer**").
2. The complaints have been accepted for consideration by the Advertising Standards Complaints Board ("**the Board**") and that the Board will make a

decision on the complaint with reference to your Advertising Standards Code (“**the Code**”).

3. We have been directed that the following sections of the Code are relevant to this complaint: Principle 1, Principle 2 – namely Rule 1(g), Rule 2(b) and Rule 2(e).
4. Finally, we understand that the Board does not have enforcement powers to sanction any advertiser/advertising but rather maintains relationships with various media and advertising outlets/distributors. It can approach them to ask for their cooperation in enforcing its rulings.
5. On the other hand, where advertising is carried out through other means, such as is the case with this flyer, the Board cannot enforce its own rulings, notwithstanding the various relationships maintained.

OVERVIEW

6. **The Fed Up Flyer is an educational publication.** Its publication and distribution provide a service to the public, assisting them as it does as part of their informed consent decision-making process by providing information they “probably haven't heard”.
7. Over 500,000 Fed Up Flyers have been printed and distributed throughout New Zealand at the time of writing. In this context, the number of complaints received to date (despite media reporting on the ability to complain, which effectively amounted to a nationwide call for further complaints) is very low.
8. Each of the nine facts set out on the Fed Up Flyer is backed up by information available to the public and which representative information is available through statements or via links on our website at www.VoicesForFreedom.co.nz and more specifically at www.voicesforfreedom.co.nz/fed-up/.
9. The Fed Up Flyer does not constitute a breach of the Code for above reasons and for reasons further elaborated upon below.

OUR RESPONSE SUMMARY

10. For ease of reference, we set out here a summary of our responses as grouped, according to the various parts of the Code that you have advised are relevant.
 - a. **The Fed Up Flyer does not cause fear or distress without justification. [Principle 1: Rule 1(g)].** The Fed Up Flyer is designed to engage readers to think more deeply about mask wearing with a list of facts for consideration and asking them to consider whether “mandatory” coverings on public transport and domestic flights are “the right solution”. Any feelings as referenced are justified given the importance of ensuring that people are fully informed and educated to make a fully informed decision about an irreversible medical procedure.
 - b. **The Fed Up Flyer does not mislead, nor is it likely to mislead, deceive or confuse consumers, nor abuse their trust or exploit their lack of knowledge. [Principle 2: Rule 2(b)]** It is not an objective of the Fed Up Flyer to provide a “balanced reporting overview of the

pros and cons of the Covid-19 vaccine". As clearly stated on the Flyer, it's about asking them to think more deeply about the covid response with a list of facts for consideration and inviting them to "discover the truth".

The Fed Up Flyer does not have space to print every single URL to references for claims made, and nor would this be a satisfactory solution in any case. Instead, the Flyer features a large QR code that takes the reader to the claims' source. There is also a link provided www.voicesforfreedom.co.nz/fed-up/ which likewise takes the reader to the reference materials.

- c. **We stand by the validity of the references we have provided.** In addition we draw your attention to the blog post¹ www.covidreferenceguide.com/why-helen-petousis-harris-is-wrong one of many blog posts written independently of Voices for Freedom responding to claims to have "debunked" our Covid Fact Flyers.
- d. **Our identity and position has been clearly stated on the Fed Up Flyer along with our contact details. [Principle 2: Rule 2(e)].** The flyer contains a series of factual statements, and all facts are substantiated as set out in this letter.

PRINCIPLE 1: RULE 1(g)

- 11. Principle 1: Rule 1(g) states that:

Advertisements must not cause fear or distress without justification.

- 12. The Fed Up Flyer does not cause fear or distress without justification for the reasons set out in this section and elsewhere in this letter.
- 13. The Fed Up Flyer is designed to engage readers to think more deeply about masks. It provides education to the public about known and possible risks associated with mask wearing and a list of facts for consideration more deeply about mask wearing with a list of facts for consideration and asking them to consider whether "mandatory" coverings on public transport and domestic flights are "the right solution.
- 14. We recognise that the information may be challenging for some people. However, were the emotions referenced in the Rule attributed to the Fed Up Flyer, the importance of ensuring that people are fully informed and educated to make a fully informed decision about an important medical procedure would justify these emotions.

PRINCIPLE 2: RULE 2 (b)

- 1. Principle 2: Rule 2(b) states that:
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,

¹ <https://www.covidreferenceguide.com/why-helen-petousis-harris-is-wrong>

unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

2. The Fed Up Flyer does **not** mislead, nor is it likely to mislead, deceive or confuse consumers, nor abuse their trust or exploit their lack of knowledge.
3. It states clearly that "we believe in backing up our claims" and contains a simple method to access the information backing up the claims.
4. There is not the space to print every single URL to references for claims made and nor would this be a satisfactory solution in any case as the links to the information in many cases are long and complex. The only practical way to provide access to them is online.
5. To this end, we made every effort to make it as easy as possible to view those references by including a large QR code on the Fed Up Flyer, which takes the reader to the source of the claims made. There is also a link provided www.voicesforfreedom.co.nz/fed-up/ which likewise takes the reader to the reference materials.
6. This is all very reasonable and follows the usual practice in terms of making references easily accessible. Readers can click on the QR code or manually type in the Voices For Freedom URL details to ascertain the sources provided.
7. Thus, it is clear there is no intention to mislead, deceive or confuse the public, abuse their trust or exploit their lack of knowledge.

CONCLUSION

8. The information we provide is never in the news, media or government promotions. The public is not exposed to a balanced conversation, pros and cons, the big picture of risks, potential risks, or any other vaccine limitations.
9. There is no full and transparent information from the authorities or media to ensure a genuine informed consent process. We consider it an indictment on the system that a grassroots movement such as Voices for Freedom has had to take up that charge independently.
10. It is clear from the complaint that receiving this information has been new and challenging for some recipients. We note that complainants say that they believe the information is "disinformation", "false information" and "false claims". Yet, every statement in the flyers is backed up. In many cases, directly from government sources, including the NZ government.
11. At Voices for Freedom, we welcome rigorous debate and respectful, bold conversations. Only when information about all of the potential risks is widely available can we have an open discussion about the Covid response including the covid vaccine and more generally the covid response as a whole (lockdowns, social distancing, mask wearing, contract tracing etc).
12. Many people are rushing to comply without access to all the information. NZ law requires that individuals are provided with the information they need to

make a fully informed choice.² Without full robust dialogue, that cannot happen.

²<https://www.hdc.org.nz/your-rights/about-the-code/code-of-health-and-disability-services-consumers-rights/>