

COMPLAINT NUMBER	21/411
ADVERTISER	Energy Efficiency and Conservation Authority
ADVERTISEMENT	Energy Efficiency and Conservation Authority, Television
DATE OF MEETING	2 August 2021
OUTCOME	No Grounds to Proceed

Advertisement: The Energy Efficiency and Conservation Authority (EECA) television advertisement encourages individuals to make smarter choices about their energy use and to "say no to wasted energy". The advertisement depicts a man participating in a protest march on climate change. He then turns around and begins walking back through the crowd after realising that he can have "the exact same effect" through individual action, by giving up things he wastes energy on that he does not enjoy. The advertisement finishes by showing the text "GENLESS" and "live more with less energy" on a white screen. The "EECA" logo is visible in the bottom righthand corner.

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

Complaint: The advertisement in question depicts a climate protest march and a speaker who talks directly to the camera about energy efficiency. Midway through the advertisement the speaker turns and walks backwards through the march, a visual metaphor for repudiation of the march and its goals. Rather than continuing to advocate for large structural changes that will ameliorate climate change, the speaker suggests that individual consumers of energy make better choices in their day to day lives.

EECA has breached the code in two ways.

1. EECA is a Crown entity created by the Energy Efficiency and Conservation Act 2000, and is therefore a part of the New Zealand Government. It is not sufficiently clear from the advertisement that the person trying to persuade people not to protest in favour of structural change to avoid climate catastrophes is the New Zealand Government. The idea of a Government agency advocating for citizens to refrain from protest is extraordinary, but it is even more surprising that the Government has not made its part in this advertisement clear. This is a breach of rule 2(e).
2. Incremental individual action of the kind advocated for by EECA in the advertisement cannot avoid climate change. The claims made by EECA are irresponsible and breach rule 2(h).

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b), Rule 2(e), Rule 2(h).

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.

Rule 2(h) Environmental Claims: Environmental claims must be accurate and able to be substantiated by evidence that reflects scientific and technological developments.

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 advertisement does not make it clear the Advertiser is a government agency. The Complainant is also concerned the advertisement is misleading to imply individual action can avert climate change.

The Chair said the advocacy advertisement provided details at the end stating "GENLESS" and including the EECA logo. The Chair said EECA had broadcast a number of advertisements and it was likely that most consumers would know their identity. The Chair confirmed the Advertiser's identity was sufficiently clear and the advertisement complied with the identity requirements of Rule 2(e) of the Advertising Standards Code.

The Chair said the position of the Advertiser was also clear. The advertisement ended with the tagline "Live more with less energy." The Chair said it was a motivational advertisement advocating for individual Kiwis to make small changes at the grass root level, by eliminating activities which they do not want to do anyway.

The Chair did not consider the Complainant's takeout that the advertisement was trying to persuade people not to protest or commit to more substantial climate change initiatives. would be the likely takeout for most consumers. The Chair noted the man in the

advertisement is seen high-fiving one of the protesters and passing his sign to someone else to continue the protest. The Chair said the narrative is advocating that many different types of actions are required to address climate change including individuals making better energy decisions in their day to day lives.

The Chair said the advocacy advertisement did not breach Principle 2, or Rules 2(b), 2(e) and 2(h) 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.