

COMPLAINT NUMBER	21/503
ADVERTISER	Ministry of Health
ADVERTISEMENT	Unite Against COVID-19, Radio
DATE OF MEETING	1 November 2021
OUTCOME	No Grounds to Proceed

Advertisement: The Ministry of Health radio advertisement promotes the COVID-19 vaccine. The advertisement states that the Government has a new stage in the COVID-19 response plan, but "to get there, at least 90 per cent of eligible people across New Zealand need to get fully vaccinated". The advertisement states that full vaccination will be required for "guaranteed access to sports events, bars, and restaurants". It ends by calling listeners to "get vaccinated today" and to visit "covid19.govt.nz" for their nearest walk-in vaccination centre.

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

Complaint: I am writing again to complain of a new, deeply offensive advertising campaign by the government. I heard this on "The Sound" at 3 pm on 25 October 2021 and I have heard it on other stations as well.

In this inappropriate government advertisement, the insipid, saccharin female voice is now replaced by a soul-less kiwi bloke voice providing the following erroneous assumptions and misleading information:

1. There is an errant assumption that kiwis have not been "doing what they love" because they are deficient in a quantity of an experimental bio-weapon being errantly peddled as a "safe and effective" vaccine. The only reason kiwis have not been doing what they love is the fear and incitement to mass hysteria from our state run media and draconian inappropriate government policies imposed by our Pfizer Nanny in chief who has reduced us to infants playing a "stop light" or "good children get a lolly" game. This ridiculous behaviour is a complete insult to any reasonable adult.

2. In violation of NZBORA, the Nuremberg Code, and the UN Declaration on Human rights, (all settled law) the government is threatening to restrict our freedoms of movement, association, education, and commerce if we do not accept the jab. This is an ultimatum and not a choice. The government is acting illegally and it is inappropriate for them to be able to push this propaganda upon the unsuspecting public via such advertising. They are creating incitement to violence and social discord with hate speech and social apartheid against the unvaccinated. It is not acceptable for this illegal behaviour to be promoted in public advertising. It offends our democracy.

3. Not only does this "kind" government seek to deprive us of our freedom if we make an informed, private health care choice, the ad states they will "reward" their obedient infants with an "implied guarantee" that they will be very special indeed and have their freedoms restored and get to do things that others can't do (a lolly). We need only look at Israel, the most jabbed nation on the planet, to see that this is not what the government has in mind. The implied "guarantee" is a total mirage. Since the vaccine is unsafe and ineffective based

on current science, there is no basis for a vaccine passport that perpetually ties human freedom to compliance with a jab. Israelis have had their "passports revoked" if they didn't have a 3rd or 4th jab. This government will be creating onerous debt on our behalf for a virus that has less risk than the seasonal flu and which is highly treatable with available medicines. There is no Covid emergency and these measures cannot be justified any further. They must cease and desist and the government advertising for this dangerous product must stop.

4. The government's vaccine ultimatum is not supported by science. They are misinforming the public. The European J of Epidemiology has just released an article from over 68 countries which shows no difference in transmission or outcomes between the "jabbed vs unjabbed". "Increases in COVID-19 are unrelated to levels of vaccination across 68 countries and 2947 counties in the United States" (pubmed central 8481107). This article demonstrates that there is no scientific public health basis for continuing the vaccine roll out.

5. If our kind government wished to protect people, they would make sure people were taking vitamin D and had a pack of ivermectin, zinc and doxycycline or hydroxychloroquine. Instead they have suppressed and censored this treatment information, just as they are censoring information on injuries and deaths related to the jab (and keeping people from making an informed choice, also in violation of all established principles of medical ethics).

6. There is no scientific evidence that a 90% vaccination rate (as the advert calls for) will accomplish anything except more vaccination injuries and deaths. The goal is arbitrary and capricious, not scientifically based. It will not make us "safe". This is a ridiculous assumption and statement. It raises dire concerns that our government's agenda is not about the health and wellbeing of the NZ public.

Thank you for your attention to these concerns about the "next phase" of government propaganda in advertising.

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 under the Advertising Standards Code

The Chair confirmed the advertisement from the New Zealand Government on matters relating to the COVID-19 vaccination programme was advocacy advertising under the Advertising Standards Code.

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.

The Chair observed that in a free and democratic society, issues should be openly debated without undue hindrance or interference from authorities such as the Advertising Standards Authority (ASA), and it should not unduly restrict the Government’s role in communicating public health information to the public.

Complainants sometimes ask the ASA to in effect decide which side in an advocacy debate is correct, but the Advertising Standards Complaints Board has consistently declined to have a view. The ASA is not an arbiter of scientific fact. The Complaints Board’s only role is to determine whether there has been a breach of the ASA Codes taking into account the Advocacy Principles. In the first instance the Chair’s role is to decide if there are any grounds for the complaint to proceed.

Under Rule 2(e) Advocacy advertising in 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.

Application of the identity requirements of the Advertising Standards Code

The Chair confirmed the Advertiser’s identity was clear. The end of the advertisement provided a Government website, covid19.govt.nz, for people to find a nearby vaccination centre. The position of the Advertiser was also clear. It is an advertisement to promote vaccination to eligible people in New Zealand. The Chair said the advertisement complied with the identity requirements of Rule 2(e) of the Advertising Standards Code.

The Chair noted the advertisement was from the New Zealand Government. The Chair confirmed the agencies supporting the Government’s COVID-19 approach included the Ministry of Health, an expert body with regard to its statutory role relating to public health matters. The role and jurisdiction of the ASA in advertising from expert bodies was addressed in *Electoral Commission v Cameron* [1997] 2 NZLR 421. In accordance with the findings of the Court of Appeal, the Advertising Standards Authority was required to “tread carefully” and ensure that it did not substitute its opinion for that of the expert body.

Application of the Advertising Standards Code to this advocacy advertisement

In reviewing the complaint about this advertisement, the Chair took into account the role of advocacy advertising, the liberal interpretation of the Codes required by the [Advocacy Principles](#), the application of Cameron, the likely consumer takeout, and the context for the advertising; the New Zealand Government’s response to the COVID-19 pandemic with an audience of all New Zealanders. The Chair also noted the large amount of information available from a variety of sources about COVID-19, including the Government, the science community, news media and interest groups.

The Chair noted the Complainant’s concerns that the advertisement is “propaganda” and contains misleading information about the reason for restrictions, the “implied guarantee” of freedom, the efficacy of the vaccine, other forms of treatment, and the value of a 90% vaccination rate.

The Chair said that the advertisement is designed to inform people about the next step in the Government's COVID-19 response plan. It encourages people to get vaccinated so the population can reach the goal of a 90% vaccination rate across New Zealand.

Is the advertisement likely to mislead or deceive most consumers?

Advertisement claim: "Let's get back to doing the things we love".

The Chair noted the Complainant's concern that the advertisement implies people had not been "doing things [they] love" due to COVID-19 when this was due to the Government-mandated lockdowns and restrictions. The Chair said the phrase referred to activities that were freely available prior to the pandemic and the restrictions in place as part of the Government response. She did not consider the statement was misleading.

Advertisement claim: "Under the new framework, you'll be freer to move and live safely with less disruption".

The Chair noted the Complainant's concern that the "freedom" once vaccinated, as implied by the advertisement, is not guaranteed. The Chair said the statement was factual and based on the Government's new COVID-19 Protection Framework. She noted the Framework introduces the use of vaccination passports. It signals a move away from alert levels and lockdowns and aims to provide people with more certainty on rules depending on whether people are vaccinated or not. The Chair considered the statement was a summary of the policy and not misleading.

Advertisement claim: "To get there, at least 90 per cent of eligible people across New Zealand need to get fully vaccinated".

The Chair considered the Complainant's concern that a 90 per cent vaccination rate is not based on scientific evidence and will not provide safety against COVID-19. She said that this was a concern with the Government's policy, and not with the representation of information in the advertisement. She reiterated the statement was reflective of the Government's new COVID-19 Protection Framework.

The Chair then considered Complainant's concern about the efficacy of the vaccine and the lack of information about alternative treatment. The Chair referred to a precedent Decision, 21/283 about an earlier advertisement from the Government in the Unite Against Covid-19 campaign. This Decision said in part:

The vaccine referred to in the advertising had received approval from Medsafe, the Government regulator for prescription medicines. The Chair noted the Datasheet which sets out all the relevant information for the vaccine, under Medsafe's approval process is available on the Medsafe website.

The Chair noted that there was no onus on the Government to provide information about alternative treatment in an advocacy advertisement.

Having carefully reviewed the advertisement and complaint, the Chair said the advertisement was not misleading when viewed through the lens of an advocacy advertisement. The Chair ruled the advertisement was not in breach Principle 2, or 2(b) or 2(e) of the Advertising Standards Code.

The Chair ruled that there were no grounds 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 with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.