

<b>COMPLAINT NUMBER</b>	21/381
<b>ADVERTISER</b>	Orcon
<b>ADVERTISEMENT</b>	Orcon Print and Website
<b>DATE OF MEETING</b>	2 November 2021
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The jacket advertisement for Orcon in the NZ Herald shows a text box in the middle of the page against a background of purple striped diagonal lines. The text box states "A Level Free Announcement", and underneath, "Turn the page to see how we're helping small businesses". The Orcon logo is shown below.

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

There were two Complaints about this advertisement.

**Complaint:** This advertisement deliberately plays on the Health Ministry's covid branding. The layout of the add takes advantage of the heightened covid awareness (caused by the Health Ministry's branding). Given we are in a time of stress and strain due to the pandemic, its related health issues, and the importance of the lock down with supporting preventive approaches, the ad lands as in poor taste, if not reprehensible. Further, it degrades the Government's covid messaging efficacy Cf. The boy who cried wolf attribution error followed by message rejection

**Complaint 2:** Use of stripes and "level free" to reference covid announcement seems inappropriate and in poor taste. Change of colour only

**The relevant provisions were Advertising Standards Code - Principle 1, Principle 2, Rule 1(g), Rule 2(b)**

**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.

**The Chair** noted the Complainants were concerned the advertisement was too similar to Government COVID-19 branding.

The Chair carefully reviewed the advertisement and said the various design features of the advertisement were similar to that used by the Ministry of Health's COVID-19 branding, however the Government design included yellow and white stripes, which set it apart from the purple stripes used in the Orcon advertisement.

While the Chair said there were some common elements, she did not consider the advertisement's design was similar enough to the official COVID-19 branding to be likely to mislead or confuse consumers.

The Chair said the advertisement was not in breach of Principle 1, Rule 1(g) and Principle 2 or Rule 2(b) of the Advertising 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 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.