

COMPLAINT NUMBER	21/454
ADVERTISER	KiwiRail
ADVERTISEMENT	Regional Freight Hub, Digital Marketing
DATE OF MEETING	15 November 2021
OUTCOME	No Jurisdiction

Advertisement: The KiwiRail material relates to the development of the Regional Freight Hub in the Manawatū district.

The double-sided Rail Hub flyer shows a mapped diagram of the preferred site, invites feedback, highlights features such as “more than 100ha”, “links all markets... to rail services”, “designed to accomodate... 1500 metre trains”, and outlines the long-term vision of the rail hub. The flyer includes stylised images of the new freight hub in action.

The project web page on the KiwiRail website provides information on the project such as the current stage, the rationale, benefits, and progress. The web page contains an updated site map and links for further information, reports and plans.

The Chair ruled that the Complaints Board did not have jurisdiction to consider the complaint.

Complaint: “Information and reports made public via the Manawatu Standard and the Stuff, KiwiRail and PNCC websites, and various other platforms regarding KiwiRail’s proposed Rail Hub for Palmerston North are misleading because they contain significant inaccuracies, subjective claims and ambiguities. By law, KiwiRail needed to advertise their intentions for the project to be sited between Palmerston North and Bunnythorpe. The expectation is that KiwiRail would advertise its intentions with a high level of integrity and transparency. The inherent risk in this process is that many people will rely heavily upon media stories that are based wholly upon KiwiRail’s media releases. The problem is that KiwiRail’s medial releases have been hyped-up to include contentious claims based on highly subjective summaries, distorted data, sweeping assumptions and information blind spots. Those who would be most adversely affected by the freight hub have been consciously and systemically marginalised, with any significant social, environmental and economic questions either lightly dismissed or conspicuously ignored. In doing so, KiwiRail is undermining the local community’s trust in its communications and thereby in the integrity of the staff and the organisation – contrary to one of KiwiRail’s principal objectives as a State-Owned Enterprise. I hereby wish to make a formal complaint that the highly adversarial and distorted representation of facts circulated by KiwiRail in favour of the proposal are highly misleading...”

The Chair acknowledged the concerns of the Complainant, however she said that the material was not an advertisement for the purposes of the Advertising Standards Code.

The Chair looked at the material sent by the Complainant: the Rail Hub flyer, Acoustic Assessment report, Landscape plans, public presentation slides and other information on the Regional Freight Hub project website. She noted that the material forms the basis of the

planning documentation for the new intermodal rail and freight hub in the region and that due to the size and scope of the project, it was subject to public consultation. She considered that the purpose of the material is to communicate information for the design, consultation and designation process, and confirmed it was not subject to the Advertising Standards Code.

The Chair also considered a precedent decision, 20/278 which related to a consultation pack and letter sent to landowners and tenants living near the Pirongia Forest Park.

That decision said in part:

“The Chair said the item before her was provided as part of a consultation process with affected landowners and tenants about an aerial 1080 operation. This consultation was a requirement under relevant Government regulations and is not subject to the Advertising Standards Code.”

After carefully examining the material relating to the development of the Regional Freight Hub, the Chair ruled that the Complaints Board has no jurisdiction to consider the complaint.

Chair’s Ruling: Complaint **No Jurisdiction**

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.