

COMPLAINT NUMBER	22/002
ADVERTISER	Department of Prime Minister and Cabinet
ADVERTISEMENT	Department of Prime Minister and Cabinet Radio
DATE OF MEETING	17 January 2022
OUTCOME	No Grounds to Proceed

Advertisement: The Department of the Prime Minister and Cabinet 30-second radio advertisement features "Steve", a Stevedore Foreman for the Lyttelton Port Company. Steve states that he is "proud" to be vaccinated and gives his reasoning for doing so. The advertisement ends with a female speaker who provides a contact number and website for people to consult about vaccination.

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

There were three complaints about this advertisement:

Complaint 1: The radio ad is played often and it is to promote getting vaccinated. The Man says he has a 4yr old grandchild at home and he want to make sure he does not take "anything" home.

1. What is the "anything"?

2. If it is Covid virus which the ad is all about then that is false information. Vaccinated people can also get and transmit the virus. This is false information and imply that if you are vaccinated you cannot get or transmit the virus.

Complaint 2: At just after 2pm on More FM on the 7th of January 2022 I listened to a radio advertisement stating that I am double vaccinated for my grand child who is living at home so I can protect her. Two things that are completely un true. Being double vaccinated is no guarantee that you wont take the virus home as fully vaccinated people can still catch and transmit Covid 19 to there loved ones and especially there elderly or immune compromised family members. This is stated in a MOH publication and also file attached Secondly the children in your family have next to zero health risks from Covid 19 as hundreds of international studies have shown and they are more likely to suffer long term side effects from actually having the vaccine.

Complaint 3: 2. On 3 January 2022 at approximately 11:50 on Rhema, there was an add from Steve the Stevador who risked his life to take the jab in order to "protect his 4 year old grand daughter". This is completely false and misleading because his 4 year old granddaughter had virtually no risk of serious illness from Covid-19. No democratic society has ever forced jabs in one population to protect another. This logic is like my taking a birth control pill to keep you from getting pregnant. It is what wrong-headed, communist, totalitarian governments do. This government should cease and decist in its Covid vaccine roll out. They are harming and killing people with this jab, but they are too proud and arrogant (or uncaring and greedy) to stop. Their advertising should be permanently shut down due to multiple and repeated offenses.

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

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

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 advertisement included logos for the New Zealand Government and the Unite against COVID-19 seen throughout the pandemic response. The position of the Advertiser was also clear. The advertisement promotes the COVID-19 vaccination rollout. 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 Department for the Prime Minister and Cabinet and the Ministry of Health. 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 Complainants' concerns the advertisement implies if you are vaccinated you cannot pass on the Covid virus and that Covid-19 poses a significant health risk to children.

The Chair said the likely consumer takeout of the advertisement was it promoted the Government's rollout of the COVID-19 vaccination campaign and encouraged the population to book in for vaccinations to help protect themselves and those around them.

The Chair deferred to the Ministry of Health as an expert body and noted the following information from the Ministry of Health website:

"Getting vaccinated means you are far less likely to get really sick and have to go to hospital if you catch COVID-19. You are also less likely to pass COVID-19 on to other people."

"The Pfizer vaccine (Comirnaty) is effective at reducing the number of people who get COVID-19.

It's harder to find out how well the vaccine stops people passing on (transmitting) the COVID-19 virus. Recent studies show that the Pfizer vaccine can reduce transmission of the virus. These studies looked at the number of people infected with COVID-19 after they'd been vaccinated and their close contacts...

COVID-19 generally has mild effects in children and is rarely severe or fatal. Children and who have COVID-19 will commonly have no symptoms or only mild respiratory symptoms – similar to a cold. However, some can become very sick and require hospitalisation. Rare complications can include Multisystem Inflammatory

Syndrome (MIS-C) that may require intensive care. Children can also suffer long-term side effects (known as long COVID), even after mild cases of COVID-19.

Like adults, if your tamariki are infected with COVID-19 they may transmit the virus to other people. Immunising tamariki helps protect whānau members whose health makes them more vulnerable to COVID-19.

[COVID-19 vaccines and their effect on viral transmission \(PDF, 257 KB\)](#)"

The Chair said the advertisement was not misleading and had been prepared and placed with a due sense of social responsibility. The Chair ruled the advertisement was not in breach of Principle 1, Principle 2 or Rules 2(b) and 2(e) of the Advertising Standards Code.

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.