

<b>COMPLAINT NUMBER</b>	22/008
<b>ADVERTISER</b>	Department of Prime Minister and Cabinet
<b>ADVERTISEMENT</b>	Unite Against COVID-19, Television
<b>DATE OF MEETING</b>	17 January 2022
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The Department of the Prime Minister and Cabinet 15-second television advertisement features a young man who states he decided to get vaccinated against COVID-19 because it is about our communities and families and he wants to help protect his elderly grandmother who he lives with. The advertisement ends with a female voiceover who states, "help protect the people you love. Visit BookMyVaccine.nz." The details are also shown on screen, with the New Zealand Government and Unite against COVID-19 logos in the bottom left and right-hand corners.

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

**Complaint 1:** Covid 19 vaccination advertisement claiming getting the vaccine will protect others/people you love

This is false advertising as research clearly shows the vaccine only offers individual benefits of potentially decreasing severity of infection. It has no group benefit as claimed by the advertisement as it neither prevents infection nor transmission of the virus. The MOH states that high vaccination rates mean transmission by the vaccinated.

This is misleading information and misinforming the public about what the vaccine does. Please correct your mistake.

**Complaint 2:** Advert states that getting a covid vaccine will protect others especially in you household family .which is misleading and false as it is proven that most Covid cases are transmitted between family.and on the home and the vaccine dose not protect others form contracting the virus ..also a racist advert aimed to get the samosa community to take a a vaccine to protect there elders and again this does not do that

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

**Rule 1(c) Decency and Offensiveness:** Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

**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. 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 were concerned the advertisement was misleading about transmission rates for COVID-19. One Complainant was also concerned the advertisement was racist to target a specific ethnicity.

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, and young people in particular, to book in for a vaccination to protect themselves and those around them.

The Chair noted the Complainants considered the advertisement was misleading to say the booster was the best way to protect communities and families as vaccinated people can still transmit the virus. 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 vaccines and their effect on viral transmission \(PDF, 257 KB\)](#)"

The Chair noted one Complainant was concerned the advertisement was racist to focus on a particular ethnicity. The Chair said that throughout the pandemic there had been advertisements from the Government targeting particular parts of the New Zealand population and the Advertiser was entitled to direct its message toward different communities to reach that particular audience.

Rule 1(c) of the Advertising Standards Code required the Chair to consider whether the call to action from the Government to certain groups within the community was likely to cause serious or widespread offence in light of generally prevailing community standards. The Chair said the advertisement was not likely to cause serious or widespread offensive, taking into

account context, medium, audience and product. The Chair said the advertisement was not in breach of Rule 1(c) of the Advertising Standards Code.

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 1(c), 2(b) and 2(e) of the Advertising Standards Code.

**Chair's Ruling:** Complaints **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.