

COMPLAINT NUMBER	22/013
ADVERTISER	Ministry of Health
ADVERTISEMENT	Unite Against COVID-19, Website pamphlet
DATE OF MEETING	25 January 2022
OUTCOME	No Grounds to Proceed

Advertisement: The Ministry of Health pamphlet, accessed digitally on the covid19.govt.nz website, is titled "COVID-19 vaccine Pregnancy & breastfeeding". The 6-page pamphlet includes information about getting the COVID-19 vaccine if you are pregnant, breastfeeding or trying for a baby. It also provides information about the approval process of the vaccine and vaccine side effects. The pamphlet provides a website URL for more information as well as a URL and phone number to book a vaccination appointment. The logos for the New Zealand Government, Unite against COVID-19 and the Ministry of Health are shown along the bottom of page 6.

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

Complaint: This, (and the other ads produced by the NZ Govt and aired on social media, TV and radio) are completely misleading! They mention none of the serious (and listed side effects of the vaccine (as per listed in Medsafes own site documents) they do NOT warn of the risk of miscarriage, heart issues, premature births, still births on any of the other adverse events of vaccinations. This is NOT informed consent, it is completely negligent by blatantly omitting the serious side effects as listed by both Pfizer and Medsafe and acknowledged by the medical offices around the world. This ad (and all the others) declaring that the only way to protect yourself and particularly aimed at children are willfully suppressing information needed to make an informed decision. https://www.youtube.com/watch?v=O_Soj97CVUs another ad all over the radios indicates you will have no freedoms without "2 shots" and is listing things you do not need a vaccine passport for under any level obviously being aimed at coercing younger people to get vaccinated to be allowed any freedoms without informing them of any KNOWN side effects to the vaccination or even leading them to any information about potential side effects. This is complete emotional manipulation without any credible information on the possible negative effects of following this advise. This is negligent, misleading and criminal.

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 online pamphlet appears on the covid19.govt.nz website used throughout the pandemic response. It contains the logos of the New Zealand Government and the Ministry of Health. The position of the Advertiser was also clear. The advertisement promotes the importance of vaccinations for pregnant or breastfeeding people. 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 Complainant was concerned the advertisement did not include serious side effects related to the vaccine.

The Chair noted the Ministry of Health’s statement in the advertisement that “Data shows no evidence that the vaccine is associated with an increased risk of miscarriage during pregnancy and no additional safety concerns have been raised.”

The Chair noted the Advertiser had listed known side effects from having the vaccine such as headaches, feeling tired or feverish.

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

<https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-vaccines/covid-19-vaccine-health-advice/covid-19-vaccine-pregnancy-and-breastfeeding>

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.

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. 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.