

COMPLAINT NUMBER	21/563
ADVERTISER	The Chinese Consulate
ADVERTISEMENT	The Taiwan Question, Newspaper
DATE OF MEETING	15 February 2022
OUTCOME	Not Upheld
	No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a newspaper advertisement from the Chinese Consul General. The Complaints Board said the political advocacy advertisement was clearly presented as the Consul General's view and consumers would read the statements in that context. The advertisement did not breach the Advertising Standards Code.

Advertisement

The Chinese Consul General advertisement which appeared in The Christchurch Star is headed, "The Taiwan Question: Past, Present and Future". The advertisement explains the Chinese government's position on the "Taiwan question" - the policies of "peaceful reunification" and "one country, two systems" and the relevance in the current political climate. The advertisement includes a statement that the advertisement has been paid for by the Chinese Consulate along a banner at the bottom of the advertisement.

Summary of the Complaint

The Complainant is concerned the advertisement "is riddled with false statements that are presented as facts, and deliberately misleading statements that are designed to conflate disparate ideas and confuse readers." The Complainant said the advertisement demonises Taiwanese people by calling them "separatists" and other labels which are offensive.

Issues Raised:

- Social Responsibility
- Truthful Presentation
- Decency and Offensiveness
- Advocacy Advertising

Summary of the Advertiser's Response

In their response the Advertiser advised it would not respond to the complaint. They said they had a totally different understanding from the Complainant's position that Taiwan is a country.

Summary of the Media Response

Star Media said that as a publisher it is important that they do not create barriers to any organisation regarding free speech. The Media noted the ASA has ruled that three previous advertisements from the Advertiser had not breached ASA codes.

Relevant ASA Codes of Practice

The Acting Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

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

The Complaints Board said the advertisement before it fell into the category of advocacy advertising and noted the requirements of Rule 2(e) of the Advertising Standards Code. This Rule required the identity of the advertiser to be clear; opinion to be distinguished from factual information and factual information must be able to be substantiated. The Advocacy Principles developed by the Complaints Board in previous decisions considered under rule 11 of the Code of Ethics remain relevant. They say:

1. That section 14 of the Bill of Rights Act 1990, in granting the right of freedom of expression, allows advertisers to impart information and opinions but that in exercising that right what was factual information and what was opinion, should be clearly distinguishable.
2. That the right of freedom of expression as stated in section 14 is not absolute as there could be an infringement of other people's rights. Care should be taken to ensure that this does not occur.
3. That the Codes fetter the rights granted by section 14 to ensure there is fair play between all parties on controversial issues. Therefore, in advocacy advertising and particularly on political matters the spirit of the Code is more important than technical breaches. People have the right to express their views and this right should not be unduly or unreasonably restricted by Rules.
4. That robust debate in a democratic society is to be encouraged by the media and advertisers and that the Codes should be interpreted liberally to ensure fair play by the contestants.

5. That it is essential in all advocacy advertisements that the identity of the advertiser is clear.

Adjudicating on Advocacy Advertising

The Acting Chair noted that advocacy advertising presents some of the most challenging advertising adjudicated on by the Complaints Board. Complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

It is usually characterised by parties having differing views that are expressed in robust terms. This results in strong objections from complainants and an equally strong defence from advertisers.

Through the requirements of the Advertising Standards Codes of Practice and the Advocacy Principles, the Board supports issues being openly debated and has generally endeavoured not to apply a technical or unduly strict interpretation of the rules and guidelines.

Complainants sometimes ask the Board to in effect decide which side in an advocacy debate is correct. The Complaints Board has consistently declined to have a view on the merits of either side in an advocacy debate. The Complaints Board's only role is to determine whether there has been a breach of our Codes.

Under Rule 2(e) Advocacy advertising of 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.

Relevant precedent decision

In considering this complaint the Complaints Board referred to precedent Decision 16/198 Appeal 16/008, which was Not Upheld

The full version of this decision can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 16/198 Appeal 16/008 concerned a billboard advertisement from the New Zealand Palestine Human Rights Campaign and featured two maps which detailed the proliferation of 'Israeli and Occupied Land' versus 'Palestine Land'.

The Complaints Board ruled the complaints about the advertisement's use of maps being misleading were Not Upheld and the decision was appealed by the Complainants. The Appeal Board considered whether the maps were presented as fact or opinion in the context of the advertisement in its entirety. The Appeal Board ruled the use of the maps was a clear expression of opinion that was unlikely to mislead most people. The Appeal Board dismissed the appeal saying the advertisement was clearly presented from a particular perspective and met the provisions of robust opinion required of an advocacy advertisement.

Complaints Board Discussion

The Acting Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and

- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: Escalating tension reported between China and Taiwan
 - Medium: Free newspaper distributed in Christchurch
 - Audience: Christchurch Star readers
 - Product: Advocacy Advertising from the Chinese Consul General

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was the Chinese Consulate was explaining the Chinese Government's view on the historical context of the problems between China and Taiwan.

Is this advocacy advertising and has the Advertiser been adequately identified?

The Complaints Board agreed the advertisement had met the definition of an advocacy advertisement. The Board said the identity and position of the Advertiser was clear. The advertisement was credited to Wang Zhijian, Chinese Consul General in Christchurch and the advertisement contained a banner stating that the advertisement is paid for by the Chinese Consulate.

Is the information in the advertisement fact or opinion?

The Complaints Board said the advertisement presented the views of the Chinese Consul General within the context of political advocacy. The Board said it would be clear to most consumers that the advertisement was promoting a particular political perspective and the robust statements were the Advertiser's views. The Complaints Board said there is on-going media coverage of the differences between China and Taiwan, which also gives context to the advertisement.

Therefore, the Complaints Board agreed the advertisement was not likely to mislead or deceive consumers and it was not in breach of Principle 2 or Rules 2(b) and 2(e) of the Advertising Standards Code.

Does the advertisement contain anything which is degrading, offensive or gives rise to hostility?

The Complaints Board considered whether some of the language used in the advertisement, such as the reference to "separatists" and "Taiwan independence forces" was likely to offend or give rise to hostility. The Board agreed the language did not reach the threshold to cause serious or widespread offense or hostility and that strongly held opinions were acceptable in a political advocacy environment. The Board ruled the advertisement was not breach of Rule 1(c) of the Advertising Standards Code.

Is the advertisement socially responsible?

The Complaints Board said the advertisement, taking into account context, medium, audience and product and when viewed through the lens of advocacy advertising, had not met the threshold to breach Principle 1, Principle 2 or Rules 1(c), 2(b) or 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

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.

APPENDICES

1. Complaint
2. Response from Advertiser
3. Response from Media

Appendix 1

COMPLAINT

This advertisement entitled 'The Taiwan Question: Past, Present and Future', is riddled with false statements that are presented as facts, and deliberately misleading statements that are designed to conflate disparate ideas and confuse readers. As a result, it is in clear and egregious breach of Advertising Standards. In addition, it specifically demonises Taiwanese people, labelling them as "Taiwan independence forces", "separatists" (a label for which the death penalty is a result for many across the world), and other slanderous labels. This deliberate demeaning and targeting of a specific nationality of people is highly offensive, and has real-world consequences for these people. I will itemize the most flagrant falsehoods and misleading statements as follows: -

The first sentence very efficiently crams multiple misleading statements and falsehoods in a tight space - "The Taiwan region has been part of China since ancient times." 1. Taiwan is not a 'region', it is a country by every single fathomable definition of the word. I would challenge anyone to find any reasonable definition of 'country', 'nation', or 'state' that Taiwan does not fulfil. This advertisement repeatedly uses the term 'region' rather than country to mislead the reader on this fact. The nationhood of Taiwan is no less legitimate than that of say Japan, the U.S. or New Zealand, and this is a matter of fact, not opinion. 2. What 'China' is here, is left as ambiguous as possible in order to mislead the reader. When people say 'China' these days, they unanimously refer to the country which is officially called 'The People's Republic of China'. Taiwan has *never* in history been a part of this country. 3. 'ancient times' refers to the time period from 3000 BC to 500 AD. During this time period, Taiwan was controlled by its indigenous Malayo-Polynesian peoples - not the peoples who inhabited what we now call mainland China. In reality, in all of history Taiwan was only fully controlled by what we now call China (then, the Qing Empire) for 10 years from 1885 to 1895. There is not a single interpretation of 'since ancient times' here that could be considered even vaguely true. - the next statement again deliberately misleads readers with "in 1945, the Chinese government reinstated its administrative authority in the Taiwan region". Any reader without an in-depth knowledge of the history of this region would interpret that 'the Chinese government' here refers to the current government of the People's Republic of China (PRC). In fact, the government that instated administrative authority in 1945 was the government of the Republic of China (ROC), the *current* government of Taiwan. This statement is meant to create the idea in readers heads that Taiwan is a 'breakaway province' from the mainland of China, when in fact the ROC government in Taiwan was the first of the two, with the mainland PRC breaking away from them. -

The next paragraph falsely claims that the Kuomintang (government of ROC) "launched an all-out civil war". This is completely fabricated historical revisionism. The Kuomintang were the government of the whole of China (ROC) at the time, with the CCP forces overthrowing the government on the mainland via violent revolution. It doesn't make any sense that the Kuomintang could launch a civil war... against, themselves? - There are numerous points in the advertisement where Chinese 'reunification' is mentioned. This is a highly misleading term that implies that Taiwan has historically been a part of China, has broken away, and should be 'unified' again. As discussed above, all three of these ideas are complete falsehoods. A correct and non-misleading term for what is being implied by the term 'Chinese reunification'

would be 'Chinese annexation of Taiwan'. - Similarly there are numerous references to matters relating to Taiwan being China's 'internal' or 'domestic' affairs. As made clear by any possible factual interpretation of history and the present, Taiwan has never been part of the country we call China, and is an independent nation-state. This means that referring to these as 'internal' or 'domestic' affairs are flagrant lies. - Later on, a logical paradox is offered, firstly by stating that "Peaceful reunification is a set policy of the Chinese government", followed immediately by "However, to warn against those who plot to split China, the Chinese government can't undertake any commitment as to what means it might use to handle its own domestic affairs... including military means". This statement first of a policy of peace with Taiwan, followed immediately by a policy of war with Taiwan, is double-think at its finest. Only one of these mutually exclusive statements can logically be true, leaving the other one to be a lie. –

Later on in the advertisement a claim is put forward that opponents 'spread rumours' of "one China, one Taiwan" or "two Chinas". These two quotes are jargon for "China and Taiwan are both countries" (objectively true), and "There are two countries with the name 'China' in their official title" (also objectively true - the "People's Republic of China", and the "Republic of China") respectively. By labelling these facts as 'rumours' the writer is deliberately attempting to mislead readers as to the plain facts of international geography. –

Twice in the advertisement it is claimed that 'All countries having diplomatic relations with China recognise that there is only one China and the government of the People's Republic of China is the sole legal government of China and Taiwan is part of China'. This statement is false and deliberately misleading. For example, the wording of the 'Joint Communiqué' that established the relationship between the U.S. and the PRC is that the U.S. "acknowledges the Chinese position that there is but one China and Taiwan is part of China". This was deliberately worded to state acknowledgement of the PRC's position, without agreement or recognition. It specifically does not state which government (the ROC or the PRC) is the rightful government of the territory. This is also known as the U.S. policy of 'strategic ambiguity'. The statements in the advertisement imply to the uninformed reader that there is international agreement on China's claim over Taiwan were there is none.

While there are many more misleading statements and falsehoods in the advertisement, I believe that the above-mentioned explanations are more than sufficient to uphold this complaint of a breach of advertising standards. If more detail, such as citations for the facts presented in this complaint are required, I would be happy to oblige. However, I have not made any claims that are not already widely known by those with any familiarity with Asian history or politics, and all are easily found with a quick internet search or trip to the library. My fear is that the general public who do not have such experience will be lead to believe the numerous outright lies presented, and as a result these false beliefs will be damaging to our democratic discourse (which is clearly the Chinese Consulate's goal in printing this advertisement). In addition, I worry about the further persecution of Taiwanese people in New Zealand at the hands of Chinese nationalists, in cooperation with the allies they seek to create with material such as this. This rhetoric has fuelled the violent attacks that have been perpetrated against Taiwanese, Hong Kongers, Tibetans, Uyghurs, Mongolians, and other so-called 'dissidents' in many democratic countries, including recently in Australia. I don't want this violence to come to New Zealand. If it does, a large share of the responsibility will rest on the shoulders of the Christchurch Star, and the Advertising Standards Authority for allowing the publication of these lies and propoganda from the nationalist Chinese Communist Party.

Appendix 2

RESPONSE FROM ADVERTISER, THE CHINESE CONSULATE

We won't respond to the complaint. It's quite obvious that we have totally different understandings with this reader, who made his complaint based on his position that "Taiwan is a country". We have no interest in having an endless debate.

Please note that this reader's position concerning the Taiwan region clearly ran contrary to the New Zealand government's position.

Appendix 3

RESPONSE FROM MEDIA, THE STAR MEDIA

I do not wish to make any comment other than my sentiment in the email below, sent to the complainant.

Thank you for your email in regard to the Chinese Consulate ad published in The Star.

As a publisher it is important that we do not create barriers to any organisation regarding free speech, PROVIDING THE CONTENT MEETS THE NZ GUIDELINES SET OUT BY THE ASA.

There have been three previous complaints to the ASA about claims made in our newspaper by the Chinese Consulate in their ads.

None of these complaints have been upheld by the ASA.

The ASA found no misleading or incorrect facts stated in the ads.

If you feel there has been a breach of standards and wish to make a complaint about the most recent ad please go to:

<https://www.asa.co.nz/>

Thank you