

<b>COMPLAINT NUMBER</b>	22/059
<b>ADVERTISER</b>	Subway New Zealand Limited
<b>ADVERTISEMENT</b>	Subway Television
<b>DATE OF MEETING</b>	28 February 2022
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The television advertisement for Subway promotes their "footlong" sandwiches. It shows a man sitting on an inflatable Subway sandwich in a backyard swimming pool. Another man is standing behind him in the pool holding a boombox speaker which is playing the music from Tchaikovsky's Swan Lake. The advertisement ends with the voiceover "Summer feels good at Subway".

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

**Complaint:** Watching the latest Subway ad where a white male is riding on an inflatable sub with a black male standing in the water behind him holding a boom box makes me question whether this breaches Rule 1 (c) Decency and Offensiveness.

To me subway has cast the black male in a stereotypical servants role which seems to be racial profiling at best. Why have they chosen this line up, why not a black male on the inflatable and a white standing behind? Why not two black males or two white males. There are a number of different combinations that could have avoided this profiling.

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

**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.

**The Chair** noted the Complainant was concerned that the advertisement portrays one of the men in a subservient role, due to his ethnicity.

Rule 1(c) of the Advertising Standards Code required the Chair to consider whether the depiction of a white man on the floating sandwich while a black man is standing behind him holding a boom box, in this context, was likely to cause serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule, in light of generally prevailing community standards.

The Chair said the advertisement was a reference to another Subway advertisement which showed a group of people taking a ride on a giant Subway boat, on Lake Wakatipu. This advertisement also had the Swan Lake theme music playing in the background.

The Chair said this "back yard" version of the advertisement had a similar theme to the one set on Lake Wakatipu, which is "Feel good". The Chair said the two men appeared to be

friends who were enjoying themselves and their ethnicity was not relevant to the advertisement.

The Chair said that despite the Complainant's objection to the advertisement, it did not reach the threshold to cause serious or widespread offence or give rise to hostility, contempt, abuse or ridicule for most consumers.

The Chair said the advertisement had been prepared with the due sense of social responsibility required and said it was not in breach of Principle 1 or Rule 1(c) 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](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.