

COMPLAINT NUMBER	22/125
ADVERTISER	Meridian Energy Limited
ADVERTISEMENT	Meridian Energy, Television
DATE OF MEETING	24 May 2022
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold six complaints about a 60 second Meridian television advertisement featuring Mother Nature showing people how to be good to the environment. The Complaints Board said the fantastical, hyperbolic nature of the advertisement provided sufficient context to prevent scenarios in the advertisement being viewed as unsafe or socially irresponsible by most consumers.

Advertisement

The Meridian Energy television advertisement shows a quiet town disrupted by a sudden storm and lightning flash followed by the arrival of a woman dressed in a flowing green coat in the character of Mother Nature. She strides through the town, using superpowers to praise some people for their environmentally friendly behaviour and discipline others for their disregard for the environment. For example, she uses telekinesis to throw a man into a pond after he litters, and she lifts an axe from a man chopping a tree and with pinpoint accuracy, throws it into a hole dug by a woman in her garden where it instantly becomes a stand for a climbing vine. The advertisement ends with the woman walking next to a child on a bike. Wind turbines are shown in the background, along with the text, "Be good to Nature and she'll be good to you".

Summary of the Complaints

Six Complainants was concerned the advertisement was inappropriate because:

- The axe throwing scene was a safety issue and showed dangerous aggression
- The Mother Nature character was shown ruling by fear which could encourage bullying and vigilantism.
- The hip bump car scene was bad for the environment and counter to the green messaging
- A child engaging with a stranger goes against the stranger danger messaging taught to children

Issues Raised:

- Social Responsibility
- Safety
- Offence
- Violence
- Environmental damage

Summary of the Advertiser's Response

The Advertiser said the advertisement was a brand awareness campaign featuring a bold, sassy and no-nonsense Nature character. This Mother Nature character remedies behaviour which is detrimental to the environment and rewards good behaviour.

The Advertiser said the advertisement showed hyperbolic scenarios which are surreal and would be recognised by the average viewer as totally unrealistic. This includes the axe-throwing scene which shows Mother Nature's superhuman telekinetic powers summon the axe from a considerable distance and propel it with total control blade side down into a pre-dug hole.

The Advertiser said the other concerns raised by the Complainants such as the dark undertones, voluptuous bullying and grooming of children are not representative takeout's of the typical consumer. The Advertiser confirmed environmental concerns raised were unfounded as the smoke and lightning effects were added in post-production.

Summary of the Media Response

The Commercial Approvals Bureau (CAB) said the advertisement treats its material with a fairy tale approach. The characterisation and over-the-top fantasy is very familiar to a general audience including younger viewers. CAB said this approach towards the important issue of energy renewal would be viewed as the message intended by the normal viewership.

Relevant ASA Codes of Practice

The Acting Chair directed the Complaints Board to consider the complaints 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.

Rule 1(e) Safety: Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

Rule 1(f) Violence and anti-social behaviour: Advertisements must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

Rule 1(i) Protecting the environment: Advertisements must not depict or encourage environmental damage or degradation.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 17/217 which was Upheld in Part and Settled in Part and 20/235 which was Not Upheld.

The full versions of these decisions can be found on the ASA website:

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

Decision 17/217 concerned a television advertisement for Frucor's Suntory's V Energy drink which showed a construction worker shooting a nail gun at two miniature human characters

and one of these little humans jumping into wet concrete. 17 complaints were received about workplace and general safety concerns.

The Advertiser removed the nail gun scene from the advertisement and the Complaints Board agreed this part of the complaint was settled.

The Complaints Board upheld the complaints relating to the concrete scene, saying the advertisement depicted a dangerous practice with a potential to encourage a disregard for safety if consumers concluded that no harm would come from touching concrete. The Board said despite the characters being small, this did not push the advertisement sufficiently into the realm of the fantastical or extreme hyperbole.

Decision 20/235 concerned an advocacy advertisement from the Keep it Real Online campaign from the Department of Internal Affairs. The advertisement showed a man with a gun shooting the cake at a fantasy rabbit's birthday party. 45 Complainants were concerned about safety, decency, fear and social responsibility issues.

The Complaints Board did not uphold the complaints and said the fantasy scenario, designed to demonstrate how easily children can access harmful content online, was justified on educational grounds.

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: Brand advertisement for an energy company
 - Medium: Television
 - Audience: Television viewers with a target audience of 25-54 year old
 - Product: renewable energy resources

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was its a fantastical representation of how Meridian Energy is supporting Mother Nature to encourage good environmental behaviour and discourage bad behaviour through investing in a new wind farm.

Does the advertisement encourage or condone dangerous or unsafe practices or portray situations which encourage or condone a disregard for safety?

The majority of the Complaints Board said the fantastical, hyperbolic nature of the advertisement meant the actions of the Mother Nature character would be considered totally unrealistic by most consumers. It said the advertisement clearly establishes the Mother Nature character as being all-powerful and as such there was never any danger of anyone being hurt when the axe was propelled with great accuracy into the pre-dug hole and sprouted into bloom. The majority said the threshold to breach Rule 1 (e) of the Advertising Standards Code had not been met.

A minority of the Complaints Board disagreed and said while the character's retrieval of the axe by telekinesis was fantastical and unrealistic, the action of throwing of the axe, which

lands extremely close to a person, was more realistic and therefore dangerous. The minority of the Board also said the axe throwing was problematic given the relationship between the Nature character and the child who looks on in admiration throughout the advertisement. The minority of the Complaints Board said the aggressive action did not line up with the messaging about rewarding good behaviour and could be seen to be condoning an unsafe practice. For a minority of the Complaints Board the advertisement was in breach of Rule 1(e) of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board ruled the advertisement did not condone or encourage a disregard for safety and was not in breach Rule 1(e) of the Advertising Standards Code.

Does the advertisement show or condone violent or antisocial behaviour?

The Complaints Board noted one Complainant was concerned the advertisement encouraged bullying and vigilante behaviour. The majority of the Complaints Board agreed the fantastical nature of the advertisement, together with the use of humour, meant the Mother Nature character was shown as powerful to represent the unpredictable force of nature. The Board unanimously agreed the overall message in the advertisement was a positive one which was attempting to show that bad environmental behaviour has consequences. The majority of the Complaints Board did not consider the likely consumer takeout would be one of fear or bullying.

A minority of the Complaints Board disagreed and said the axe throwing scene did condone a violent act and this was not saved by hyperbole or fantasy. For a minority of the Board, this action was exacerbated by the proximity of the woman to where the axe landed and the presence of a child who appeared to be approving of the actions of Mother Nature. For a minority of the Complaints Board the axe throwing scene met the threshold to breach Rule 1(f) of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board ruled the advertisement was not in breach of Rule 1(f) of the Advertising Standards Code.

Does the advertisement contain anything which is indecent or could cause harm or widespread offense?

The Complaints Board noted one Complainant was concerned the interaction shown between the Mother Nature character and a child was encouraging inappropriate contact between children and strangers.

The Board unanimously agreed this would not be the likely takeout for most consumers. The Board said the fantasy character was a personification of nature and the positive relationship with the child in the advertisement emphasised how environmental improvements were "just getting started" in order to improve environmental outcomes in order to benefit young people and help with their future.

The Complaints Board unanimously ruled the advertisement was not in breach of Rule 2(c) of the Advertising Standards Code.

Does the advertisement depict or encourage environmental damage?

The Complaints Board noted one Complainant was concerned about environmental damage caused by the use of fire and smoke in the advertisement. The Board said the Advertiser had confirmed that the lightning bolt and smoke were special effects added in post-production. The Board also noted the Advertiser advised how it was offsetting any greenhouse gasses produced by the filming of the advertisement. The Complaints Board unanimously agreed the advertisement did not depict or encourage environmental damage.

The Complaints Board unanimously ruled the advertisement was not in breach of Rule 1(i) of the Advertising Standards Code.

Has the advertisement been prepared with a due sense of social responsibility?

The majority of the Complaints Board said the advertisement was socially responsible. The majority of the Board said an axe being thrown so close to a person would not be acceptable in an act by itself. However, in the context of the over-arching messaging in the advertisement and in conjunction with the fantastical theme, the imagery did not reach the threshold to breach Principle 1 of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said the advertisement was not saved by hyperbole and showed an action which is not socially responsible. For a minority of the Complaints Board the advertisement was in breach of Principle 1 of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board said the advertisement met the due standard of social responsibility required and was not in breach of Principle 1 of the Advertising Standards Code.

Summary

The Complaints Board ruled that taking into account context, medium, audience and product, the advertisement had not reached the threshold to breach Principle 1 or Rules 1(c), 1(e), 1(f) or 1(i) 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
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Appendix 1

COMPLAINT 1

This advert portrays Nature as a witch and rather than being supportive is actually denigrating Nature. On the surface it may appear comical but the underlying tone is dark. The throwing of the axe in such a way is also a safety concern particularly since it seems to air in the afternoons and early evenings when children may be viewing television. Also I question why Meridian is spending a tidy sum on this advert when it could be better spent elsewhere.

COMPLAINT 2

Interesting fun ad however the 'superhero' dressed in green protagonist throws an ax that stops short of another person who is gardening by about a metre. I am assuming this ad will have some appeal to children but the are throwing is an extremely aggressive and dangerous act and could well be reenacted by children and irresponsible adults. It seems a bizarre addition to the advertisement.

COMPLAINT 3

I would like to complain about the Meridian power advert throwing a axe at a person is dangerous it's only a matter of time before a child try's it and kills a person

COMPLAINT 4

I saw the Meridian advert this morning. The whole advert wasn't aired but I have seen it several times in it's unedited version. 07:00 is an approximate time. I would appreciate a review of the Meridian advertisement referred to as "Meridian Energy, Be good to Nature and she'll be good to you" currently being aired on TV. I understand the figure in green is an allegory meant to represent the forces of nature but I find this advert disturbing, distasteful and alarming. I will refer to this character as "she" as this portrayal is a voluptuous, feminine person and there should be no issues with using feminine pronouns. She walks down the street casting fear, anxiety and apprehension into all those around her. So we are teaching people to rule by fear? 2 Intimidation is approved by Meridian? Are we consolidating the mind-set that "might is right"? She sees a man throwing away a plastic bottle and retaliates by using her power to throw him into the duck pond. We are invited to agree that vigilantism is acceptable. I would imagine that no person or animal was hurt in the making of this scene but it is a flagrant disregard for the well being of people and animals: easily influenced people may think they could do the same with no thought of repercussion. We make bullying acceptable by continuing to allow this advert to run. What happened to the catchphrase "be kind to each other" used daily during COVID? She sees a man using an axe and throws it into a garden. This is a brazen indifference to the safety of others and again, may lead to naïve or thoughtless people to assume such behaviour is acceptable and they can also act with impunity. The scene that most concerns me is where she hipbumps the car. All that smoke can not be good for the environment but here is Meridian wilfully causing pollution to further their own ends and then to use fire on the road? This beggars belief. I find this very disturbing: even if this was done with special effects it certainly doesn't represent a "clean green" image. And if real fire was used, what of the damage to the environment that all New Zealanders have to live in? Are we morally complicit by taking no action that arson is acceptable? I'm also troubled with having a child talking to a strange person. This flies in the face of everything we try to imbue in our children. We attempt to instill in them the very real risk relating to 'stranger danger' but here is Meridian teaching them this is completely acceptable and indeed fun with no thought for the

implications of such actions for the safety of the nation's children. I accept this is an allegory but this advert encourages young, impressionable children that it is OK to interact with extrovert, "larger than life" people that they don't know and I find this very worrying. Are we, the people of New Zealand, by letting this advert run, complicit in allowing the grooming of our children? I find this whole advert reprehensible and completely at odds with Meridian's ostensible attempt to depict themselves as responsible and ethical: if anything; this advert is the antithesis of such principals. This is the embodiment of calculated disregard for the needs of others and our environment camouflaged as "nature". If an actual person acted in this immoral, amoral and disgraceful manner hopefully their actions would bring the law into action but we are meant to approve of such behaviour. I find this entire advert worrying, distasteful and morally wrong, therefore I believe a review is needed.

COMPLAINT 5

This advertisement is of a woman walking down the street looking powerful and my concern is she takes an axe from a man who is about to cut down a tree and she hurls the axe into a garden where a woman is gardening meanwhile the song RESPECT is playing in the background. What is the message from Meridian??

COMPLAINT 6

I'm unhappy at this advert which includes an axe being thrown by a man and a woman towards others. We have enough violence happening in our country without this sort of bad role modelling in these adverts. Our young children don't need to watch such unacceptable violent behavior. And nor do I.

Appendix 2

RESPONSE FROM ADVERTISER, MERIDIAN

RE: COMPLAINT 22/125 – MERIDIAN ENERGY TELEVISION ADVERTISEMENT (“THE COMPLAINT”)

INTRODUCTION AND CONCLUSION

- 1 Thank you for the opportunity to respond to the Complaint received by the Advertising Standards Authority (“**ASA**”) in relation to Meridian's television advertisement (“**Advertisement**”). Meridian takes its obligations under the Advertising Standards Code (“**Code**”) seriously.
- 2 We have been asked to address Rule 1(c) regarding decency and offensiveness, Rule 1(e) regarding safety, Rule 1(f) regarding violent and anti-social behaviour, and Rule 1(i) regarding protecting the environment (“**Relevant Rules**”) of the Code.
- 3 Meridian's position is that:
 - 3.1. the Advertisement does not breach the Relevant Rules; and
 - 3.2. therefore the Complaint should not be upheld.
- 4 Our impression is that the focus of the Complaint is a sequence within the Advertisement that involves the main character telekinetically summoning and then propelling an axe (“**Sequence**”). There are also a number of other complaints that do not appear to have a common theme.

BACKGROUND TO THE ADVERTISEMENT: INTRODUCING 'NATURE'

- 5 The Advertisement is designed, produced and placed to introduce the character of Nature to Aotearoa New Zealand. In particular, the Advertisement is a brand awareness campaign targeted at people aged 25 - 54.
- 6 The main character Nature is a supernatural force that will appear in Meridian advertising on an ongoing basis. Nature is bold, sassy and no-nonsense, and is deliberately over-the-top to be memorable and ensure strong brand attribution of Meridian advertising.
- 7 This hyperbole of the Advertisement starts in the first scene and continues throughout. The Advertisement opens with a smiley face on a nun's cappuccino, and then shows Nature appearing from a supernatural explosion in the form of a bolt of lightning. Nature is accompanied by cacophony of birds and wearing vegan leather boots, naturally. Nature has control of the elements and animals, as well as telekinetic abilities. Nature controls the wind, water and sun, and is often being pursued by a flock of laughing ducks. Frankly it's all utterly ridiculous, if very memorable.
- 8 However, there are some important and relevant considerations:
 - 8.1. Nature is not intended to be a spokesperson for, nor represents, Meridian in any way.
 - 8.2. When Nature sees someone behaving in a way that is detrimental to the environment or climate, she 'remedies' that behaviour, but she also rewards and recognises people doing 'the right thing'. This is seen when Nature 'remedies': the character that discards single use plastics in an irresponsible way; when she stops another character who tries to cut down trees; and when she 'booty bumps' the polluting vehicle. Nature also rewards the child riding the bike by providing a gust of wind, and plants a rose bush in the garden of the woman doing gardening. Hyperbole and surrealism are employed on each occasion.
 - 8.3. The Sequence involves Nature's superhuman and telekinetic powers. Nature summons the axe (from a significant distance) from the hand of the person about to cut down a tree. Having seen someone planting new gardens / trees Nature then, perfectly and with total control, propels the axe to be blade down in a pre-dug hole at a distance from the other character. Nature then gives a knowing, but friendly wave, and the handle then magically sprouts beautiful flowers much to the amazement of the onlooker.
- 9 In summary, the Advertisement is an action-packed series of humorous events involving Nature using her supernatural (and impossible) powers to reward good, and remedy wrong. This impossibility of the Advertisement exists from the opening scene through to closing.

THE ADVERTISEMENT DOES NOT BREACH THE RELEVANT RULES

- 10 Meridian is mindful of the overall impression and message its advertising portrays. Meridian has reviewed the Complaint carefully and remains of the view that the Advertisement is compliant with the Code.
- 11 The Advertisement does not reach the threshold required to breach the plain meaning or intention of the Relevant Rules.

FACTORS TO BE CONSIDERED WHEN ASSESSING WHETHER A COMPLAINT BREACHES THE CODE

- 12 There are a number of factors that must be taken into account when assessing the Complaint, including previous decisions, the consumer take-out from the Advertisement, the context, medium, intended audience and the product or service being advertised.¹

The relevant consumer take-out is that of a typical consumer and excludes outliers

- 13 The courts and the Complaints Board have been clear in a number of decisions that it is the take-out by the typical consumer that needs to be considered. The leading decision in Aotearoa New Zealand on 'who is the consumer' is *Godfrey Hirst NZ Ltd v Cavalier Bremworth* which states in the context of advertising:²

“the consumer” comprises all the consumers in the class targeted except the outliers. The “outliers” encompass consumers who are unusually stupid or ill equipped, or those whose reactions are extreme or fanciful.”

- 14 Despite being targeted at 25 - 54 year olds, it is acknowledged the TV-watching public at large are effectively 'the consumers' for this purpose. The Court of Appeal's view is that, even in this situation, outliers are excluded.³

THE SEQUENCE DOES NOT BREACH RULE 1(E) WHEN CONSIDERED IN CONTEXT

- 15 A description of the Sequence is provided in paragraph 8.1. Rule 1(e) provides:

“Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.”

- 16 The Guideline accompanying Rule 1(e) relevantly provides:

“Obvious hyperbole may be acceptable. Advertisements showing impossible but unsafe scenes may be acceptable, provided this context is likely to be clearly understood.”

The Sequence shows an impossible reality, and that context is likely to be clearly understood

- 17 The Court of Appeal, and Code and associated Guidelines direct that the relevant question is whether a typical consumer (excluding outliers) in Aotearoa New Zealand would understand that the Sequence does not depict real life.
- 18 A typical consumer would consider and understand the Sequence within the wider context and tone of the Advertisement which is a fast-paced series of impossible events which are clearly hyperbolic and not depicting real life: the superhero character of Nature is a fantastical creation that possesses superpowers (we have had direct contact from a number of customers who are encouraging us to make a superhero movie about Nature).
- 19 Instead, a typical consumer would understand the intention behind, and focus of, the Sequence is another example of Nature 'doing good by the planet' in a sassy, over-the-

¹ Advertising Standards Code, "interpreting the code" section.

² *Godfrey Hirst NZ Ltd v Cavalier Bremworth Ltd* [2014] NZCA 418 at [20].

³ *ibid* n 2 at [50]

top, and hyperbolic way – the central theme of the Advertisement - by preventing one tree from being cut down, and planting another using her superpowers.

- 20 A typical consumer would therefore not consider the Advertisement or the Sequence encourages or condones a disregard for safety because they would understand the Advertisement shows an obviously hyperbolic and impossible reality.

THE ADVERTISEMENT DOES NOT OTHERWISE BREACH RULES 1(C), 1(F) OR 1(I)

- 21 We note there are a small number of other complaints that make up the Complaint that do not necessarily relate to the Sequence, and do not have a consistent theme. Meridian's view is that they are baseless and, in some cases, difficult to understand. They include suggestions the Advertisement has dark undertones, that the character is a "voluptuous" bully, and that by allowing the Advertisement to air we are "complicit in allowing the grooming of our children".
- 22 For the reasons already provided, the Advertisement does not breach Rules 1(c), 1(f) and 1(i) of the Code. No typical consumer would consider the Advertisement:
- 22.1. contains 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 (Rule 1(c)). The Advertisement does not offensively stereotype or discriminate, and no character is objectified or sexualised.
- 22.2. contains anything that condones, or is likely to show, violent or anti-social behaviour or damage to property (as above the typical consumer would understand the Advertisement is not depicting reality) (Rule 1(f)). Meridian confirms no persons or animals were harmed in the Advertisement.
- 22.3. depicts or encourages environmental damage or degradation (Rule 1(i)). The smoke from the revving car (and other aspects such as the lightning bolt) was included in post-production. Meridian also worked with Greenlit NZ to ensure any greenhouse gasses produced by the filming of the Advertisement were recorded. Meridian will offset these emissions as part of its ongoing commitment to offset operational emissions. The central theme of the Advertisement is to encourage people to do good by nature.

NEXT STEPS FROM HERE

- 23 Meridian welcomes the opportunity to respond to any further comments or queries of the Complaints Board.

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Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

Complaint 22/125 Meridian Energy Key: MERM60001 Classification: G

This advertisement for Meridian Energy was approved on 13/04/22 with a 'G' general classification.

The advertisement promotes the production and management of cleaner energy, supporting nature and features a superhero-type 'Mother Nature' character.

Superhero films remain the single most popular form on cinema in the English-speaking world, and the commercial treats its material with a fairy tale approach like the popular children's books of Roald Dahl and the extremely popular Shrek films. All this is to say, this type of characterisation and over-the-top fantasy is very familiar to a general audience including (especially?) young viewers.

The commercial takes a fun and fantastical approach to the important issue of energy renewal, and CAB believes a normal viewership will take that message as intended.