

<b>COMPLAINT NUMBER</b>	22/156
<b>ADVERTISER</b>	Ministry of Health – Manatū Hauora
<b>ADVERTISEMENT</b>	Ministry of Health– Manatū Hauora, Television
<b>DATE OF MEETING</b>	28 June 2022
<b>OUTCOME</b>	Not Upheld No further action required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about a Ministry of Health – Manatū Hauora television advertisement which said “Protect them for life. Immunise.” The Board said the advertisement was not misleading.

### **Advertisement**

The Ministry of Health – Manatū Hauora television advertisement promoted immunisation for children. It showed several scenarios in which parents or caregivers take care of their children: applying their sunscreen, giving them mouthguards for sport, teaching them a martial art and gifting a taonga. The last scenario shows a child receiving a vaccine. The text on the screen said "Protect them for life. Immunise." Below this were the New Zealand Government and the Ministry of Health – Manatū Hauora logos.

### **Summary of the Complaints**

There were two complaints about this advertisement. The Complainants were concerned the advertisement was misleading as vaccines do not provide protection “for life”.

### **Issues Raised:**

- Social Responsibility
- Truthful Presentation
- Advocacy Advertising

### **Summary of the Advertiser’s Response**

The Advertiser said the campaign was promoting immunisation as a lifelong journey and the tagline “Protect them for life. Immunise” refers to the immunisation programme as a whole-of-life programme, it is not specific to any single vaccine. The word life has a dual meaning, it can mean both the time between birth and death and the experience of being alive.

The Advertiser said some vaccinations may give people lifelong protection, especially in the context of herd immunity, while others will require booster shots. Protection depends on the vaccine and the recipient’s immune system.

The Advertiser said New Zealand currently has a reduced uptake of childhood immunisations and, in order to prevent outbreaks of infectious diseases, it is critical for these rates to be lifted.

## Relevant ASA Codes of Practice

The 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.

**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.

### Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 21/224 which was No Grounds to Proceed and 21/523 which was Not Upheld, Appeal Declined.

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

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

**Decision 21/523** concerned a Department for Prime Minister and Cabinet radio advertisement which promoted vaccination against COVID-19. The advertisement began with a voiceover calling "Shot!". The voice then encouraged listeners to get their first vaccination "today" and their second in three weeks' time, in order to be "fully protected" and "good to go for summer".

The Complaints Board said the advertisement was not misleading, in the context of advocacy advertising, from the New Zealand Government. The Complaints Board noted the Government agencies working on the advertising campaign included the Ministry of Health which has a statutory duty to provide information to the public. The Board said the Ministry is an expert body with regard to their statutory role relating to public health matters. Therefore, in accordance with the findings of the Court of Appeal in *Electoral Commission v Cameron* [1997] 2 NZLR 421,424, the Complaints Board was required to "tread carefully" and ensure that it did not substitute its opinion for that of the expert body.

**Decision 21/224** concerned a New Government COVID-19 vaccination advertisement which appeared on Television, TVNZ OnDemand, YouTube, Facebook and the NZ Herald website. It began with a girl saying, "Hey Covid, you were a bit of an egg in 2020!" The advertisement shows various people saying how they plan to fight the virus. A health worker is shown opening a door to a vaccination centre and saying, "Do you know what this is? – A metaphorical door to freedom." School children are shown in school. They say "We're going to keep coming here every day, all year long." People are shown celebrating the possibility of being able to freely visit relatives without the risk of cancellations, socialising, performing a

hongi and planning large gatherings such as weddings. The advertisement directs messages to COVID such as “COVID, you’re gone”, “Ka Kite, COVID” and “We’re getting immunity.”

The Chair of the Complaints Board said the use of the word “immunity” was not misleading in the advertisement. The Chair said the issues related to the efficacy of the vaccine were not a matter for the ASA. The vaccine referred to in the advertising had received approval from Medsafe, the Government regulator for prescription medicines. The Chair noted the Datasheet, which sets out all the relevant information for the vaccine, under Medsafe’s approval process, is available on the Medsafe website.

### **Complaints Board Discussion**

The 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: COVID-19 pandemic and concern about lower childhood immunisation rates due to the impact of the COVID-19 pandemic
  - Medium: Television
  - Audience: Television audience
  - Product: Advocacy for childhood immunisation

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was protect your children by giving them what they need in life, this protection includes immunisation.

The Complaints Board noted that the advertisement did not include any direct reference to vaccination for Covid-19.

#### *Was the advocacy advertisement adequately identified?*

The Complaints Board agreed the advertisement met the identity requirements of Rule 2(e) of the Advertising Standards Code. This is because the identity and position of the Advertiser were adequately identified. The Board noted that the advertisement included the text "Protect them for life. Immunise." It also showed the New Zealand Government and the Ministry of Health logos.

#### *Was the advertisement misleading?*

The Complaints Board said the advertisement was not misleading. The Board said the text "Protect them for life. Immunise" was designed to encourage parents and caregivers to take steps to protect the children in their care, to prepare them for life. This protection includes giving them childhood immunisations. The Board did not agree with the Complainants that the likely consumer takeout of the advertisement was that immunisations will last for the duration of a child’s life.

The Complaints Board noted that both the Ministry of Health – Manatū Hauora and the New Zealand Government were identified in the advertisement. The Board said the Ministry is an expert body with regard to their statutory role in educating the public about health matters. Therefore, in accordance with the findings of the Court of Appeal in *Electoral Commission v*

*Cameron* [1997] 2 NZLR 421 the Complaints Board was required to “tread carefully” and ensure that it did not substitute its opinion for that of the expert body.

*Was the advertisement socially responsible?*

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product. The advertisement was from the New Zealand Government and encouraged parents to engage with childhood immunisation in the context of a public health campaign.

The advertisement was not in breach of Principle 1, Principle 2, Rule 2(b) or Rule 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](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.

## APPENDICES

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

### Appendix 1

#### COMPLAINT 1

A misinformation broadcast from the ministry of health regarding immunisation of children, at the end of the advertisement the message “immunise for life” was displayed before end of advertisement. This is misleading and false No immunisation lasts “for life” this is a very dangerous statement, by the same reasoning one covid vaccination would be effective for life according to this advertisement. Please remove this misinformation immediately.

#### COMPLAINT 2

I would like to make a complaint about an advertisement on TV. I saw the advertisement on TV 1 at 5:30pm on Saturday 21 May 2022. The advertisement was sponsored by the Ministry of Health and was promoting vaccination. The complaint is regarding the statement made at the end of the advertisement. The statement reads: 'Protect them for Life - Vaccinate'. Reading the therapeutic and health advertising code on your website it states the following: A 'therapeutic purpose claim' in an advertisement will likely refer to a medicine(s) or medical device that has a therapeutic effect on an actual or implied medical condition / disease or physiological process (see definition below for disease). A 'therapeutic purpose claim' may be accompanied by words such as enhance, improve, prevent, interfere with, terminate, reduce, increase, accelerate, inhibit, boost, treat, relieve and stimulate. For medicines, the therapeutic claims(s) must be consistent with the indication(s) that have been approved for the product.

The last sentence above states - the therapeutic claims(s) must be consistent with the indication(s) that have been approved for the product.

There has never been an approved vaccine manufactured that can provide protection for life for every recipient. The statement 'protect them for life - vaccinate' is therefore misleading and inaccurate.

The wording of this advertisement needs to be amended as it is currently promoting misinformation. Addressing this matter on my behalf would be greatly appreciated.

### Appendix 2

#### RESPONSE FROM ADVERTISER, THE MINISTRY OF HEALTH – MANATŪ HAUORA

##### Re: Ministry of Health: Child Immunisations “Acts of Aroha” - Complaint 22/156

Thank you for your letter of 1 June 2022 in which you ask for the Ministry of Health to respond to complaints you received. The complaints relate to the inclusion of the statement “Protect for Life. Immunise” in the Ministry of Health’s advertising and the claim that the statement is ‘misleading’ and ‘false’.

You have indicated that the concerns of the complaint fall under the following area:

**Advertising Standards Code – Principle 1 Social Responsibility, Principle 2, Rule 2(b) Truthful Presentation, Rule 2(e) Advocacy; and**

**Therapeutic and Health Advertising Code – Principle 2, Rule 2(a) Truthful Presentation**

The Ministry of Health defend the implication that this advertisement is misleading and false for the following reasons:

1. In this advertisement we are promoting immunisation as a lifelong journey and that immunisation is the most effective way to actively protect a child from preventable diseases throughout their life. The tagline, “Protect them for life. Immunise.” refers to the immunisation programme as a whole-of-life programme. The campaign was developed to cover the concept of childhood immunisations and was not specific to a single vaccine, but provide overarching messaging which could be used as and when required, e.g. MMR, polio, COVID-19, HPV, whooping cough etc.
2. The tagline was developed to have a dual meaning. The word ‘life’ can be the time between being born and death, or the experience of being alive. (Cambridge English Dictionary). ‘Protect’ means to keep someone safe from injury, damage or loss. (Cambridge English Dictionary). When protecting people from infectious diseases, that protection incorporates being less symptomatic from the disease, through to preventing severe illness or even death. <sup>i</sup>
3. The advertisement clearly shows tamariki experiencing their lives and the numerous ways in which adults aim to protect them from harm, both short and long term and physical and emotional harm. Immunisation is well established to protect people from the consequences of infectious diseases by preventing the spread of disease within communities or reducing the severity of illness if it occurs. <sup>ii</sup>
4. Some vaccinations may give people lifelong protection, especially in the context of herd immunity (i.e. no disease circulating in the community) – examples include the MMR, hepatitis A and polio vaccines. Other vaccines may need booster shots throughout life due to the way the human immune system interacts with the disease in question. This group includes vaccines for tetanus, influenza, and COVID-19.
5. Regarding whether a vaccine protects every recipient – this depends on the vaccine and the recipient’s immune system. Many vaccines such as measles, hepatitis A, polio and tetanus protect over 96% of those immunised and for some vaccines the effect is over 99%. Vaccines are approved based on their safety and efficacy. The efficacy includes the ability to protect recommended recipients from harms caused by vaccine preventable diseases.

This may range from a reduction of circulating infection to prevention of severe disease. For instance, a full course of the tetanus vaccine in those with a functioning immune system, protects 100% of recipients from death. (Amanna & Slifka, 2018).<sup>iii</sup> Vaccination of children with the covid vaccine reduces the risk of them needing hospitalisation from COVID-19 and reduces their chances of developing long covid which could have a life-changing impact.

6. Vaccinations protect people through direct and indirect health benefits. Aotearoa currently has reduced uptake of childhood immunisations due to the impact of the COVID-19 pandemic and the disruption it presented. For some immunisations the levels are so low that we risk an outbreak of the disease at present and this will put children’s lives at risk. Measles and MMR vaccination is an example. It is critical for

the health of young children in Aotearoa that immunisation rates are lifted in all areas and particularly for those more vulnerable.

7. The World Health Organisation (WHO)<sup>iv</sup> states; “Immunization is a key component of primary health care and an indisputable human right. It’s also one of the best health investments money can buy. Vaccines are also critical to the prevention and control of infectious disease outbreaks. They underpin global health security and will be a vital tool in the battle against antimicrobial resistance.”
8. With regards to advertising a medicine, any therapeutic claims must be consistent with the indications that have been approved for the product and this advertisement is promoting a programme.

The advertisement appears on TV, cinema, social media, Video on Demand (VOD) and YouTube. It ran from 15 May through to 5 June and is still in cinema and via Culturally and Linguistically Diverse (CALD) media. It will return on 20 June 2022. We have no scheduled activity beyond 30 June at this stage however it is anticipated it will continue to be utilised in 2022/23. I have attached the digital file of the advertisement, script, media schedule and spot list.

The CAB rating is G, key numbers are DPM\_060\_1411 & DPM\_060\_01417 (English subtitles embedded).

Please don’t hesitate to contact me if you require any further information.

#### References

i <https://www.immune.org.nz/immunisation/immunisation-overview>

ii [Immunisation | Ministry of Health NZ](#)

iii Amanna, I. J., & Slifka, M. K. (2018). Successful vaccines. Vaccination Strategies Against Highly Variable Pathogens, 1-30.

iv <https://www.who.int/health-topics/vaccines-and-immunization#tab=tab1>

### Appendix 3

#### RESPONSE FROM MEDIA, COMMERCIAL APPROVAL BUREAU

##### **Complaint 22/156 Ministry of Health Key: DPM 060 1441 Classification: General**

This Act of Aroha commercial from the Ministry of Health shows various situations where parents and family display love and care towards the wellbeing of their youngsters. Just one of these scenarios shows a young girl being immunised. The closing graphic “Protect them for Life. Immunise” suitably summarises the overall footage.

Showing Aroha – caring, lovingly protecting and guiding our younger generation as they develop and learn is surely a parents most important role. Childhood immunisations are just one factor, though they can be significant, in ensuring children are given the opportunity to grow and live happy and healthy lives. From the footage in this commercial it is clear the word life in this context encompasses the everyday welfare of a child or young person as they grow up.

There appears to be no reason to uphold the complaint.