

COMPLAINT NUMBER	22/234
ADVERTISER	Sports Marine
ADVERTISEMENT	Sports Marine, Website
DATE OF MEETING	15 August 2022
OUTCOME	No Grounds to Proceed

Advertisement: The digital advertisement for Sports Marine featured on the Stuff website. The advertisement shows an image of a Williams Jet Tender travelling in the water with five people onboard. Of the five people only two are wearing lifejackets.

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

Complaint: This advertisement is placed in the stuff website on behalf of sports marine. The image shows a small vessel less than 6 m with multiple on board and only one person is wearing a life jacket.

Many council bylaws (Auckland, Canterbury for example) legally require vessels less than 6m to wear a life jacket at all times. Maritime New Zealand and Coastguard New Zealand advocate the wearing of life jackets at all times as a means to reduce the number of preventable drownings.

In therefore feel that this image and advert is not socially responsible as it goes against the recommendations of key national bodies and in certain locations in New Zealand is actually in breach of bylaws. Based on this I would suggest that it is in breach of your code and should be removed.

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

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

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.

The Chair noted the Complainant was concerned the advertisement was showing an unsafe practice by showing people in a boat without lifejackets.

The Chair said the likely consumer takeout of the advertisement was it promoted a tender, which is a small boat often used to travel between a main vessel and the shore.

The Chair referred to the legal requirements for lifejackets on the Maritime New Zealand website,

https://www.maritimenz.govt.nz/content/recreational/safety/lifejackets/default.asp#legal_lifejacket which states:

“As a skipper, you must carry a correctly sized lifejacket for each person on board. This is a legal requirement that applies to all boats, including tenders and larger craft.

Maritime rules provide that it is the skipper’s legal responsibility to ensure that lifejackets are worn in situations of heightened risk, such as when crossing a bar, in rough water, during an emergency and by non-swimmers.

If they are not worn, lifejackets must be stored so that they are immediately available in case of an emergency.”

The Chair acknowledged the Complainant’s point that some regional councils have bylaws that go further than maritime rules, making the wearing of lifejackets compulsory in their areas. However, she said there was nothing in the advertisement to indicate the boating activity in the advertisement occurred in a location with such bylaws.

While the Chair acknowledged there is a general recommendation for more widespread use of lifejackets, especially in small vessels, at present there is no legal requirement to wear life jackets across all of New Zealand under maritime law. The Chair took into account the Advertiser had confirmed this was a nationwide campaign, meaning the advertisement would have been viewed by people living across New Zealand where there may be different regional requirements. The Chair also noted the advertisement appeared to show the two children on the tender were wearing lifejackets.

The Chair said the advertisement had not reached the threshold to breach Principle 1 or Rule 1(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.