

COMPLAINT NUMBER	21/492
ADVERTISER	For the Protection of Zion Trust
ADVERTISEMENT	For the Protection of Zion Trust Print
DATE OF MEETING	4 October 2021
OUTCOME	No Grounds to Proceed

Advertisement: The newspaper advertisement for the For the Protection of Zion Trust is a full-page advertorial to promote a petition for a NZ Embassy in Israel. The page is split into two, and formatted as two news articles with "advertisement" flagged at the very top of the page. The top section is headlined "A New Zealand Embassy in Israel" and makes the case that Israel is a liberal democracy with testimonies from two Israeli arabs and Kuwaiti writer. The second half of the page is headlined "Israel faces real security threats" and outlines the threats to Israel from Iran, Hamas (Islamic Resistance Movement), Hezbollah (Party of God), and the West Bank Borders. The end of the advertorial makes the case that "Israel has a lot to offer New Zealand". Details of the advertorial writer, For the Protection of Zion Trust and quoted sources are shown at the bottom.

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

Complaint: The advertisement in question is a full-page opinion from Pastor Nigel Woodley of 'For the Protection of Zion Trust,' formatted to resemble a legitimate newspaper article and published in over 7 of NZ's biggest newspapers:

- Stuff NZ (The Press, Waikato Times, and Dominion Post on Saturday 18th September 2021)
- NZME (The New Zealand Herald, Northern Advocate, and Hawkes Bay Today on Tuesday 7th September 2021, as well as in the Herald on Sunday on Sunday 12th September)
- Otago Daily Times (Tuesday 7th September 2021)

Each media organization published this advertisement blatantly loaded with disinformation and half-truths, promoting a petition based on inaccurate information with the intention of misleading consumers. I believe this advertisement breaches multiple guidelines and rules outlined in Principle Two of the Advertising Standards Code, relating to Truthful Presentation.

Rule 2(a) relating to Identification, outlines that "Advertisements must be identified as such." Other than a small, singular identifier 'ADVERTISEMENT' in the top right-hand corner of the page, it is certainly not clear. Although that may be enough to legally clear this advertisement of Rule 2(a), I feel ethically it's a let-down, particularly when the entire format and layout of the advertisement was designed to mimic that of a legitimate newspaper article. In ASA's Guidance Note on Identification of Advertisements, when dealing with Native Advertising "Advertisers should be aware that their efforts to make their advertising more engaging must not camouflage the fact that it is advertising." I believe this advertisement contravenes that guideline, and in a broader sense the principles that the Advertising Standards Code exists to uphold. It is misleading and deceptive.

Rule 2(b) relating to Truthful Presentation, outlines that "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.” This advertisement is very likely to mislead, deceive and confuse consumers based particularly on exploiting general lack of knowledge surrounding the complex history of the region and the ongoing illegal occupation of Palestine – important context which informs New Zealand’s diplomatic relationship with Israel which is key to the advertisement. It paints many half-truths and fails to acknowledge the full legitimacy of allegations against Israel. This includes inaccurate information and omissions that falsely represent the reality of NZ’s stance on United Nations resolutions pertaining to Israel’s illegal occupation of Palestinian territories. Omitting that information intentionally misleads consumers in the promotion of a Parliamentary petition.

Rule 2(e) relating to Advocacy Advertising, outlines in Principle 1 of the Guidance Note on Advocacy Advertising “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.” The advertisement does not sufficiently distinguish factual information from opinion. Furthermore, multiple statements are blatantly wrong. Under Rule 2(e) “Factual information must be able to be substantiated” and many claims throughout this advertisement simply cannot be. The advertisement claims “The accusation that Israel is an apartheid state is false.” This is a blatant lie, apartheid has a definition by international law and Israel has been proven to match that definition - the claim is not true. Neither are the claims that the Palestinian Authority has “refused to come to the table for more than a decade now” or the multiple references to “unprovoked” attacks. Advocacy Advertising for a petition is more than acceptable, however misleading consumers regarding the context necessary to understand a petition is not.

Rule 2(f) relating to Use of Testimonials and Endorsements, outlines in its guidelines that “Testimonials and endorsements do not constitute substantiation for claims made in an advertisement” and it strikes me that the advertiser has attempted to do just that. Nowhere else in the article do they provide sufficient substantiation of misleading claims. In addition, the guidelines state that “Advertisers must not publish testimonials or endorsements for products or services unless written permission is obtained in advance.” I would query whether written permission has been obtained in advance from those whose quotes have been used to support the argument of this advertisement - I do not have further information in regard to this, but the way it is written about strongly indicates permission has not been obtained in advance.

I have also written a letter to each of these media organizations in the hope that they would reply, but as of the current moment I have had no response. I do not believe this advertisement is acceptable, particularly considering that it further muddies the water surrounding an issue that is already very polarizing and difficult to find accurate information on. The breach of multiple ASA codes from such a wide range of NZ’s biggest newspapers is very disappointing.

The relevant provisions were

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2 (a) Identification: Advertisements must be identified as such.

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.

Rule 2 (f) Use of testimonials and endorsements: Advertisements must not contain or refer to any personal testimonial unless permission to use the testimonial has been obtained and it is verifiable, genuine, current, and representative of the typical not the exceptional. Advertisements must not claim or imply endorsement by any individual, government agency, professional body or independent agency unless there is prior consent and the endorsement is current and verifiable.

The Chair noted the Complainant was concerned the advertisement was misleading as it promoted inaccurate information, it was not clearly identified as advertising and appeared to use testimonials without permission.

About Advocacy Advertising

Complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

In assessing whether an advocacy advertisement complies with the Advertising Standards Code, the freedom of expression provisions under the Bill of Rights Act 1990 must also be considered.

Section 14 of the Act says: "Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form." This freedom of expression supports robust debate on current issues in a democracy.

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.

If the identity and position of the Advertiser is clear, a more liberal interpretation of the Advertising Standards Code is allowed.

About this complaint

The Chair confirmed the Advertiser's identity and position on the issue were clear. The advertisement is headed with "Advertised Opinion" and "Advertisement". The name and contact information of the individual and organisation responsible for the advertisement were included. The advertisement draws attention to the Advertiser's opinion about the political situation in Israel and the jurisdiction of the International Criminal Court (ICC).

The Chair referred to a precedent decision, 21/117, which was also a complaint about a newspaper advertisement for the Protection of Zion Trust, and which was ruled No Grounds to Proceed.

The Chair confirmed the identity requirements of Rule 2(e) Advocacy Advertising had been met and a more liberal interpretation of the Code applied.

The Chair considered the issues raised by the Complainant under the Advertising Standards Code.

The Chair confirmed the labelling on the advertisement was sufficient to distinguish it from editorial content and the advertisement was not in breach of Rule 2(a).

The Complainant considered the information in the advertisement did not accurately reflect a number of issues including New Zealand's position on United Nations resolutions on Israel's occupation of Palestinian Territories. The Chair acknowledged there are differing views about the issues in the advertisement but confirmed robust expression of opinion is allowed in advocacy advertising under Rule 2(e) of the Code and the content did not meet the threshold to breach Rule 2(b) in this context.

The Chair considered the advertisement and the possibility of a breach under Rule 2(f) of the Code with regard to testimonials. She noted the Rule requires "Advertisements must not contain or refer to any personal testimonial unless permission to use the testimonial has been obtained and it is verifiable, genuine, current, and representative of the typical not the exceptional." In the Chair's view, the quotes in the advertisement were not personal testimonials that would be covered by this rule, but rather published quotes that support the Advertiser's view.

The Chair said the advertisement was not in breach of Principle 2 or Rules 2 (a) (b) (e) or (f) 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.