

<b>COMPLAINT NUMBER</b>	16/285
<b>COMPLAINANT</b>	L. Preez
<b>ADVERTISER</b>	Fluoride Free NZ
<b>ADVERTISEMENT</b>	Television
<b>DATE OF MEETING</b>	15 August 2016
<b>OUTCOME</b>	No Grounds to Proceed

**Advertisement:** The television advertisement for Fluoride Free NZ showed a selection of flags of countries without water fluoridation and stated only 4% of the world fluoridates, including New Zealand. It then referred to the 'Child Smile' project in Scotland saving millions of dollars. The advertisement ends by posing the question "why is New Zealand still adding fluoride chemicals to our drinking water?" and encourages viewers to "find the facts" via the Fluoride Free NZ website ([www.fluoridefree.org.nz](http://www.fluoridefree.org.nz)).

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

**Complainant, L. Preez, said:** "Claims made in this advert amounts to scaremongering, as they use inflammatory language and images. The claims the make have been debunked several times by several sources (See well sourced linked article by Dr Ken Perrot <https://openparachute.wordpress.com/2016/07/14/misrepresenting-fluoride-science-an-open-letter-to-paul-connett/>)

The ad contains incorrect and inaccurate statements pertaining to the science and FAN should not be allowed to spread misinformation on a public forum."

**The relevant provisions were Basic Principle 4 and Rules 2, 6 and 11 of the Code of Ethics.**

**The Chair** acknowledged the view of the Complainant the advertisement about water fluoridation was factually inaccurate and the images and language used in the advertisement amounted to scaremongering.

The Chair said the advertisement, which was for Fluoride Free NZ, was by definition an advocacy advertisement. The Chair then took into consideration Rule 11 of the Code of Ethics which said:

**"Advocacy Advertising** - Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. Therefore such opinions may be robust. However, opinion should be clearly distinguishable from factual information. The identity of an advertiser in matters of public interest or political issue should be clear."

She also referred to the Advocacy Principles pursuant to Rule 11, which had been developed by the Complaints Board. These said:

1. 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.

2. That the right of freedom of expression as stated in Section 14 is not absolute as there could be an infringement of other people's rights. Care should be taken to ensure that this does not occur.
3. That the Codes fetter the right granted by Section 14 to ensure there is fair play between all parties on controversial issues. Therefore in advocacy advertising and particularly on political matters the spirit of the Code is more important than technical breaches. People have the right to express their views and this right should not be unduly or unreasonably restricted by Rules.
4. That robust debate in a democratic society is to be encouraged by the media and advertiser and that the Codes should be interpreted liberally to ensure fair play by the contestants.
5. That it is essential in all advocacy advertisements that the identity of the advertiser is clear."

Turning to the advertisement before her, the Chair confirmed that the identity of the Advertiser was clear and viewers were invited to go the website which had more information. Therefore, the Chair said the advertisement fulfilled the identification requirement in Rule 11.

The Chair turned to a previous Ruling about the same advertising about misleading claims. That Ruling (16/272) stated, in part:

"The Chair also considered previous decisions in relation to Fluoride Free NZ and in particular precedent (15/389 Appeal 15/020) which stated:

"As part of a broad review of the application of the advocacy principles to this type of advertising, the Appeal Board confirmed the spirit of the Code was more important than technical breaches. In particular, where there is clear information identifying an advertisement, the name of the Advertiser and their position in the debate – a liberal interpretation to Code compliance will be made.

The Appeal Board emphasised the existence of contradictory evidence – even if that evidence was against the view of the consensus - did not mean the advertisement was misleading as it was the right of Advertisers in a democratic society to interpret and impart its own opinions under Rule 11."

In regard to the complaint about misleading claims, the Chair said the above Decisions applied to the complaint before her. The Chair confirmed that so long as the identity and position of the Advertiser was clear in matters where there were strong differing opinions supported by factual information, an advertisement was unlikely to mislead consumers.

The Chair then turned to consider whether the advertisement exploited the superstitious or, without justifiable reason, played on fear. The Chair noted the advertisement presented information from a particular perspective and posed the question, "why is New Zealand still adding fluoride chemicals to our drinking water?", encouraging people to visit the Advertiser's website to find out more. The Chair acknowledged the advertisement could be considered inflammatory to people who held an opposing view, however, it did not reach the threshold to unjustifiably play on fear.

In conclusion, the Chair said when the advertisement was considered in its entirety, it was clearly an advocacy advertisement presented from a particular perspective and was unlikely to mislead consumers. The Chair also said the advertisement did reach the threshold to be considered to play on fear. She ruled the advertisement was not in breach of Rules 2, 6 or 11 of the Code of Ethics and had been prepared with a due sense of social responsibility, required by Basic Principle 4 of the Code of Ethics.

**Chair's Ruling: Complaint No Grounds to Proceed**