

**Richard Barter (NZ-Micro Enterprise)**

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**From:** Richard Barter [seacliffe@maxnet.co.nz]  
**Sent:** Thursday, 28 February 2008 6:50 a.m.  
**To:** Rob Holding  
**Cc:** Richard Barter (NZ-Micro Enterprise)  
**Subject:** Making a difference Cleaning up billboards Feb 28 2008

Hi Rob,

Like me you are probably annoyed by the standard of a lot of advertising. Well, we don't have to put up with it, we can exercise people power and have them taken down if they really are offensive.

We can make a difference by contacting the Advertising Standards Authority.

I will be in the office today.

Warmly  
Richard

## Authority upholds pants ad grievance

5:00AM Thursday February 28, 2008  
By Maggie McNaughton

A complaint about a billboard advertisement showing the hands of two women edging down a male's pants has been upheld by the Advertising Standards Authority.

The advertisement was for Mega V, a performance supplement for men, and contained the heading: "Need Stamina?".

Complainant C. Sewell saw the billboard in Grey Lynn in Auckland while she was taking her children to school.

"I am not even vaguely prudish but I find this ad offensive and completely rude and unnecessary. You can see body hair - including what looks like pubic hair - in the shot ... my 9-year-old daughter asked why the man had a woman's hand in his pants ... is this the only way they can sell their drugs?" she complained.

About two-thirds of the billboard, which has since been removed, showed the hip and groin area of a male in low-slung, black shorts.

Part of a bra-clad female torso could be seen with her hand edging down below the top of the male's pants.

The hand of a different woman could be seen carrying out a similar activity on the other side.

The Complaints Board said the advertisement, which was the subject of several similar complaints, was not suitable or appropriate for publication on a billboard.

It ruled the advertisement had not been prepared and shown with a due sense of social responsibility and was therefore in breach of Basic Principal 4 of the Code of Ethics.

The board noted that the advertiser - Altitude Advertising - took the billboard down in a self-regulatory manner after it was complained about.

\* A job advertisement for a breakfast chef stating a negotiable hourly rate of \$20-\$23 has been ruled misleading by the Advertising Standards Authority.

Complainant D. Carr applied for the job, which was advertised on a website, at Avanti Restaurant in Queenstown and completed a trial period.

He said that when it came time to discuss remuneration, he was informed the rate was \$20 per hour, with a review in three months.

"I feel misled by the ad as I would not have applied for the position and done an unpaid trial ... if I had known the rate was '\$20 non-neg' and not '\$20-\$23 neg' as advertised."

The Complaints Board noted the explanation from the advertiser that the website format had required a minimum and maximum hourly rate to be stated.

However, it said the advertisement implied the employee had the right to negotiate their starting salary.

## How to Make a Complaint

Any person can complain about any advertisement in any media which they consider to be in breach of the Codes.

The complaints procedure is simple.

1. Complaints should be addressed to the Secretary, Advertising Standards Complaints Board, PO Box 10-675, Wellington. Complaints should be in writing, dated and signed by the complainant. Complaints can also be made using the online complaints form at [www.asa.co.nz](http://www.asa.co.nz). Where the complaint involves a print advertisement, a copy of the advertisement should be included. Where a television or radio advertisement is the subject of a complaint, the approximate time, date and station of broadcast should be specified.
2. The Chairperson will determine whether the complaint is suitable for the Board's consideration and within the Board's jurisdiction. If it is, the complaint will be sent to all parties concerned seeking their opinion and comments and you will be advised. If it is not, you and other parties will be advised and shortly after a formal written decision will be distributed to you, the other parties and to the media.
3. If a complainant does proceed, then the Board will then determine whether the Codes of Practice have been breached and all parties will be informed of the outcome. A formal written decision is distributed to you, the parties and to the media.
4. In lodging a complaint with the Complaints Board the complainant accepts that he/she will not pursue the complaint in any other forum and is required to sign a waiver to that effect.
5. Please note a copy of your complaint, including your contact details, is provided to the other parties as part of the process. However, any contact with you will be via the Complaints

Board. Your first initial and surname is included in the written decision.

6. If a complaint is upheld by the Board the advertiser, in accordance with selfregulatory principles, is requested to voluntarily immediately withdraw the advertisement. Additionally the media are similarly requested not to publish or broadcast an advertisement which has been held by the Board to be in breach of the Codes of Practice. The requests are invariably followed.
7. Decisions of the Complaints Board may be appealed to the Advertising Standards Complaints Appeal Board on certain grounds. The main grounds are new evidence, the rules of natural justice were not followed, and the Decision was against the weight of evidence. All Rulings of the Chairperson of the Complaints Board are appealable to the Chairperson of the Appeal Board. Full details on appeals are available from the Secretary to the Complaints Board. Appeals must be made to the Secretary of the Complaints Board within 14 days of receipt of the written Decision.

## Contact

**Physical Address:** Ground Floor, 79 Boulcott Street, Wellington

**Postal Address:** P O Box 10 675, Wellington

**Telephone** (04) 472 7852 or 0800 ADHELP (0800 234357)

**Facsimile** (04) 471 1785

[www.asa.co.nz](http://www.asa.co.nz)

# Advertising Standards Authority Inc.

ADVERTISING STANDARDS AUTHORITY INC, (ASA) (previously known as Committee of Advertising Practice) was formed early in 1973, and incorporated in late 1990. Its membership, in accordance with self-regulatory principles, are requested to be bound by the decisions of the Advertising Standards Complaints Board (see below), is made up of representatives from the:

Association of New Zealand Advertisers(Inc)

Communication Agencies Association of New Zealand

Community Newspapers

Interactive Advertising Bureau of New Zealand

Letterbox Media Association

Magazine Publishers' Association (Inc)

Newspaper Publishers' Association of New Zealand (Inc)

New Zealand Cinema Advertising Council

New Zealand Marketing Association (Inc)

New Zealand Post

New Zealand Television Broadcasters Council

Outdoor Advertising

Pay TV Group

Radio Broadcasters Association (Inc)

The three main objectives are:

- a. To seek to maintain at all times and in all media a proper and generally acceptable standard of advertising and to ensure that advertising is not misleading or deceptive, either by statement or by implication.
- b. To establish and promote an effective system of voluntary self-regulation in respect to advertising standards.
- c. To establish and fund an Advertising Standards Complaints Board.

To these ends ASA introduces and amends Codes of Practice. These have been developed for specific categories of advertising where they are considered necessary. Where appropriate the Codes have been developed in consultation with industry, consumer groups and government departments.

## Interpretation

The Codes apply to the entire content of an advertisement, including all words and numbers (spoken and written), visual presentations, music and sound effects.

The conformity of any advertisement with the Codes will be judged primarily in terms of its impact upon the type of person who is likely to be exposed to it.

Where there is any doubt, the interpretation shall be adopted that best serves the purpose and intent of any Code. The Code of Ethics will also provide guidance.

The Advertising Standards Complaints Board and the Advertising Standards Complaints Appeal Board are the final arbiters of the interpretation of the Codes.

For the purposes of the Codes:

- The word "advertisement" is to be taken in its broadest sense to embrace any form of advertising and includes advertising which promotes the interest of any person, product or service, imparts information, educates, or advocates an idea, belief, political viewpoint or opportunity. The definition includes advertising in all traditional media and new media such as online advertising, including websites. Emails and SMS messaging that are selling or promoting a product, service, idea or opportunity are also covered by the codes, as are neck labels or promotions attached to a product Other examples include posters, pamphlets and billboards (whether stationary or mobile) and addressed or unaddressed mail.
- the word "product" includes goods, services and facilities whether paid or given free.
- the word "consumer" refers to any person to whom an advertisement is addressed or is likely to be reached by it whether as a final consumer or as a trade customer or user.

- Where complaints have been received concerning advertisements placed in publications, programmes or interactive media, which
  - i. originate outside New Zealand

and

- ii. are intended primarily for audiences outside New Zealand but also reach New Zealand audiences,

the ASCB and ASCAB will take into account the following guidelines.

1. Compliance with the advertising rules in the country of origin.
2. The size and composition of the New Zealand audience.
3. Whether the advertising is targeted at New Zealand consumers.
4. The accessibility of the product to New Zealand consumers.
5. Whether best endeavours have been made to exclude advertisements which would clearly breach the Advertising Codes of Practice. This could be particularly relevant in the case of live presentations of overseas events to a substantial number of New Zealanders.

## **Social Responsibility in Advertising Food and Advertising to Children**

A number of ASA codes have a requirement for ‘a due sense of social responsibility’ and a “high standard of responsibility’ is in the Code for Advertising Liquor, the Therapeutic Products Advertising Code, the Therapeutic Services Advertising Code, the Code for Weight Management and the Code for Advertising Gaming and Gambling in addition to the Code for the Advertising of Food and the Code for Advertising to Children.

What is socially responsible in advertising depends on the context, medium, audience, product and prevailing community standards. One of the benefits of a principle and rule approach of the Advertising Codes of Practice is that the interpretation of the codes can move in response to what the community may find more or less acceptable. A simple example is that Society today is more tolerant of certain words such as ‘bugger’ and ‘bloody idiot’, which would not have been acceptable 20 years ago. On the other hand tolerance of violence in advertisements has become more conservative over the same time period.

It is also important to note that while a number of guidelines are included in the Codes to illustrate the principles of a due sense or high standard of social responsibility – the Complaints Boards are not restricted in their interpretation of the principle to the actual listed guidelines. It is possible for an advertisement to be in breach of the principle without being in breach of a specific guideline.

The Committee that reviewed the Code for the Advertising of Food and the Code for Advertising to Children in 2005/6 recommended that the ASA provide more detail on its website about the concept of social responsibility to assist consumers with regard to the application of these rules by the Complaints Board.

To illustrate this, the following Advertising Standards Complaints Board decisions reflect the

application of the code principles requiring a due sense or a high standard of social responsibility.

A key reason for the different standards of social responsibility is the type of product or service being advertised and the intended audience. Therefore, for example, advertising to children requires a high standard of social responsibility – as does the advertising of therapeutic products and services and the advertising of alcohol.

In one Decision for a snack food advertisement (03/08), the Advertising Standards Complaints Board ruled that a depiction of teenagers on a beach digging a hole that was then covered with a towel resulting in another teenager falling into a deep hole with a thump was not socially responsible.

In another Decision (04/127) describing a sweet as zero percent fat and noting that glucose was one of the best sources of energy for the brain, the Board upheld the complaint and agreed that the claims in the advertisement did not meet a high standard of social responsibility.

The Board also ruled on the requirement for a high standard of social responsibility in Decisions 04/090 and 05/091. In a promotion for a range of Easter eggs a toddler and then a teenager were used to illustrate the size of a one kilogram “Pig Out” Easter egg. The Board upheld complaints in both cases, agreeing that the use of toddlers or a teenager in association with one kilogram of chocolate did not meet the requirement for a high standard of social responsibility in advertising that would have appeal to children.

The following is a list of recent Advertising Standards Complaints Board decisions considered under Code for the Advertising of Food and/or the Code for Advertising to Children that will provide precedents for your information in relation to social responsibility.

## Recent Decisions

The following is a list of Decisions of the Advertising Standards Complaints Board released in the past 30 days.

<b>Complaint</b>	<b>Date Released</b>
<b>07/591</b> - The Warehouse Direct Mail Advertisement	<b>27/02/2008</b>
<b>07/595</b> - TelstraClear Website Advertisement	<b>27/02/2008</b>
<b>07/607</b> - Slingshot Website Advertisement	<b>27/02/2008</b>
<b>07/612</b> - Xtreme Nutrition Website Advertisement	<b>27/02/2008</b>
<b>07/626</b> - Mega-V Billboard Advertisement	<b>27/02/2008</b>
<b>07/633</b> - Gun City Direct Mail Advertisement	<b>27/02/2008</b>
<b>07/640</b> - Vehicles Direct Website Advertisement	<b>27/02/2008</b>
<b>07/642</b> - Liquor King Newspaper Advertisement	<b>27/02/2008</b>
<b>07/644</b> - PokerStars.net Television Advertisement	<b>27/02/2008</b>
<b>07/645</b> - Bond & Bond Television Advertisement	<b>27/02/2008</b>
<b>07/659</b> - Trade Me Website Advertisement	<b>27/02/2008</b>

**07/665** - Avanti Restaurant Seek Website Advertisement **27/02/2008**  
**08/008** - The Warehouse Newspaper Advertisement **27/02/2008**  
**08/025** - Water Safety New Zealand Television Advertisement **27/02/2008**  
**08/026** - Liquorland Trademe Website Advertisement **27/02/2008**  
**08/027** - Musica Sacra Website & Brochure Advertisement **27/02/2008**  
**08/029** - 30 Second Cobweb Eliminator Television Advertisement **27/02/2008**  
**08/040** - Kiwicare Television Advertisement **27/02/2008**  
**07/565** - Illicit Clothing Signage Advertisement **20/02/2008**  
**07/600** - The Mill Liquorsave Newspaper Advertisement **20/02/2008**  
**07/604** - Iplenish Radio Advertisement **20/02/2008**  
**07/605** - Base Backpackers Print Advertisements **20/02/2008**  
**07/608** - Suzuki Grand Vitara Newspaper Advertisement **20/02/2008**  
**07/619** - Erotica Expo Boobs on Bikes Parade **20/02/2008**  
**07/621** - Sika Boom Magazine Advertisement **20/02/2008**  
**07/623** - Yahoo!Xtra Website Advertisement **20/02/2008**  
**07/631** - Moes Tows Yellow Pages Advertisement **20/02/2008**  
**07/658** - Hell Pizza Direct Mail Advertisement **20/02/2008**  
**07/667** - Waingaro Hot Springs Television Advertisement **20/02/2008**  
**08/012** - Mitre 10 Television Advertisement **20/02/2008**  
**08/014** - Royal New Zealand Coastguard Television Advertisement **20/02/2008**  
**08/022** - Tui Beer Billboard Advertisement **20/02/2008**  
**07/643** - Oamaru Pharmacy Newspaper Advertisement **14/02/2008**  
**07/646** - Suzuki Swift Television Advertisement **14/02/2008**  
**07/651** - McDonalds In-store Advertisement **14/02/2008**  
**07/657** - The Mad Butcher Radio Advertisement **14/02/2008**  
**07/660** - NZCU Baywide Newspaper Advertisement **14/02/2008**  
**07/661** - Cornerstone Group Waimauku Estate Newspaper Advertisement **14/02/2008**  
**07/663** - Activate Body Boost Yoghurts Print Advertisement **14/02/2008**  
**07/664** - myluvcrush.com Facebook Website Advertisement **14/02/2008**

<b>07/666</b> - Libra Invisibles Television Advertisement	<b>14/02/2008</b>
<b>08/001</b> - Cricket Sponsorship National Bank Radio Advertisement	<b>14/02/2008</b>
<b>08/004</b> - Land Transport Television Advertisement	<b>14/02/2008</b>
<b>08/009</b> - Vodafone-Ihug Direct Mail Advertisement	<b>14/02/2008</b>
<b>08/011</b> - Well Hung Doors Radio Advertisement	<b>14/02/2008</b>
<b>07/603</b> - Noel Leeming Website Advertisement	<b>13/02/2008</b>
<b>07/606</b> - Nappies For Less Newspaper Advertisement	<b>13/02/2008</b>
<b>07/613</b> - RadioLIVE Television Advertisement	<b>13/02/2008</b>
<b>07/615</b> - Ford YouTube Advertisement	<b>13/02/2008</b>
<b>07/616, AWAP 07/015</b> - Patanol Magazine Advertisement	<b>13/02/2008</b>
<b>07/617</b> - HRV Television Advertisement	<b>13/02/2008</b>
<b>07/618</b> - Eta Uppercuts Kettle Chips Television Advertisement	<b>13/02/2008</b>
<b>07/620</b> - Tui Beer Website Advertisement	<b>13/02/2008</b>
<b>07/624</b> - Cockram Nissan Newspaper Advertisement	<b>13/02/2008</b>
<b>07/625</b> - Mitre 10 Direct Mail Advertisement	<b>13/02/2008</b>
<b>07/628</b> - Smiths City Radio Advertisement	<b>13/02/2008</b>
<b>07/630</b> - Telecom Television Advertisement	<b>13/02/2008</b>
<b>07/632</b> - Law Debt Collection Ltd Yellow Pages Advertisement	<b>13/02/2008</b>
<b>07/634</b> - The Mad Butcher Website & Radio Advertisement	<b>13/02/2008</b>
<b>07/636</b> - Libra Invisible Television Advertisement	<b>13/02/2008</b>
<b>07/637</b> - Countdown Direct Mail Advertisement	<b>13/02/2008</b>
<b>07/638</b> - Woolworths Direct Mail Advertisement	<b>13/02/2008</b>
<b>07/639</b> - Tui Beer Newspaper Advertisement	<b>13/02/2008</b>
<b>07/535</b> - Harvey Norman Direct Mail Advertisement	<b>08/02/2008</b>
<b>07/538</b> - Speights Beer Television Promotion	<b>08/02/2008</b>
<b>07/566</b> - Matchbox Mega Television Advertisement	<b>08/02/2008</b>
<b>07/569</b> - Bond & Bond Poster Advertisement	<b>08/02/2008</b>
<b>07/570</b> - Diesel Bourbon & Cola Instore Advertisement	<b>08/02/2008</b>
<b>07/572</b> - BP Oil Poster Advertisement	<b>08/02/2008</b>

**07/573** - Mitre 10 Mega Television Advertisement      **08/02/2008**

**07/576** - TV3 "Heroes" Newspaper Advertisement      **08/02/2008**

**07/577** - The University of Auckland Website Advertisement      **08/02/2008**

**07/580** - HRV Television Advertisement      **08/02/2008**

**07/583** - Subway Television Advertisement      **08/02/2008**

**07/592** - Mentos Television Advertisement      **08/02/2008**

**07/593** - John Boscawen Protest against Government Legislation Radio Advertisement      **08/02/2008**

**07/594** - Repco Direct Mail Advertisement      **08/02/2008**

**07/596** - Alfa One Rice Bran Oil Television Advertisement      **08/02/2008**

**07/597** - Kmart Newspaper Advertisement      **08/02/2008**

**07/598** - Yellow Pages Newspaper Advertisement      **08/02/2008**

**07/599** - Emergency Contraceptive Pill Radio Advertisement      **08/02/2008**

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