

COMPLAINT NUMBER	22/078
ADVERTISER	Waka Kotahi/NZ Transport Agency
ADVERTISEMENT	Road to Zero – Riding Together, Television
DATE OF MEETING	12 April 2022
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold three complaints about a television advertisement for Waka Kotahi/NZ Transport Agency's Road to Zero campaign. The Complaints Board said the advocacy advertisement, *Riding Together*, was justified on educational grounds and had been prepared and placed with a due sense of social responsibility.

Advertisement

The Waka Kotahi/NZ Transport Agency television advertisement, *Riding Together*, shows a family in a car, before swerving to miss a possum on the road. The car hits the roadside barrier and slows to a stop. The family gets out of the vehicle, as do several other people who are credited with making the incident safe – including two mechanics who sold the driver "the right tyres", a dog who was "correctly restrained", a construction team who installed the safety barrier, the police who enforced safe speeds, and engineers who ensured the vehicle had a high safety rating. The advertisement ends with the text "IT TAKES EVERYONE TO GET TO NO ONE", the logos for 'Road to Zero', Waka Kotahi NZ Transport Agency, New Zealand Government, and the URL roadtozero.govt.nz.

Summary of the Complaints

Three Complainants were concerned an advertisement promoting zero road deaths is itself depicting unsafe an driving practice by encouraging drivers to swerve to avoid animals on the road. One Complainant is concerned the advertisement appears to condone overloading a car by having up to 15 other people in addition to the family exiting the car, including from under the hood.

Issues Raised:

- Social Responsibility
- Truthful Presentation
- Safety
- Advocacy Advertising

Summary of the Advertiser's Response

The Advertiser said Road to Zero campaign is underpinned by a vision of zero deaths and serious injuries on New Zealand roads. The first step is aimed at reducing deaths and serious injuries by 40% by 2030. The campaign is centred around a safe system approach where we assume people will make mistakes and the system is designed to prevent death or serious injury and the *Riding Together* advertisement demonstrates this and shows how different parts of the system work together to keep New Zealanders safe.

The Advertiser said the story shows a driver making a mistake by swerving to miss a possum and the advertisement then uses humour and obvious hyperbole to illustrate why the family comes through the incident unharmed due to wearing seat belts, driving a safer vehicle, having good tyres and having a safety barrier on the road. The Advertiser referred to a study which shows 50 percent of fatal crashes and 70 percent of serious injuries have, drivers following the road rules.¹ Rather than reckless or dangerous behaviour, people had simply made a poor decision or something unexpected happened.

A full copy of the Advertiser's response is in Appendix 2.

Summary of the Media Response

The Commercial Approvals Bureau (CAB) said the advertisement covers the positive measures in place to help make driving on New Zealand roads safer. It said for some viewers perhaps the use of a possum was not the best example of something to avoid but it is a common sight on rural roads and many drivers will identify with their own reactions should they come across such an unexpected object. Any suggestion that all these people came from the one vehicle is quite clearly not the case.

A full copy of the Media's response is in Appendix 3.

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.

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.

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not 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 three precedent decisions, Decision 19/326 and 19/403, which were ruled No Grounds to Proceed and Decision 21/413 which was Not Upheld.

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

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

Decision 19/326 concerned an advocacy television advertisement from Waka Kotahi/NZ Transport Agency which showed different examples of passengers being driven at speed by

absent drivers with voiceovers saying they were assertive drivers and “my car, my rules.” The Complainant was concerned the advertisement was costly and showed speed in a safety message which could encourage young driver to emulate.

The Chair of Complaints Board ruled there were No Grounds for the complaint to proceed and said the advocacy message was justified on educational grounds and most viewers would understand the advertisement was showing what not to do.

Decision 19/403 concerned an advocacy television advertisement from the NZ Transport Agency which showed a number of parents giving advice to young people on driving safely. One scenario showed a father advising his daughter not to swerve to avoid a possum.

The Chairman of Complaints Board ruled there were No Grounds for the complaint to proceed and said the advocacy message was justified on educational grounds. The Chairman said the safe avoidance of animals on the road was something learned with experience.

Decision 21/413 concerned an advocacy television advertisement from the Accident Compensation Corporation (ACC) which showed a man contemplating jumping into a waterhole from a height but choosing a lesser jump after assessing the dangers.

The Complaints Board did Not Uphold the complaint and said the advocacy message about assessing dangers in advance was justified in showing the lesser risk of swimming beneath the waterfall within the context of the safety message.

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: Government campaign to reduce New Zealand’s road toll
 - Medium: Television
 - Audience: G rated viewing audience
 - Product: Government advocacy advertising

Role of the ASA when considering an advocacy advertisement.

The Complaints Board noted its role is to consider the likely consumer takeout of an advertisement and complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

The Complaints Board observed that in a free and democratic society, issues should be openly debated without undue hindrance or interference from authorities such as the Complaints Board, and in no way should political parties, politicians, lobby groups or advocates be unnecessarily fettered by a technical or unduly strict interpretation of the rules and regulations.

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.

Application of the Advertising Standards Code to this advocacy advertisement

Waka Kotahi/NZ Transport Agency is the government body responsible for educating the public on road safety issues. The role and jurisdiction of the Advertising Standards Authority (ASA) in advertising from expert bodies was addressed in *Electoral Commission v Cameron* [1997] 2 NZLR 421. In accordance with the findings of the Court of Appeal, the ASA was required to “tread carefully” and ensure that it did not substitute its opinion for that of the expert body.

In reviewing the complaint about this advertisement, the Complaints Board took into account the role of advocacy advertising, the liberal interpretation of the Codes required by the Advocacy Principles, the application of *Cameron*, the likely consumer takeout, and the context for the advertising; the government educating the public in an attempt to reduce the road toll.

Is the identity and position of the Advertiser clear?

The Complaints Board confirmed the identity and position of the Advertiser was sufficiently clear for the advertisement to be considered as advocacy advertising. The Board noted the advertisement included the logos for Waka Kotahi, the New Zealand Government, the Road to Zero campaign and the URL roadtozero.govt.nz. The Board also agreed the position of the Advertiser was clearly signalled in the final text on screen which states: “IT TAKES EVERYONE TO GET TO NO ONE”,

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was that Waka Kotahi/NZ Transport Agency is promoting the road to zero campaign by emphasising that many people contribute to making New Zealand’s roads safe and mitigate the risks if accidents happen.

Does the advertisement portray, encourage or condone a dangerous or unsafe practice without justification?

The majority of the Complaints Board said that on balance the scenario shown in the advertisement with the driver swerving to avoid a possum, was not showing an unsafe practice without justification. Some Board members said it could have been clearer the driver’s instinct to swerve was not the correct reaction, but the majority agreed the advertisement’s overall message provided justification for why it was shown.

The majority of the Complaints Board acknowledged the Road to Zero campaign was a new and inverted approach to road safety, shifting the focus of responsibility from the driver to a shared safety message. The Board said the purpose of the advertisement was to show that many actions mitigate inevitable accidents, which would otherwise lead to serious injury or death. The majority of the Board said the advertisement demonstrated that the consequence of a bad driving decision was minimised by all the safety systems in place.

The majority of the Complaints Board said the advertisement had not met the threshold to breach Rule 1(e) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said in light of the overall message of road safety, the Advertiser was not justified in showing a driver swerving to avoid a possum, especially as this is a scenario faced by many New Zealand drivers.

For a minority of the Board the portrayal of this practice by the Ministry responsible for promoting a safe land transport system, was not justified on educational grounds and the advertisement was in breach of Rule 1(e) of the Advertising Standards Code.

The Complaints Board noted one Complainant was concerned the advertisement also portrayed an unsafe practice by showing an excessive number of people exiting the car which could encourage overloading.

The Complaints Board agreed that most consumers would understand the advertisement was using hyperbole to illustrate the number of people in different roles it takes to ensure road safety. The Board said people climbing out from under the hood and the talking dog added a humorous and fantastical element to the advertisement that consumers were unlikely to take literally. On this point the Complaints Board unanimously agreed the advertisement was not in breach of Principle 1 or Rule 1(e) of the Advertising Standards Code.

Has the advertisement been prepared and placed with a due standard of social responsibility?

The majority of the Complaints Board said the advocacy advertisement had met the requisite standard of social responsibility. The majority of the Board said most consumers would focus on the overall message rather than the driver's actions of swerving to avoid the possum.

A minority of the Complaints Board disagreed and said showing an unsafe driving practice in the context of an advertisement about road safety was not socially responsible and was in breach of Principle 1 of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board said taking into account context, medium, audience and product and when viewed through the lens of advocacy advertising, the advertisement was not in breach of Principle 1, Principle 2 or Rules 1(e) and 2(e) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaints were **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. 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. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT 1:

The advert shows a car swerving to avoid a possum. The ad then goes on to show various services taking credit for crash barriers, tyres etc. The advert is promoting unsafe driving in that it encourages people to swerve to avoid small animals, which by general consensus is not what one should do. The ad appears to be promoting safer driving to reduce the road toll but showing a car swerving is not safe. If people followed the lead of the advert and swerved in town, by schools or motorways I believe they could not only injure or kill people but get ticketed for unsafe driving.

COMPLAINT 2:

<https://youtu.be/wroSmL-s2G0> This ad features a car swerving for a possum and crashing and delivers a safety message that does not follow the road code. You should hit the possum and then pull over to check your car not swerve and crash in the first instance.

COMPLAINT 3:

I am complaining about the Waka Kotahi's Road to Zero advertisement shown on TV at the time stated above. This ad has been running for some time now shown regularly on all TV Channels. This advertisement breaches Principal 1 - Social Responsibility. (Rule 1 Safety) - It is ridiculous in my view that an advertisement encouraging zero road deaths is itself depicting unsafe practices. In the Ad a car swerves to avoid a possum on the road. The family get out of the car. Up to that point there is no issue, however as it continues on we see over at least another 15 or so people get out of the car, with 2 getting out from under the hood of the car. It depicts therefore that none of those extra 2 people getting out of the car were wearing seatbelts, and the car is overloaded to excess. How on earth is that promoting 'safety on our roads'. It's not okay to speed, but it is okay to have up to 20 people in the car as shown on the ad? This advertisement must be taken off air as it could easily be construed by young drivers, that it is okay overload their cars with people who do not have to wear seatbelts. My main concern is how 2 of the people got out of the boot.

Appendix 2

RESPONSE FROM ADVERTISER, WAKA KOTAHI/NZ TRANSPORT AGENCY

Thank you for your letter dated 16 March 2022 and for the opportunity to defend the complaints you have received concerning the *Riding Together* advertisement, a part of the Road to Zero public awareness campaign which went live on 13 February 2022. Waka Kotahi NZ Transport Agency (Waka Kotahi) is pleased to respond.

You have received three complaints about the *Riding Together* advertisement. Complaints one and two take issue with the advertisement as it shows a car swerving to avoid a possum. As stated in complaint one: *"The ad appears to be promoting safer driving to reduce the road toll but showing a car swerving is not safe."* In addition, complaint three is concerned with the number of people emerging from the stationary car. Specifically, complaint three posits that *Riding Together* breaches Principal 1: Social Responsibility, and in particular Rule 1(e) Safety. The complainant states: *"It is ridiculous in my view that an advertisement encouraging zero road deaths is itself depicting unsafe practices."*

This defence addresses all three complaints to be put before the Advertising Standards Complaints Board (Board). The relevant sections of the Advertising Standards Code (Code) identified by the Board are: Advertising Standards Code - Principle 1, Principle 2, Rule 1(e) and Rule 2(e).

The details of the *Riding Together* advertisement is outlined in Appendix 1.

Principle 1: Social Responsibility

Principle 1 of the Code states that advertisements must be prepared and placed with due sense of social responsibility to consumers and to society. Specifically, the Board has identified 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.”

On average, one person dies every day on our roads and around seven more are seriously injured. The New Zealand Government has a vision of an Aotearoa where no one is killed or seriously injured on our roads.

Road to Zero, New Zealand's road safety strategy, was launched by Te Manatū Waka | Ministry of Transport in 2019 and Waka Kotahi is the government agency leading its delivery. Underpinned by a vision of zero deaths and serious injuries in Aotearoa, Road to Zero is the first step in achieving this vision and specifically aims to reduce deaths and serious injuries on New Zealand roads by 40 percent by 2030 (based on 2018 levels).

Road to Zero is centred around a safe system approach where we assume people will make mistakes and the system is designed to prevent death and / or serious injury. The purpose of the *Riding Together* advertisement it is to demonstrate this and show how different parts of the safe road system work together to keep New Zealanders safe.

In particular, the *Riding Together* advertisement shows a family of four in a five-star safety rated car following the rules. Then the driver makes a mistake, swerving to miss a possum on the road and resulting in a minor crash. From this point onward the advertisement takes an unexpected turn using humour and obvious and deliberate hyperbole to illustrate why the family has come through the incident unharmed.

To be specific, and once the car is stationary and the family has exited from the car, a number of other people and a dog also exit the car. This ensemble help demonstrate the safe system interventions at work. Most exit from a back door, and two people exit from under the bonnet of the car. There are clearly and purposefully more people exiting the car than would be able to fit in a normal vehicle. In addition, these people were not shown to be in the car when it was in motion and the car would not have been able to have been driven without an engine.

It is true that a driver should not swerve to avoid hitting an animal in the road. And that is the point of the *Riding Together* advert, any driver can make a mistake and, when that happens, there are a range of interventions that work together to keep New Zealanders safe. As shown in the advertisement, wearing seat belts, driving a safer vehicle, having good tyres and having a safety barrier on the road are some of the things that helped keep the family safe. In a safe system we acknowledge that people make mistakes when driving, but no one should pay for a mistake with their life.

We know from a recent New Zealand study that in around 50 percent of crashes where people were killed and in about 70 percent of crashes where people were seriously

injured, drivers had generally followed the road rules.² Rather than reckless or dangerous behaviour, people had simply made a poor decision or something unexpected happened. *Riding Together* shows this in action and is representative of what is happening every day, right across New Zealand's roads.

Testing of the creative concept for *Riding Together* was carried out in January 2022 with the target audience of 18-plus. Our testing found no red flags with regards to the content of or unintended messages from the advertisement. In fact, the advertisement rated well across all key attributes including delivering its key message and being attention grabbing.

In particular, respondents said it demonstrated a mix of personal choices in addition to external factors that all contributed to the safe system. Further, respondents said the advertisement was easy to relate to and the humour was noted as a bonus, including the number of people getting out of the car.

Since the Road to Zero public awareness campaign has gone to air we have received, via our social media channels, close to 7000 comments. Of these, 650 are in direct response to the *Riding Together* advertisement which has generated the most positive conversation of the public awareness campaign to date.

Prior to production, the script was rated by CAB as G (General). After production, the advertisement was viewed by CAB and the G rating was confirmed.

We have taken great care to ensure that *Riding Together* has been prepared and placed with due sense of social responsibility to New Zealanders.

Principle 2: Truthful Presentation

Principle 2 of the Code states that advertisements must be truthful, balanced and not misleading. Specifically, the Board has identified 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.”*

New Zealand's Road to Zero strategy is founded on the safe system approach and underpinned by the belief that people make mistakes, but they shouldn't have to pay with their lives or limbs as a result. The strategy follows an evidence based, global best practice approach to reducing road deaths and serious injuries.

As outlined above in our defence of Principle 1, the purpose of *Riding Together* is to show the safe system at work and that it takes many interventions working together to keep people safe, even when mistakes are made. Promoting good choices, but planning for mistakes, is one of the guiding principles for Road to Zero.

Further, and as required by the Code, the advertisement clearly identifies that it is a New Zealand Government and Waka Kotahi advertisement and the advert clearly directs people to the Road to Zero website where they can find reliable information.

Waka Kotahi is proud of the *Riding Together* advertisement and the impact it has had in demonstrating the safe system and showing how a number of components of the safe road system work together to keep us safer. This is the start of an important conversation that has to be had with New Zealanders – we need to support a range of interventions to

² The AA Research Foundation Serious Injury Crashes report 2017.

bring down the number of people paying for mistakes on the road with their lives and their limbs.

Waka Kotahi has a history of creating impactful and effective road safety campaigns and we firmly believe that we have followed all aspects of the Code to the letter. We trust we will be able to retain the ability to broadcast this video story.

Appendix 1

A basic, neutral description of the advertisement	<p>A family of four are on a daytime driving excursion on a windy section of road. They are in a small modern hatchback. Dad and Mum are in the front; Dad is driving to the conditions. They are all relaxed and the parents are passing the time trying to engage the two teens in the back in a sing-along. Suddenly, Dad sees a possum on the road not far in front of the car, he is reactive and swerves to avoid it. He corrects the vehicle and pulls off to the side of the road, hitting a barrier with a steep drop off on the left-hand side. It is not a big impact. The barrier does its job and the car comes to rest against it, with some damage to the front left-hand side of the vehicle.</p> <p>Getting out of the car, the family looks shaken but okay. A passing cyclist stops and asks if they are okay. Dad says: "Good thing we were all wearing seat belts."</p> <p>From here things take a turn and two car mechanics exit the car through a back door and continue the "Good thing I ..." thread. This is repeated a number of times with a dog (with subtitles while it barks), followed by four road workers and then two police officers. Next twin engineers emerge from the under the bonnet. Each time more people get out of the car there's a short conversation starting "Good thing I ..." with all of the good things being related to the safer road system that has helped keep the family uninjured and safer, even though they have had a minor crash.</p> <p>The end frame shows the entire group with the words "It takes everyone to get to no one."</p> <p>The All of Government and Waka Kotahi logos fade up with the Road to Zero icon and website address.</p>
Date advertisement began	27 February 2022
Where the advertisement appeared (all locations) e.g.: TV, Billboard, Newspaper Website	Television, cinema, Facebook, Instagram, digital (Stuff and New Zealand Herald),

	out-of-home billboards, radio and the Waka Kotahi website.
Is the advertisement still accessible – where and until when?	In market: 27 February 2022 – 30 June 2022 The advertisement is also available on the Waka Kotahi website: www.nzta.govt.nz/safety/what-waka-kotahi-is-doing/marketing-campaigns/current-marketing-campaigns/road-to-zero-campaign-riding-together/
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	The advertisement is available on the Waka Kotahi website: www.nzta.govt.nz/safety/what-waka-kotahi-is-doing/marketing-campaigns/current-marketing-campaigns/road-to-zero-campaign-riding-together/
Who is the product / brand target audience? Please provide a copy of the media schedule.	All New Zealanders 18+
Pre-vetting Approval number if applicable	N/A
Clear substantiation on claims that are challenged by the complainant. Please see the Guidance Note.	Please refer to the letter.
The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	Not an issue.
For Broadcast advertisements:	
A copy of the script	[DAD] Diddy wop ... [DAD & MUM] Kama kama wang dang. [MUM] All together? [GIRL] Mum, please don't. [DAD] Wang dang ... day possum. [MUM] You alright? [CYCLIST] Family of four, you okay? [DAD] Yeah, good thing we were all wearing seatbelts. [MECHANIC] Good thing that I sold you the right tyres. [DAD] Yeah, good thing. [MECHANIC'S APPRENTICE] Woah. A bike rider. Hello. [DOG] SUBTITLES Good thing I was correctly restrained to avoid becoming a projectile. [ROAD WORKER] Good thing we put this barrier in, eh team. [POLICE OFFICER] Good thing we help keep your speed nice and safe around here.

	<p>[ENGINEER TWINS] Good thing we made sure this car was worthy of a high safety rating.</p> <p>[DAUGHTER] Wish I was a twins.</p> <p>[ROAD WORKER] Stop that please.</p> <p>[GRAPHIC] It takes everyone to get to no one.</p> <p>[END FRAME] Road to Zero logo</p> <p>[END FRAME] All of Government and Waka Kotahi logos.</p> <p>[END FRAME]: www.roadtozero.govt.nz</p>
CAB key number and rating	<p>CAB Key Number: NTA0278 RT 60</p> <p>Rating: G (General)</p>

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

This material is one of Waka Kotahi's "Road to Zero" campaign advertisements.

The tagline is "It Takes Everyone to Get to No One" and the commercial covers the positive measures in place to help make driving on New Zealand roads safer.

A driver loses control when he swerves to avoid an object, in this case a possum, and crashes into the roadside safety barrier. The passengers are unharmed as they were all wearing seatbelts. The "good thing" storyline continues with some of those safety features shown. Mechanics climb from the car remarking it's a good thing it has the right tyres, the road maintenance crew comment on the placement and strength of good barriers, the dog that it was restrained and prevented it becoming a projectile, Police that the area was a safe speed zone and car safety rating personnel confirming the vehicle has a positive rating. All these precautions have played some part in saving the family from harm.

For some viewers perhaps the use of a possum was not the best example of something to avoid but it is a common sight on rural roads and many drivers will identify with their own reactions should they come across such an unexpected object.

Any suggestion that all these people came from the one vehicle is quite clearly not the case.

There appears no reason to uphold these complaints.