

Members present

Hon Andrew McGechan (President)
Chief Judge Joe Williams – *ex officio* (Maori Land Court)
Ms Belinda Clark – *ex officio* (Secretary for Justice)
Dr Helena Catt (Chief Executive)

Dated: 29 July 2008

Decision Number: 2008-10

Initiated by

G ROSS GIBSON ON 9 APRIL 2008
JOHN SHARLAND ON 10 APRIL 2008
EWAN J LOWDEN ON 11 APRIL 2008
AUDREY YOUNG, POLITICAL EDITOR, NEW
ZEALAND HERALD ON 11 APRIL 2008

In relation to

Election advertisement
NEW ZEALAND FIRST

Subject

New Zealand First advertisement "What's in it for us?" published in several daily newspapers on 9 April 2008. Alleged that a promoter statement was missing from a published election advertisement.

Findings and Determination

No contravention of the Electoral Finance Act 2007 as the flyer is not an election advertisement within the meaning of section 5 of the Act.

This headnote does not form part of the decision.

Subject

New Zealand First advertisement "What's in it for us?" published in several daily newspapers on 9 April 2008. Alleged that a promoter statement was missing from a published election advertisement.

Issues raised

Ewan J Lowden telephoned on 11 April 2008 and alleged the advertisement is an election advertisement. Similarly, on 14 April 2004 we received a letter from G Ross Gibson alleging the advertisement is an election advertisement.

In John Sharland's letter, received 14 April 2004, he asserts that the slogan 'IT'S TIME FOR NEW ZEALANDERS TO OWN NEW ZEALAND AGAIN – DON'T YOU AGREE?' appearing in the advertisement is surely New Zealand First policy and promoting that policy.

Audrey Young, in her letter received 14 April 2008, wrote: "This was published in at least three metropolitan daily newspapers on April 9 after the party announced its opposition to the free trade agreement with China. While it is partly survey form that invites readers to respond to its party positions, it might also be regarded as encouraging support for the party by reference to its views."

Statutory provisions

Section 5 of the Act defines an election advertisement to be, in summary, any form of words and/or graphics that could reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular way.

Sections 63 and 65 of the Act require certain election advertisements to contain a statement of the name and address of the promoter of the advertisement. These sections also impose other requirements in relation to who may promote, or be authorised to promote, an election advertisement.

Comments from New Zealand First

A response was received from Damian Edwards, Parliamentary Chief of Staff New Zealand First, on 17 April 2008. The response alleges that the Electoral Commission's Chief Executive Officer indicated that in her view a hypothetical advertisement stating the party's view on the China free trade agreement would not constitute "electioneering". The response raises a range of interpretative issues as well as the grounds for which the advertisement was deemed compliant with Speaker's Directions for Parliamentary funding purposes.

Electoral Commission's Determination

The Electoral Commission has considered the requirements of the Act along with the items listed as exhibits (below). The President considered whether there was a conflict of interest for Dr Helena Catt, Chief Executive Officer, in being part of a decision on this issue as her file note and the response from New Zealand First contradict each other. This matter was discussed at a meeting on 12 June and the President determined the situation was of limited relevance and the Chief Executive was to be part of consideration of this matter.

In the view of the Electoral Commission the item is, by a close but distinguishable margin, not an election advertisement because it is a statement of policy in respect of matters then current.

For the above reasons it is the view of the Electoral Commission that the New Zealand First newspaper advertisement "What's in it for us?" does not contravene the Electoral Finance Act 2007 as it is not an election advertisement within the meaning of section 5 of the Act.

Signed for and on behalf of the Electoral Commission



Dr Helena Catt
Chief Executive and Commissioner
New Zealand Electoral Commission

1 August 2008

Exhibits

The following items were received and considered by the Electoral Commission when it determined this matter:

1. New Zealand First newspaper advertisement
2. New Zealand First, response letter (by email 17 April 2008)

