



22 October, 2021

## **NZME Board Members**

By email: [michael.boggs@nzme.co.nz](mailto:michael.boggs@nzme.co.nz)

To the NZME Board,

### **Dangers of allowing editorial decisions to limit free speech in advertising decisions**

We write to you following our discussion with Ms Whitney, and Messrs. Boggs and Currie regarding their decision to not run an advert submitted by the Stand Up For Women action group in the Bay of Plenty Times that had been approved by both NZME and the ASA.

We understand from the meeting that you:

- see a clear separation between the commercial side of your business and the journalistic/editorial side; and that this differentiation was part of the reason for your decision not to publish the SUFW advert;
- tried to negotiate with SUFW to have them change their advert so it was less inflammatory and had a more clear call to action;
- consider complaints about adverts to be a commercial risk due to the time involved in dealing with them;
- also take into consideration the feelings and well-being of your staff when making determinations about whether to publish adverts.

We appreciate the competing interests that exist in situations like this, and the commercial pressures which must be taken into account. However, based on our understanding of the decision to not run the SUFW advert, as outlined by Ms. Whitney, commercial interests were not the primary concern. Rather, the decision was largely based on the potential offence and 'harm' caused by the arguably inflammatory nature of the material. This justification concerns us, and we believe should also concern those invested in the future of NZME.

We fail to see for what reason NZME should be insisting adverts contain less inflammatory messages, when the ASA has considered the same advert as 'robust advocacy'. Determining the acceptable level of offence should not be the role of the largest media publisher in New Zealand; this is true both with the interests of NZME and the interest of free speech in mind.

Engaging with advertising decisions in this way means NZME is vulnerable to counter-complaints. If you have proven to be susceptible to pressure from one side, you motivate others to use similar tactics on the other side. Further, by vetting adverts to such an extent, you implicitly endorse every advert you run. You make yourself vulnerable again to complaints about subjects/products you may not have wished to endorse. There is little to be gained by inserting yourselves as censor of unpopular opinions and advertisements, and we believe it is difficult to maintain a dedication to the free exchange of ideas and opinions while editorial decisions for adverts are made in this way.

Moving forward, we would like to work with you and support your stated commitment to free speech. We would suggest that:

- you do not take editorial control of advertisements, but rather cede that to the ASA. This will have the most significant effect of reducing your workload if there are any complaints as they can be easily redirected to the national body responsible for adjudicating advertising, the ASA;
- NZME lead the national media landscape with a clear statement in support of free speech, rather than be seen as a censorious company, a decision we would publicly applaud; and
- we work with you to help draft comment on issues around free speech and standard responses to any complaints about 'inflammatory' material, including from some of your commercial partners who may not fully appreciate the importance of free speech.

We look forward to working with you on this important matter, as NZME continues in the vital role of the fourth estate.

Yours faithfully,



**Jonathan Ayling**

Chief Executive

[jonathan@fsu.nz](mailto:jonathan@fsu.nz)

**Free Speech Union (New Zealand) Inc.**