

25 September 2019

Rt Hon Trevor Mallard MP
Speaker of the House
Parliament House

Dear Mr Speaker

I refer to allegations by Kieran McAnulty MP that I published a false or misleading account of proceedings in the House and breached Appendix D, Part B of Standing Orders by authorising a video showing Deborah Russell MP speaking in the debating chamber.

I reject both allegations.

False or Misleading Account

The video in question is neither false nor misleading.

The video uses relevant extracts of Dr Russell speaking in the first reading debate on the Public Finance (Wellbeing) Amendment Bill. It makes no commentary on the extracts other than to introduce them with the words:

*Still not sure what Labour's Wellbeing Budget means?
Here's Labour's Finance Committee Chair Deborah Russell with an explainer:*

Dr Russell herself tweeted positively about the video on 18 September 2019.

Breach of Appendix D, Part B, Standing Orders

The relevant part of Appendix D, Part B, says:

(1) Official television coverage of the House is made available on the following conditions:

[...]

2. Coverage of proceedings must not be used in any medium for—

- (a) political advertising or election campaigning (except with the permission of all members shown);

[...]

Political advertising is not defined in Standing Orders.

The Advertising Standards Code 2018 defines “advertising” and “advertisement” as any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed. Similarly, across New Zealand legislation, *advertising* always includes an intended effect. For example:

- The Electoral Act defines *election advertisement* as an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to vote, or not to vote, for a type of candidate or party described or indicated by reference to views or positions that are, or are not, held or taken. (Electoral Act 1993, s 3A)
- *Advertising programme* is defined as a programme or part of a programme that is primarily intended to promote the interest of any person. (Broadcasting Act 1989, s 2(1)(i)(A)).
- *Referendum advertisement* is defined as an advertisement that may reasonably be regarded as encouraging or persuading voters to vote, or not to vote, in a particular way in a government initiated referendum. (Parliamentary Service Act 2000, s 3).

In the New Zealand context, *advertising* needs to do more than draw attention to something or someone. It must intend to influence the choice, opinion or behaviour of those to whom it addressed, encourage or persuade them, or actively promote someone or something. The video in question does not do any of these things.

The video does not attack or criticise the Labour Party or the government. It makes no comment on Dr Russell’s speech. Nowhere does the video mention or promote the National Party. A political advertisement published by the National Party would either promote the National Party or a National Party policy, or criticise another political party or policy of that Party. The video does neither.

All the video does is to draw the attention of viewers to the explanation provided by Dr Russell. In doing so, it offers no further commentary than Dr Russell’s own words. Viewers are able to make up their own minds. Some viewers may consider the speech to have been irrelevant. Others may consider it to be interesting and go on to read the Hansard or watch the whole video. In short, it doesn’t matter how a viewer responds. The video’s purpose is informational.

As the video in question does not use coverage of proceedings for either political advertising or election campaigning, I submit that Appendix D, Part B of Standing Orders is not engaged.

Broader Public Interest Issues

Mr McAnulty’s complaint raises a problem with current Standing Orders.

I note that, were the video to be produced and published by anybody other than a political party or Member of Parliament (including the media), there would be no question of it being political advertising or election campaigning. Members of Parliament and political parties should have the rights to do what others can. Any contrary position is unreasonable and irrational.

Furthermore, to muzzle an opposition from highlighting what government MPs say in Parliament is an undemocratic and unjust over-reach. Many New Zealanders, including wide sections of our media, would find such an action chilling, not only as to the ability of political parties to participate fully in the political process, but as to their own wider rights and freedoms.

All members of Parliament should want what is said in our debating chamber to be publicly ventilated. It is in all our interests that more people see what is happening, not fewer. Standing Orders and privilege complaints should not be used to prevent the public from seeing what occurs in the debating chamber, no matter what the medium.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'S Bridges', with a stylized flourish at the end.

Hon Simon Bridges
Leader of the Opposition