

**Members present**

Hon Andrew McGechan (President)  
Dr Helena Catt (Chief Executive)

Dated: 29 July 2008

Decision Number: 2008-12

Initiated by

**MURRAY BROADBENT, CHAIRMAN OF THE  
WHANAGAREI ELECTORATE NATIONAL PARTY  
ON 17 JUNE 2008**

In relation to

**Election advertisement**

**LABOUR**

**Subject**

Spare wheel cover with the words "THE FUTURE IS WITH LABOUR" and a Labour Party logo.

**Findings and Determination**

Contravention of sections 63(2)(a) and 65(1)(b) of the Electoral Finance Act 2007, by failure to display the residential address of the promoter. There is no offence under sections 63(4) and 65(4) of the Act because it was not wilful.

**This headnote does not form part of the decision.**

**Subject**

Spare wheel cover with the words "THE FUTURE IS WITH LABOUR" and a Labour Party logo.

**Issues raised**

Murray Broadbent submitted a photo of a spare wheel cover displayed on the rear of a vehicle. The cover has the words "THE FUTURE IS WITH LABOUR" and has a Labour Party logo. He says he recalls the same advert on the back of the vehicle last election.

**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.

Section 63 of the Act requires any election advertisement published during the regulated period to contain a statement of the name and address of the promoter of the advertisement.

Section 65 applies both within the regulated period and at other times, but only to election advertisements that encourage voters to vote in favour of the subject of the advertisement. This section also requires such election advertisements to contain a statement of the name and address of the promoter of the advertisement.

## Comments from Labour Party

A response was received from Mike Smith, General Secretary of the Labour Party, on 7 July 2008. The response says that the material was from the 1999 election and as it had been on the car since 2001 the owners were unaware that the Electoral Finance Act would deal with the spare wheel cover. He had asked them to remove the tyre cover.

The owner of the vehicle had confirmed to the commission that the wheel cover had been removed following a request to do so from Mike Smith.

## Electoral Commission's Determination

The Electoral Commission has considered the requirements of the Act along with the items listed as exhibits (below).

In the view of the Electoral Commission the wheel cover as depicted in the photographs submitted is an advertisement within the meaning of section 5, section 63 and section 65 of the Act, as it can reasonably be regarded as encouraging or persuading voters to vote for Labour and it was published in the regulated period.

Sections 63 and 65 provide that a promoter must not *publish, or cause or permit to be published, an election advertisement* unless the requirements of those provisions are met, including that the advertisements contain a promoter statement and the promoter is entitled and/or authorised to publish the advertisement.

No promoter statement is visible on the tyre cover as depicted in the photographs, therefore the display of the tyre cover appears to contravene section 63(2)(a) and section 65(1)(b).

Section 63(4) and section 65(4) provide that *every promoter is guilty of an illegal practice who wilfully contravenes* section 63(2) or section 65 respectively. It appears to the Electoral Commission that publication in the regulated period was not wilful. Therefore there is no offence.

**For the above reasons it is the view of the Electoral Commission that the wheel cover promoting Labour is a published election advertisement without a promoter statement, but the contravention of the Electoral Finance Act was not wilful so there was no offence committed.**

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. email from Murray Broadbent
2. photo of the wheel cover

3. letter from Mike Smith