

5 October 2011

Chief Electoral Officer  
Electoral Commission

by email

Dear Robert,

**Prime Minister hosting Radio Live Show – 30 September 2011**

I wish to make a complaint under the Electoral Act 1993 and the Broadcasting Act 1989 in relation to the broadcast of this programme by RadioLive.

In my opinion the Radio Live show billed as the “inaugural Prime Minister's Hour” as broadcast on 30 September is both an election advertisement for the purposes of the Electoral Act and an election programme for the purposes of the Broadcasting Act, and is in breach of both Acts.

The Electoral Act defines an election advertisement as including a candidate advertisement which “means an advertisement in any medium that may be reasonably be regarded as encouraging or persuading voters to vote for a constituency candidate”.

The Broadcasting Act Clause 69 defines an election programme as a programme that—

- (a) encourages or persuades or appears to encourage or persuade voters to vote for a political party or the election of any person at an election;

It is clear from the statements of the broadcaster that the programme was intended as an advertisement. Jana Rangooni, General Manager talk brands, describes it in an email supplied by you under the Official Information Act as a “programme we hope will encourage more listeners to our brand.”

It is also clear from their statements that the producers of the programme and the Prime Minister believed that the programme would not be an election advertisement or an election programme if he did not talk about policy or the election. In fact he did do so as will be detailed below.

However the law does not define election advertising by reference to talk about policy or the election; it has for many years referred to advertisements that “encourage or persuade or appear to encourage or persuade” voters to vote for a candidate or person.

The broadcaster's argument appears to be that while the programme was specifically intended to “encourage” support for the Radio Live brand, the same programme could in no way be considered and nor was it intended to encourage support for the Prime Minister's brand in a presidential campaign less than two months out from an election.

This disjunction is untenable.

The “Prime Minister's Hour” programme is in my opinion best described as brand advertising for the radio station, and also brand advertising for the Prime Minister who is a candidate in the election due in the next two months. It falls within the context of 'celebrity endorsement' which is a widely practised form of advertising, including in my experience by political parties. I attach an extract from a paper from Victoria University which comments on the utility of celebrity advertising involving athletes.

This form of advertising is designed to encourage or persuade support for a brand or person by association with prominent and popular celebrities. The fact that the programme was billed as the “Prime Minister's Hour” uses the Prime Minister's celebrity to endorse the Radio Live brand, and

the Prime Minister's choice of celebrity guests is designed to encourage or persuade support for his "brand" in the upcoming election. Comments from listeners such as "John Key you're a bloody legend" and "John Key you're my favourite man in New Zealand" support this brand endorsement. I note that the Commission's advice was copied to the Prime Minister's Communications Adviser in the Prime Minister's office at the request of the broadcaster. Part of this person's job is undoubtedly to promote the Prime Minister's brand.

I attach a blog comment from Chris Ford that details the use of this form of personal brand marketing in modern political advertising, and offers some evidence that a "John Key Government" strategy is being pursued by the National party in the upcoming election.<sup>1</sup>

The programme is an election advertisement and an election programme and is in breach of both the Electoral Act and the Broadcasting Act prohibition on the production of election programmes.

I note that the Commission provided general advice to the broadcaster in response to a request as to whether the programme might be an election advertisement. The Commission's advice stated that the broadcaster should exercise a high degree of caution with regard to party leaders and/or candidates hosting radio shows in the lead up to a general election, and that "if Radio Live was to proceed with the programme it would need to be confident it could put in place adequate controls to ensure that the programme did not breach the election advertising rules."

Before signing off the programme, the Prime Minister discussed political matters with Paul Henry. It was alleged that "Labour was miffed with the programme", and in response to a question as to whether the Standard and Poor downgrades were his fault John Key said that they were "quite positive about the government". These are clearly political statements and put a political cast on the whole show. They also indicate that in spite of the Commission's warning the broadcaster did not place adequate controls in place to ensure that the programme was not an election advertisement. A transcript of this discussion is attached.

I note also that the programme is still available without a promoter statement on the broadcaster's website.

The matter is not inconsequential. By definition the programme was only provided to the Prime Minister. It was also widely publicised beforehand. In my opinion it is a clear and deliberate breach of both the Acts mentioned above.

With many thanks for your consideration,

Yours sincerely,

Mike Smith.

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<sup>1</sup> <http://www.voxy.co.nz/politics/popularity-john-key-why-brand-national-no-longer-significant/1273/101225>

Appendix 1 – Celebrity endorsement.  
The Use Of Celebrity Athletes As Endorsers:  
Views Of The New Zealand General Public

Jan Charbonneau, Massey University

and Ron Garland, Waikato University

Abstract

New Zealand companies have a long history of using professional athletes as endorsers in their promotional campaigns. Celebrity endorsement literature suggests transfer of positive image between the celebrity/athlete and product, service or cause endorsed.

The purpose of this research was to assist sport marketing managers and advertising agencies in matching athletes with products. Following on from athlete endorsement research conducted with tertiary education students (Garland and Ferkins, 2003), the views of the New Zealand general public relative to athlete endorsement were solicited. Ohanian's (1990) 15 item source-credibility scale and the constant-sum scale were used to measure potential endorsement fit for four New Zealand sporting personalities: Bernice Mene (retired captain national netball team); Sarah Ulmer (2004 Olympic Gold Medallist, cycling); Justin Marshall (All Black rugby most capped halfback); and Stephen Fleming (captain, national cricket team). The Ohanian scale was used to test each athlete's credibility as endorser of a sports drink, with the constant sum scale used to test their endorsement fit for a sports drink, bottled water, deodorant, honey and a bank account.

Overall, the female athletes scored best on both scales and for all products except the bank account, making them good all rounders for product endorsements. Stephen Fleming and Bernice Mene, both team captains received comparable scores for endorsement of bank accounts, suggesting perhaps a general public perception of their leadership and authority.

Keywords: athlete, endorsement, advertising

Celebrity and Celebrity Athlete Endorsement

Celebrity and celebrity athlete endorsements have long attracted the interest of practitioners, students and researchers (Brooks and Harris, 1998). For this paper, a celebrity athlete endorser is a publicly recognised sports star who uses that public recognition to help another (usually a corporate client) sell or bolster the image of specific goods and services.

Celebrities and celebrity athletes provide benefits that unknown endorsers cannot. Celebrities cut through advertising clutter, hold viewer attention (Charbonneau and Garland, 2005) and transfer positive qualities such as physical attractiveness and likeability to the brand (Ohanian, 1990). They contribute to brand name recognition/recall and assist in the development of credible, distinct brand personalities (Erdogan and Kitchen, 1998). Athletes provide particularly compelling endorsements for products that have contributed to their sporting performance and success (Dyson and Turco, 1997; Stone, Joseph and Jones, 2003).

## Appendix 2 – Brand John Key

### The Popularity Of John Key - Why Brand National Is No Longer Significant

[Home](#) › [Blogs](#) › [Chris Ford's blog](#)

Tuesday, 13 September, 2011 - 12:05

Yesterday, I read one of the most interesting pieces of political blogging I have seen all year on the Tumeke website. Entitled "Why Key is so popular" it sought, from a left standpoint to elucidate on why the PM continues to enjoy high ratings.

The blog admitted that Key's popularity is an issue that the left "are grappling with as the RWC blocks out the election." The blog posits that we have become subjected to the mythology of Key as the poor boy made good and that appeals to what Tumeke calls "low information voters." Most importantly, the blog holds that for all these reasons:

*[The most important thing any left wing political strategist should read when contemplating strategy to attack the National Party with is this incredible insight into the utter dysfunction of American Politics.](#)*

This blog comes at a time when I was contemplating National's election strategy. For the last forty years, New Zealand politics has been following the American presidential template where campaigns have been designed by public relations companies as mere contests between the two or three leading party leaders and, accordingly, have downplayed ideological and policy positioning. This year is no exception.

In the United States, presidential campaigns have emphasised personality over party for the last fifty years. If you look at a collection of American campaign ads on You Tube from the time of Dwight Eisenhower's campaign in 1952 through to Barack Obama's in 2008, you get the impression that both major party candidates in any given year were running as independents or non-pledged candidates. The party name barely features (if at all) in many presidential campaigns. If party labels are used, they are done so by opponents only to tag their rivals by negative association e.g. Republicans as 'the party of the wealthy' and the Democrats as 'the party of tax and spend.' These labels have carried over into New Zealand politics.

This type of personality over party label campaigning has worked in New Zealand for the likes of Norman Kirk (1972), Rob Muldoon (1975), David Lange (1984) and Helen Clark (1999 and 2002). In some years, though, when governing or opposition party leaders have been unpopular, their image has been used less. I remember this happening to Rob Muldoon (1978, 1981 and 1984), Helen Clark (1996) and Jim Bolger (all campaigns from 1987 onwards). During these campaigns, the wider Cabinet/party 'team' has been emphasised and the leader has been portrayed within this context as the leader of the team.

This year, the National Party will be particularly advantaged by the presidentialised template. Already, I have noticed when listening to Parliament that National MPs emphasise the 'John Key Government' in speeches. National candidate advertising emphasises the words John Key more than any other. Overall, for National, the party label is almost irrelevant. This has flustered the likes of Labour MP Clare Curran who Facebooked a couple of weeks ago about the number of tee-shirts emphasising brand Key that were being worn by the campaign team of her National Party rival in Dunedin South.

It seems that the Nats know that their leader is a winner.

That's why the Nats will emphasise John Key in this campaign. This means that the sharp, hard right edges of National policy, such as state asset sales, will not have a great deal of attention given to them by the party in this campaign. Instead, the 'good ol' boy' personality of Key will be stressed

to the max. The man who could be the next door neighbour who you would trust to return a borrowed lawnmower. The man who you would like to have at your next barbeque or dinner. A man that you can trust to make the hard decisions in tough times and yet smile all the way through. Middle Zealandia will lap this marketing mythology all up.

Conversely, Labour will place a great deal of importance on the unpopular Phil Goff as a team leader and will stress policy more. Their policies might be more palatable to New Zealanders than National's right wing prescriptions but, nonetheless, they will not be able to hide the Achilles heel of their campaign - Goff himself. The Labour leader will therefore have to campaign very hard to overcome everything that National and Key will throw at him. This coming campaign has been clearly designed (as it already seems) to further hurt and even humiliate Labour and Goff before it's even begun!

So, this year, brand John Key will have greater prominence than brand National. And, sadly, they could be onto a winner. After all, as one American advertising consultant once said, it was important to market presidential candidates like you would soap. And that's how market capitalism dictates the democratic process.

- [Chris Ford's blog](#)

### Appendix 3 - RADIO LIVE – PM’S HOUR

From 2.56pm near the end of the show

KEY refers to the multitudes of calls , texts and messages that have come in to the studio, apologises for not being able to read them out and then quotes only one – “John Key, you’re a bloody legend” and “John Key you’re my favourite man in NewZealand”

And then he introduces Paul Henry and engages in the following discussion.

PH: What worries me is that Standard and Poors and Fitch have downgraded us because they have heard the PM is moonlighting and considering another career.

KEY: Well, we’ll do anything to make money and this is just another way we can contribute to the coffers.

PH: The Labour Party are furious that you’re on and they’re not. You know that don’t you. Mmmm.....they’re really miffed.

KEY: Radio Live asked me on and I haven’t talked at all about politics .....

PH: You don’t really watch Coronation Street do you?

KEY: Well, I don’t now. I mean, I’m working for the nation.

PH: I’ll tell you what I’m going to talk about this afternoon – the shocking state of this downgrading of our economy.

KEY: Yeah ...

PH: And I’m going to ask the probing question - is it your fault?

KEY: No ... is the answer. Private sector debt ....Private sec ....In fact they’ve been quite positive about the Government’s approach to debt. And it does actually in all seriousness reflect the international environment that’s out there, so ya know ....

PH: And also I think it reflects the fact that these rating agencies are now very very much more cautious than they used to be.

KEY: They’re very jumpy...I mean, look...Standard and Poors have downgraded eight ah countries in the last few weeks. So Fitch are just taking us back to where we were in 2002. I mean...look...ah...look...ah...on one level I’m disappointed....I am a bit disappointed, I’ve gotta say that. But it’s private sector debt...we’ll be just be.... keep working hard to....[inaudible]

PH: And let’s be honest, you can always become a radio host if the worst comes to the worst.

KEY: I think not but this has been John Key on the inaugural Radio Live .....