

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 9/90

Dated the 23rd day of May 1990

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

CLIFFORD R TURNER

of Hamilton

(on behalf of the Group Opposed to Advertising of Liquor)

Broadcaster

RADIO PACIFIC (WAIKATO)  
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

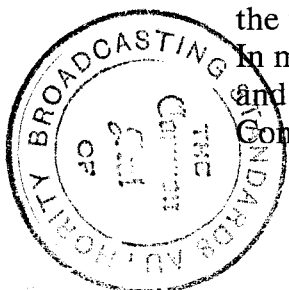
Introduction

Mr Clifford Turner, on behalf of the Group Opposed to Advertising of Liquor (GOAL), is dissatisfied with a decision by Radio Pacific (Waikato) Limited not to uphold a formal complaint concerning the broadcast at 11.05 am on 31 January 1990 of a Commonwealth Games report sponsored by DB Draught Limited. The introduction to the report, which was a sports "feed" provided by Independent Radio Sports, ended with the words " ... with DB Draught, the official beer of the Commonwealth Games."

Mr Turner's Complaint to Radio Pacific (Waikato) Limited

On the day of the broadcast Mr Turner wrote to the Station Manager of Radio Pacific (Waikato) Ltd on behalf of GOAL lodging a formal complaint:

" ... The introduction to news about the Commonwealth Games concluded with the words " ... with DB Draught, the official beer of the Commonwealth Games." In my view these words constitute advertising of a brand name of alcoholic liquor and as such breach Rule 2.2 of the Radio Industry Rules Currently in Force Controlling the Advertising of Liquor."



Rule 2 of the Radio Industry Rules Currently in Force Controlling the Advertising of Liquor (or the Liquor Advertising Rules for Radio) states:

2 Advertisements other than those referred to in 1 above made by or on behalf of any person or persons or body corporate who manufacture, distribute or sell alcoholic liquor, may be broadcast if they meet the following requirements:

2.1 The advertisement does not make any reference to the availability of alcoholic liquor for sale.

2.2 The advertisement does not include references to brand names of alcoholic liquor as such except to the extent that the brand name is incorporated in or identical with the name of the advertiser.

### **Radio Pacific (Waikato) Limited's Response to Mr Turner**

Mr Stuart Baguley, the Station Manager, notified Mr Turner in a letter dated 20 February that:

" ... I believe that the sponsorship announcement does not infringe on Rule 2.2, but in the interests of responsible broadcasting we intend to use the word "Limited" in all liquor sponsorships carried by Radio Pacific (Waikato) Limited ..."

He also enclosed a copy of a letter which had been sent to Independent Radio Sports, the originator of the script, in which he requested that they add the word *Limited* to all liquor sponsorships. The effect of this would be to ensure that the full company name would be used for any sponsors from the liquor industry.

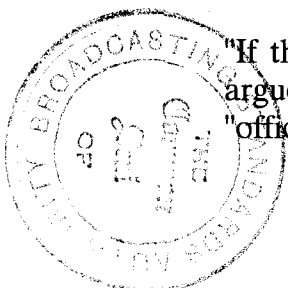
In the same letter, Mr Baguley referred to Decision No: 50/89 of the Broadcasting Tribunal:

" ... in a recent decision in the matter of Clifford Reginald Turner against Television New Zealand the Broadcasting Tribunal found that the omission of the word "Limited" from Lion Red Softball series does not in itself turn the advertisement from being a sponsorship announcement by the company into an advertisement for a brand of beer. The Tribunal went on to say that it is desirable for the word "Limited" to be used however ... "

### **Mr Turner's Complaint to the Broadcasting Standards Authority**

Mr Turner sent a Broadcasting Complaint Referral Form to the Authority on 23 February. He stated that:

"If the introduction had ended with " ... with DB Draught." it could perhaps be argued that the advertising was to polish DB's corporate image but the words "official beer" destroy that argument. The word "beer" turned this into beer



advertising ...

The Station Manager's reply makes much of the word Limited. GOAL's complaint was not about the presence or absence of this word. It was about the presence of the words "official beer of the Commonwealth Games." GOAL complained to TVNZ and TV3 about advertising using those words. Both organisations withdrew the advertising and subsequently upheld GOAL's complaints."

Mr Turner's Form was sent to Radio Pacific (Waikato) Ltd for its comments.

### **Radio Pacific (Waikato) Limited's Response to the Authority**

In a letter dated 16 March, Mr Baguley made the following brief comments:

" ... Mr Turner's complaint was indeed about the omission of the word Limited. If it was not, his complaint is extremely vague.

Had Mr Turner complained during the weeks Independent Radio Sport were running the sports intro in question, like TVNZ and TV3, I too may have withdrawn it. It seems Mr Turner has delayed his complaint so as not to give me the opportunity to do so."

### **Decision**

The complainant maintained that the words "with DB Draught, the official beer of the Commonwealth Games" constitute advertising of a brand name of alcoholic liquor and as such breached Rule 2.2 of the Liquor Advertising Rules for Radio.

There was some confusion between the complainant and the broadcaster as to the basis of the complaint. Mr Baguley maintained that Mr Turner's complaint was about the omission of the word "Limited" after "DB Draught", but he did not refer to that in his original complaint to the station and in fact in the Form he sent to the Authority he indicated that the omission of the word "Limited" was not the basis of his complaint. The inference may be taken from his wording that had the sponsorship notice ended with the words "DB Draught" it might well have been acceptable.

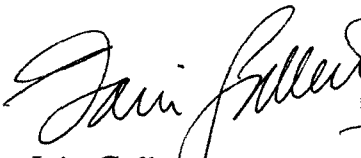
The Authority agrees that the omission of the word "Limited" and the addition of the words "the official beer of the Commonwealth Games" produces a combination which clearly constitutes the advertising of a brand name. Even had the word "Limited" been used, the advertisement would not have made sense if it was followed by the words "the official beer of the Commonwealth Games". It is not the Authority's role to formulate acceptable advertisements but it is suggested that if the advertisement had been worded "with DB Draught Ltd, the official suppliers to the Commonwealth Games" the requirement of the Rule would no doubt have been met and would no doubt, at the

same time, have conveyed the required message from the advertiser's viewpoint.

**For the reasons set forth above, the Authority upholds the complaint.**

Radio Pacific (Waikato) Limited appears to have acted responsibly in the matter subsequent to the complaint, but the Authority draws the attention of broadcasters to the fact that the omission of the word "Limited" is again an ingredient of this complaint as in previous complaints. The Authority has made its intentions clear in this respect.

Signed for and on behalf of the Authority



Iain Gallaway  
Chairperson



23 May 1990