

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 34/91

Dated the 9th day of August 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

JEAN CREIGHTON

of Auckland

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

Introduction

On a number of occasions in September 1990, a series of three advertisements for Galaxy Cheese was broadcast by Television New Zealand Limited.

By letter dated 10 October 1990, Ms Creighton made a formal complaint to TVNZ Ltd stating her view that the advertisements breached standards 2 and 4 of the Television Code for the Portrayal of People in Advertising. TVNZ's Complaints Committee did not uphold the complaint. Ms Creighton then referred her complaint, under s.8(a) of the Broadcasting Act 1989, to the Broadcasting Standards Authority.

While a number of the arguments raised by the complainant and TVNZ are summarised in the following Decision, a fuller account of the correspondence generated by the complaint is contained in the Appendix to the Decision.

Decision

In making her formal complaint to TVNZ, Ms Creighton did not distinguish between the three Galaxy Cheese advertisements, asserting without elaboration that all three contravened standards 2 and 4 of the Code for the Portrayal of People in Advertising. In rejecting the complaint, TVNZ's Complaints Committee also did not differentiate



between the advertisements, although it noted that one had been given a 9.00 pm classification because of its "oblique references to sex". While, in her correspondence to the Authority, Ms Creighton paid particular attention to two of the advertisements, TVNZ's further comments were still framed in terms applicable to all three.

Having viewed the three advertisements and considered the relevant Television Advertising Standards, the Authority is of the view that, while there are similarities in their presentation, the advertisements are not so alike that they may be assessed as a group in terms of the standards' requirements. Accordingly, a brief description of their common features as well as their individual content is necessary.

The Galaxy Cheese advertisements

Each of the three advertisements lasts 60 seconds and employs a similar format at its start and end. Each commences with the written title "Galaxy" and a "credit" to the advertisement's creator.

The first, credited to one Brian Culy, is whimsical and cheerful in its overall tone. Unscripted, it is set to a catchy tune reminiscent of the 1940s era and depicts a young couple in a dated looking caravan which is being towed by an equally dated car. The man organises drinks and a cheese platter while the woman relaxes on a settee before the smiling couple eat cheese, sit close together and touch martini glasses. At the end of the advertisement, a shot of the car and caravan is reduced in size and appears on a television screen watched by two puppet mice sitting in armchairs.

The second advertisement, "created by Denis Piel", depicts a man and woman sitting at a restaurant table having an intimate conversation which includes comments about their respective sexual experiences. A cheese platter is seen at the outset of the advertisement and later there are shots of a slice of cheese being cut and of the woman feeding it to the man. Also interspersed between visuals of the woman and man talking are three shots of the couple kissing.

The third advertisement, "created by Gregor Nicholas", is unscripted and set to pleasant orchestral music. Its major focus is upon a young woman on a train whose face is seen first, in close-up, as she blinks slowly several times. Then follows a sequence of shots including one of her black-stockinged leg being caressed by her own hands and a brief shot of her neck being kissed by a man. Front and back shots of the woman standing at the train window swaying to the train's motion precede images - which seem to be from her daydream - of a man's bare chest and of her dress being slipped from her shoulders to reveal a black bra. After a young man enters the train compartment carrying a variety of cheeses on a large plate, a hand is seen putting cheese in the woman's mouth and another brief shot appears of her neck being kissed by the man. Finally, the woman's face is seen in close-up, resting against the mostly obscured face of



Relevant Standards

The Television Advertising Standards mentioned by Ms Creighton in her complaint to TVNZ are standards 2 and 4 of the Code for the Portrayal of People in Advertising. TVNZ's Complaints Committee assessed the advertisements in light of those standards and decided that no breach of their terms had occurred. In her correspondence to the Authority, Ms Creighton made the further allegations that the advertisements breached standards 1 and 3 of the Code for the Portrayal of People. TVNZ responded that, as those standards had not been raised in the formal complaint and were not considered by its Complaints Committee, they should not be considered by the Authority in its review of the complaint.

The Authority agrees with TVNZ that Ms Creighton's formal complaint was clearly limited to alleging breaches of standards 2 and 4 of the Code for the Portrayal of People in Advertising and that, as a result, it is beyond the powers of the Authority to consider her complaint in terms of any other standards. Further, it notes that standards 2 and 4 are directed at preventing the very things which Ms Creighton alleged the advertisements did, namely, stereotyping women as sexual objects in order to sell an unrelated product. In the Authority's view, therefore, Ms Creighton's complaint is properly based on standards 2 and 4 of the Code for the Portrayal of People in Advertising which provide:

2. Advertisements should not encourage belief in inaccurate or outdated stereotypes in regard to the role, character, and behaviour of groups of people in society.
4. Advertisements should not employ sexual appeal in a manner which is exploitive and degrading of any individual or group of people in society to promote the sale of products or services. In particular, women shall not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product and children shall be portrayed in a manner which reflects their innocence and which does not exploit their sexuality.

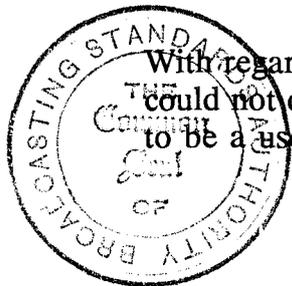
Because of the differences between the three Galaxy Cheese advertisements, the Authority considered each advertisement separately in light of the two standards.

Brian Culy's caravan advertisement

In the Authority's view, this was the least objectionable of the three advertisements and its broadcast did not breach standard 2 or 4.

With regard to standard 2, the Authority had no difficulty in concluding that the caravan advertisement did not employ stereotypical depictions of people - inaccurate, outdated or otherwise - and thus did not breach its terms.

With regard to standard 4's proscription of certain uses of sexual appeal, the Authority could not detect anything in the advertisement's use of the models which could be said to be a use of their sexual appeal. The tone of the advertisement was whimsical and



cheerful, it paid similar attention to the two models and did not accentuate either one's sexual appeal in any way, relying instead on a quirkish style of humour to present its message. Because of its view that the prerequisite for standard 4's application had not been met by the advertisement, it was unnecessary for the Authority to consider the standard further.

For the above reasons, the Authority declines to uphold the complaint that the Brian Culy Galaxy Cheese advertisement breached standards 2 and 4 of the Code for the Portrayal of People in Advertising.

Denis Piel's restaurant advertisement

The Authority considered that this advertisement, given a 9.00 pm screening classification by TVNZ because of its "oblique references to sex", invited closer scrutiny in terms of standards 2 and 4 because of its explicit use of a sexual theme. Ms Creighton made specific mention of this advertisement in her correspondence to the Authority, stating:

... the woman is much more forthcoming in revealing her sexual exploits than the man who remains mysterious.

In her view, this advertisement (and the next one) did not depict, as TVNZ had suggested, balanced and loving relationships:

... rather, in both these ads, the women come across as sexual objects, women sexually active and available for affairs.

With regard to standard 2, the Authority agreed with TVNZ that the couple depicted in the advertisement were portrayed in an imaginable situation. However, in its view, it is possible for a portrayal which may have a real-life counterpart to breach standard 2's prohibition of the encouragement of belief in inaccurate or outdated stereotypes of a group of people. The very nature of a stereotype of a group of people is that it does have, or is commonly thought to have, some basis in reality. What makes a stereotype unjust is its undue emphasis upon a feature of that reality or supposed reality and its assumption that the feature is a primary characteristic of persons in the group.

Despite that, the Authority considered that the present advertisement did not encourage belief in inaccurate or outdated stereotypes regarding the role, character or behaviour of women.

With regard to standard 4's proscription of certain uses of sexual appeal in advertisements, especially that of women, the first question to be considered was whether the woman's sexual appeal was used in the advertisement. The Authority concluded that, because of the advertisement's reliance upon a sexual theme, it had relied on the sexual appeal of both models and had, therefore, "used" that appeal.

The first prohibition in standard 4 is of exploitive and degrading uses of sexual appeal. While accepting the complainant's argument that the focus of the advertisement was



more on the woman model than the man, the Authority did not agree with her that the advertisement's broadcast breached the first prohibition. The words "exploitive and degrading" set a high threshold. In the Authority's view, the present advertisement did not display such a contrived or offensive focus on the woman model that it could be said that this threshold had been crossed. At most the advertisement's portrayal of the woman - as well as its general theme - only went so far as to merit the accusation of being in dubious taste.

The second prohibition in standard 4 is worded:

In particular, women shall not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product.

The words "In particular" reveal that the meaning of this prohibition cannot be assessed in isolation from the prohibition of "exploitive and degrading" uses of sexual appeal. Taking that into account, however, the Authority considers that the second prohibition is not only directed at "exploitive and degrading" uses of women's sexual appeal which draw attention to unrelated products. In its view, the prohibition also applies to contrived uses of women's sexual appeal (ie more than merely incidental uses) where the purpose is to draw attention to unrelated products.

Applying this to the present advertisement, the Authority concluded that, while it focused upon a sexual theme, the use of the woman's sexual appeal was merely incidental to that focus. Because of this view that the advertisement relied little upon the woman's sexual appeal, the Authority concluded that standard 4's second prohibition did not apply. It was thus unnecessary for the Authority to consider whether the cheese promoted by the advertisement was a product unrelated to the woman's sexual appeal.

For the above reasons, the Authority declines to uphold the complaint that the Denis Piel Galaxy Cheese advertisement breached standards 2 and 4 of the Code for the Portrayal of People in Advertising.

Gregor Nicholas' train advertisement

Ms Creighton asserted to the Authority that this advertisement emphasised the woman model far more than the man - thereby countering TVNZ's assertion that all three advertisements portrayed a "soft romantic friendship of both men and women". Secondly, she drew attention to the shots of the woman's face and body as evidence that the female model's sexual appeal was used to draw attention to an unrelated product.

Upon viewing the advertisement, the Authority was of the clear view that, of the three advertisements, it merited the closest scrutiny because of its almost exclusive emphasis upon the woman model and its obvious use of her sexual appeal - by its lingering visuals of her face (with its sensual expression) and the shots of her leg and bra. Unlike the restaurant advertisement, this one was not thought to portray a relationship between two people in any realistic or balanced manner. Rather, in the Authority's view, the brief appearances of the male model, in all but the shot in which he is clearly seen carrying



a plate, served merely to crystallise the advertisement's emphasis upon the woman's sexual appeal.

Despite its view of the advertisement, the Authority decided, on balance, that it did not breach the prohibition in standard 2 of the Code for the Portrayal of People in Advertising. It considered that the fantasy aspect of the advertisement as well as the private nature of the situation it portrayed mitigated against the advertisement's encouragement of belief in any stereotypical view of women as a group.

Turning to standard 4 of the Code, the Authority was doubtful whether the advertisement breached the standard's first prohibition - of exploitive and degrading uses of sexual appeal. However, on balance, the Authority was persuaded that the advertisement breached standard 4's second prohibition, ie of the use of women's sexual appeal simply to draw attention to an unrelated product.

With regard to the advertisement's use of women's sexual appeal, the Authority concluded that, even if it was not "exploitive and degrading", it was of such a contrived nature, and so emphasised, that it fell within the uses of sexual appeal targeted by the second prohibition in standard 4. As for that use being made "simply to draw attention to an unrelated product", clearly, the Authority's view that the advertisement did use women's sexual appeal for this purpose is at odds with TVNZ's view.

TVNZ maintained that the range of Galaxy cheeses promoted in the three advertisements are after-dinner delicacies, or "special occasion" cheeses, and that these "upmarket" products were promoted in a relevant context - a romantic after-dinner type setting. The Authority accepts that if the advertisement presented the cheeses in such a setting there would be no breach of standard 4. However, it does not agree with TVNZ that the advertisement portrayed a "soft intimate type of scenario" where "partners were involved and a tender relationship was clearly in place".

The remaining question for consideration was whether after-dinner cheeses are related to women's sexual appeal. In Decision No: 3/90, the Authority firmly rejected an argument that foodstuffs containing less fattening ingredients than others are related to women's sexual appeal. It had no hesitation in deciding, for the purposes of the present complaint, that foodstuffs which might be considered to be "special occasion" items or "after-dinner delicacies" are also unrelated to women's sexual appeal.

For the above reasons, the Authority declines to uphold the complaint that the Gregor Nicholas Galaxy Cheese advertisement breached standard 2 of the Code for the Portrayal of People in Advertising but upholds the complaint that the advertisement breached standard 4 of that Code in that it used women's sexual appeal simply to draw attention to an unrelated product.

Signed for and on behalf of the Authority


I.W. Gallaway
Chairperson



9th August 1991

APPENDIX

Ms Creighton's Complaint to Television New Zealand Ltd

In a letter to TVNZ Ltd dated 10 October 1990, Ms Creighton made a formal complaint that the Galaxy cheese advertisements breached standards 2 and 4 of the Television Code for the Portrayal of People in Advertising. She emphasised the requirement in standard 4 which reads:

In particular, women shall not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product.

Television New Zealand Limited's Response to the Formal Complaint

TVNZ advised Ms Creighton of its Complaints Committee's decision in a letter dated 6 December 1990.

It recorded that the complaint related to a series of advertisements for Galaxy Speciality Cheeses. It continued:

The objective of the promotion was to increase the market awareness of the products as after-dinner delicacies, and all three advertisements featured the cheeses in romantic-type after-dinner situations.

As one advertisement contained oblique references to sex, it was given a 9.00 pm classification while the other two were given general classifications.

Standard 2 of the Television Code for the Portrayal of People in Advertisements specifies that advertisements should not encourage belief in inaccurate and outdated stereotypes and TVNZ's Complaints Committee considered that the behaviour of the people in the advertisements was neither inaccurate nor outdated.

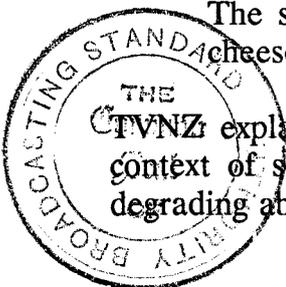
Standard 4 of the Code which includes the phrase stressed by the complainant, states:

Advertising should not employ sexual appeal in a manner which is exploitive and degrading of any individual or group in society to promote the sale of products or services. In particular, women shall not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product and children shall be portrayed in a manner which reflects their innocence and which does not exploit their sexuality.

TVNZ, repeating the point that the advertisements were created to promote cheeses as after-dinner delicacies, stated:

The situations chosen to promote the product were therefore related to the cheeses.

TVNZ explained that the people were portrayed in upmarket situations and in the context of soft romantic friendship. There was, TVNZ said, nothing exploitive or degrading about the portrayal and the complaint was not upheld.



Ms Creighton's Complaint to the Broadcasting Standards Authority

As she was dissatisfied with TVNZ's decision, Ms Creighton referred the complaint to the Authority under s8(a) of the Broadcasting Act 1989 in a letter dated 31 December 1990.

She stated that the advertisements contravened standards 1 to 4 of the Code for the Portrayal of People in Advertisements and, emphasising standard 4, maintained that it was contravened by two of the advertisements in particular. When Ms Creighton completed the Authority's Complaint Referral Form she remarked that the roles of the women in the advertisements had nothing to do with cheese and that the portrayals of men were brief.

TVNZ's Response to the Authority

TVNZ was invited by the Authority on 29 January 1991 to comment on the referral and its reply is dated 24 April.

TVNZ observed:

There can be no question that this series of three commercials was of a different characteristic to that usually associated with advertising. But although the approach was subtle and different, and became the topic of comment, the portrayals were not vastly different from what can be expected in drama, where encounters of a romantic nature are an ingredient. Basically, it was a soft-sell advertisement.

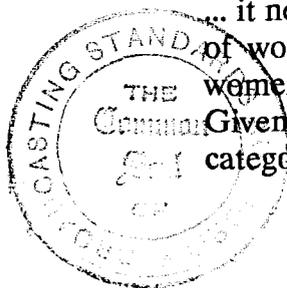
It added that the advertisements had been discussed in the National Business Review Weekend magazine and, enclosing a copy of the article, it quoted the article's opening sentences:

Sexuality and suspense with a leavening of humour are universal drawcards in the entertainment world from the circus to Shakespearean theatre, and from Hollywood cinemascope to the "small screen" of television. Now they are indispensable creative elements in advertising as well.

To assist the Authority in gaining an understanding of the advertiser's strategy, copies of letters from the advertiser and the advertising agency were also enclosed.

TVNZ noted that one aspect of standard 4 opposed the use of sexual appeal in advertisements in an exploitive or degrading way but maintained that, as the advertisements portrayed a tender, intimate scenario, they had not breached this aspect of the standard. The other part of standard 4 prohibits the use of sexual appeal of women to draw attention to an unrelated product to which TVNZ wrote:

... it needs to be re-emphasised that the portrayals were not of solo performances of women, but situations where a soft romantic friendship of both men and women, were depicted. In that context the upmarket cheeses were introduced. Given the circumstances the product could not be said to be in the unrelated category - it is introduced as an after-dinner "delicacy".



TVNZ concluded by noting that its Complaints Committee had considered the advertisements in terms of standards 2 and 4 of the Code for the Portrayal of People in Advertising. It was submitted that the Authority should decline to consider the complaint in terms of standards 1 and 3, as requested by the complainant, as they were not mentioned in the original complaint.

Ms Creighton's Final Comment to the Authority

Asked to comment on TVNZ's response, in a letter dated 7 May 1991 Ms Creighton stated, first, that it was "ludicrous to compare an ad which lasts for 60 seconds to drama". Secondly, in two of the advertisements, the focus was on the women and, rather than the depiction of a loving relationship, the women came across as sexual objects, as sexually active and available for affairs.

As her final comment, she wrote:

Women have been and still are constantly portrayed as sexual objects, a representation which only serves to reinforce the powerful/powerless relationship which exists between men and women. These ads only serve to reinforce this stereotype. Further, in both these ads the women are very stunning women with plenty of sexual appeal, sexual appeal which is being used to sell an unrelated product - cheese.



Summary of Galaxy Cheese Decision (No. 34/91)

Complaints about two Galaxy cheese advertisements broadcast on television in late 1990 were not upheld by the Broadcasting Standards Authority. A complaint against the other one in a series of three was upheld by the Authority in its recently released decision.

The complaints were made by Ms Jean Creighton of Auckland. She said that the advertisements breached the broadcasting standards in that they portrayed women in a manner which used sexual appeal to draw attention to an unrelated product.

The first of the three advertisements showed a couple in a caravan in a cheerful and whimsical mood. They were seen touching glasses and eating cheese. The second depicted a man and a woman sitting close together at a table in a restaurant and intimately discussing their previous relationships. Cheese was eaten during the conversation. The third focused on a young woman on a train who was apparently daydreaming about her partner's return. At the advertisement's conclusion, a man entered the compartment with a plate of cheese.

TVNZ acknowledged that the advertisements were of a different nature from the type usually broadcast. The advertisements, it continued, promoted the cheeses as after-dinner delicacies and therefore were related to the situation portrayed, i.e. a couple involved in a tender relationship.

The Authority examined the advertisements individually. One requirement in the television Code for the Portrayal of People in Advertising, under which the complaint was made, prohibits the exploitive or degrading use of sexual appeal to promote products. The Authority accepted that none of the advertisements breached the high-threshold prohibition of exploitive or degrading uses of sexual appeal.

The standard also prohibits the portrayal of women "in a manner which uses sexual appeal simply to draw attention to any unrelated product". All three commercials involved some degree of intimacy. In the two advertisements which featured both a man and woman, the Authority found that the woman's sexual appeal was not unduly emphasised.

The advertisement set on the train put almost exclusive emphasis on the female model and her sexual appeal. This was done through visuals of her face with a sensual expression and visuals of her legs and bra. The appearances of the male model were very brief and mostly served to reinforce the focus on the woman's sexual appeal.

The Authority decided that this advertisement used women's sexual appeal simply to draw attention to an unrelated product. Unlike the other two advertisements, the commercial featuring the woman on a train did not promote special occasion cheeses as being relevant to parties involved in a tender relationship.