

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 57/91

Dated the 10th day of December 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

DR JANE RITCHIE

of Hamilton

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson  
J.R. Morris  
R.A. Barraclough  
L.M. Dawson

DECISION

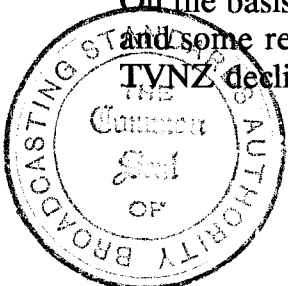
Introduction

An advertisement shown by Television New Zealand Ltd on 7 April 1991 depicted a man, "Steve", eating a breakfast of Weetbix, bananas and "So Good" milk substitute. The sound track reflected "Steve's" medically confirmed concerns about his high level of cholesterol. It continued:

I've always known that Weetbix was good for me but I didn't know it's absolutely free of cholesterol. Suddenly anything with no cholesterol became important to me so I replaced milk with "So Good". No cholesterol and as much calcium as milk. Skipping breakfast had become a bad habit I'm afraid but with Weetbix, "So Good" and a bit of regular exercise I reckon I can sort this one out.

Dr Jane Ritchie complained to TVNZ Ltd that the advertisement was dangerously misleading. After some correspondence, Dr Ritchie referred to standard 2 of the Advertising Code of Ethics which prohibits misleading claims or representations, adding that many changes to diet and lifestyle, other than the instances mentioned in the advertisement, were necessary to lower a person's cholesterol level.

On the basis that the advertisement did not amount to a claim that Weetbix, "So Good" and some regular exercise were all that were necessary to reduce the cholesterol level, TVNZ declined to uphold the complaint.



As she was dissatisfied with TVNZ's response, Dr Ritchie referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

### Decision

The members of the Authority have viewed a tape of the advertisement and have read the correspondence (summarised in the Appendix).

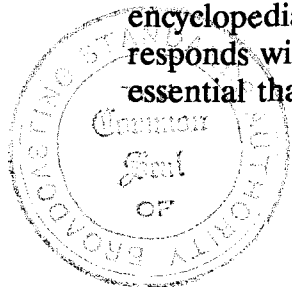
Dr Ritchie complained that the advertisement was inaccurate and misleading as it implied that Weetbix, So Good and regular exercise, in themselves, would reduce an individual's cholesterol level. Quoting medical advice that those dietary changes would have a minimal impact on cholesterol level, she said the advertisement breached standard 2 of the Advertising Code of Ethics. It reads in part:

- 2 **Truthful Presentation** - Advertisements must not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, or makes false and misleading representation - in particular with regard to:
- a) characteristics such as nature, composition, method and date of manufacture, fitness for purpose, range of use, quantity, commercial or geographical origin;

In her initial complaint to TVNZ, Dr Ritchie argued that the advertisement did not recommend that people should seek medical advice on how to lower their cholesterol level. TVNZ pointed out to her that the advertisement's script indicated that the man featured, "Steve", was receiving medical advice. In her final comment to the Authority, Dr Ritchie questioned both the relevance and the prominence of the doctor's advice in the advertisement. On this point, the Authority accepted TVNZ's argument that the advertisement indicated that "Steve" was getting medical advice about his cholesterol level.

The crux of Dr Ritchie's complaint focused on her interpretation of the advertisement that it suggested that Weetbix, So Good and regular exercise were sufficient in themselves to reduce cholesterol levels. TVNZ did not seriously dispute the point that that combination was not the total answer to a cholesterol problem. However, it argued forcefully that the advertisement did not suggest that anyway. Rather, TVNZ said, it suggested that the Weetbix and So Good combination would provide a cholesterol free breakfast. Further, TVNZ maintained, Dr Ritchie's interpretation was neither a realistic nor a logical assessment of the entire advertisement.

As a specific point, TVNZ argued that a 45 second advertisement could not be an encyclopedia about cholesterol. While agreeing with this contention, the Authority responds with the point that, when an advertisement deals with matters of health, it is essential that the information conveyed is accurate.



That observation does not assist the Authority in deciding whether Dr Ritchie's or TVNZ's interpretation of the advertisement's message is correct. On the one hand, the advertisement dealt with a contentious medical issue purportedly in a serious way and it could be argued that the total response to a cholesterol problem was encapsulated in the final words when "Steve" said:


[W]ith Weetbix, So Good and a bit of regular exercise I reckon I can sort this one out.

On the other hand, it was brief and, as an advertisement, viewers could well expect some hyperbole. Moreover, people with a problem with their cholesterol would most probably receive complete and competent advice from their medical advisers. "Steve" also remarked that "anything with no cholesterol became important", indicating that he was seeking other no-cholesterol foods rather than relying solely on Weetbix and So Good.

In placing those contrasting perspectives against the advertising code of ethics, the Authority questioned whether the advertisement would, indeed, mislead or deceive a viewer. Given the arguments outlined above, the Authority concluded that while the interpretation proposed by Dr Ritchie was perfectly understandable, so was the interpretation advanced by TVNZ. Accordingly, in view of these valid but conflicting approaches, the Authority decided that a finding that a breach of standard 2 had occurred would require a ruling that the evidence, on the balance of probabilities, supported Dr Ritchie's argument. The Authority concluded that that was not so and thus, within the requirements of the standard, the So Good advertisement was neither misleading nor deceptive.

**For the reasons set forth above, the Authority declines to uphold the complaint that the broadcast of the advertisement for So Good on 7 April 1991 breached standard 2 of the Advertising Code of Ethics.**

Signed for and on behalf of the Authority

  
Iain Gallaway  
Chairperson



10 December 1991

Appendix

**Dr Jane Ritchie's Complaint to Television New Zealand Limited**

Dr Ritchie made a formal complaint to TVNZ Ltd in a letter dated 13 April 1991 about an advertisement shown by TV1 on Sunday 7 April. She said that the advertisement for "So Good", a soya bean milk substitute, implied that the only dietary change necessary for people with a high cholesterol level was to substitute "So Good" for cow's milk. She added that the advertisement was "dangerously misleading" as, although cow's milk contained saturated fat, so did other dairy products and meats. She wrote:

This advertisement gives no indication that other dietary changes would be necessary to reduce cholesterol levels. A person without adequate dietary information could infer from the advertisement that all he or she needed to do was to switch to So Good and get regular exercise to lower cholesterol. The advertisement does not even recommend that the person seek medical advice on how to lower their cholesterol.

After some correspondence with TVNZ, in a letter dated 16 May 1991 Dr Ritchie advised that her complaint was laid under standard 2 of the Advertising Code of Ethics which reads in part:

2. **Truthful Presentation** - Advertisements must not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, or makes false and misleading representation - in particular with regard to:
  - a) characteristics such as nature, composition, method and date of manufacture, fitness for purpose, range of use, quantity, commercial or geographical origin;

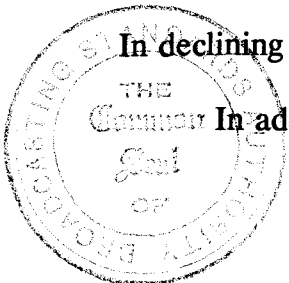
**TVNZ's Response to the Formal Complaint**

TVNZ advised Dr Ritchie of its Complaints Committee's decision in a letter dated 2 July 1991.

It said the Committee accepted, on the advice it had received, that substituting "So Good" for cow's milk would contribute toward reducing cholesterol levels. It continued by saying that the advertisement did not claim that that was the only change required to reduce high cholesterol to an acceptable level.

In declining to uphold the complaint, TVNZ wrote:

In addition the Committee felt that people suffering from high cholesterol



levels could well benefit from the information contained in the advertisement and not be likely to be misled or place any limited construction on the comment.

In summary the Committee considered that the advertisement should be seen in its entirety and that there were dangers should segments be taken out of context.

When viewed in total it was considered that the segment at issue neither explicitly or implicitly suggested that the Weetbix/'So Good' combination, when combined with exercise, was a total or finite solution to the reduction of high cholesterol levels.

### **Dr Ritchie's Complaint to the Broadcasting Standards Authority**

As she was dissatisfied with TVNZ's decision, Dr Ritchie referred her complaint to the Authority in a letter dated 10 July 1991.

She maintained her opinion that the advertisement implied that Weetbix, So Good and exercise would reduce cholesterol levels. She noted that she had spoken to medical authorities, one of whom was a consultant on heart disease for WHO, and had been advised that it was "extremely unlikely" that substituting So Good for cow's milk, but otherwise not changing one's diet, would reduce cholesterol levels. Accordingly, she stated, the advertisement was misleading and inaccurate.

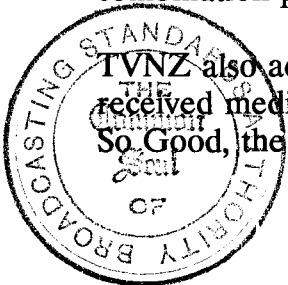
### **TVNZ's Response to the Authority**

As its practice, the Authority sought the broadcaster's response to the complaint. The request is dated 16 July and TVNZ's response is dated 8 November. TVNZ regretted the delay, explaining that the complainant had introduced some new material and the advertiser had recently changed its advertising agency.

TVNZ, pointing out that the complaint focused on differing interpretations of the advertisement, accepted the medical opinion cited by the complainant. However, TVNZ argued forcibly that the advertisement did not claim that Weetbix, So Good and exercise was the total solution to a high cholesterol level.

Quoting the advertising agency, TVNZ commented that the advertisement was addressing breakfast only; that the wording used indicated that the man featured was getting medical advice; that an advertisement had to be seen as a total message; and that the advertisement's aim was to state clearly "that the Weetbix/So Good combination provides a cholesterol free breakfast".

TVNZ also advanced the advertiser's point of view which noted that the man had received medical advice. The advertiser also argued that, in view of the contents of So Good, the substitution of So Good for cow's milk could lower cholesterol levels.



TVNZ concluded:

In summary the company would submit that the complainant appears to have misinterpreted the message coming through from the advertisement. This is particularly obvious on the basis of her claim that "this advertisement is misleading since it implies that one need make no other dietary change to reduce one's cholesterol. Such exclusivity of claim represents an interpretation never intended and, it is submitted, not capable of being substantiated on the basis of a realistic and logical assessment of the advertisement in its entirety.

The 45-seconds advertisement should not be seen as, or expected to be, a mini compendium focusing on cholesterol and its associated health problems as the complainant seems to suggest it should. Television advertising could not hope to cope with such a broad spectrum.

**Dr Ritchie's Final Comment to the Authority**

When asked to comment on TVNZ's response, Dr Ritchie made four points.

i] The mention of the doctor occurred at the beginning of the advertisement, was brief, and did not suggest that the doctor was involved in the changes to "Steve's" diet.

ii] She repeated the point that replacing cow's milk with a soya based substitute was, according to medical authorities, a good thing to do.

iii] She reiterated her complaint that the advertisement suggested that Weetbix, So Good and regular exercise, in themselves, would reduce an individual's cholesterol level.

iv] The advertisement's final phrase were the words the viewer was intended to remember and they conveyed the message explained in point (iii) above.

