

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 64/91

Dated the 10th day of December 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

GROUP OPPOSED TO
ADVERTISING OF LIQUOR
of Hamilton

Broadcaster
KIWI FM
of Hamilton

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

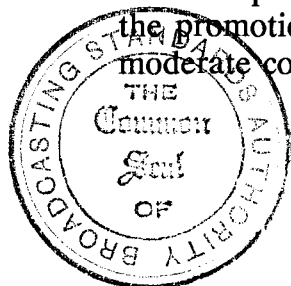
DECISION

Introduction

A "bladderbusters" promotion was advertised by Kiwi FM in Hamilton on 20 June 1991. It involved the advertiser supplying free beer until someone went to the toilet.

The secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to the broadcaster that publicising a "bladderburst" competition breached the moderation message in the Code for Advertising Alcoholic Beverages. Further, the mention of "free beer" breached the requirement in the Radio Rules for Liquor Advertising which prohibits price advertising.

Kiwi FM rejected the complaint, first, because the promotion was not a competition, and secondly, because the prohibition on advertising prices was not breached. As GOAL was dissatisfied with the decision Mr Turner, on GOAL's behalf, referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989. GOAL later accepted Kiwi FM's specific point about price advertising but retained its belief that the promotion was a competition and that it was contrary to the Code's emphasis on moderate consumption.



Decision

The members of the Authority have read a transcript of the advertisement complained about and have examined the correspondence (summarised in the Appendix). It is not totally clear from the correspondence whether GOAL maintained to the end, when referring its complaint to the Authority, that the advertisement breached standard 5 of the Radio Rules Controlling the Advertising of Liquor which reads:

No advertisement may include reference to any lottery or competition which requires the purchase of liquor as a condition of participation.

Regardless whether the advertisement referred to a lottery or a competition, it stated explicitly that the beer was free. As the promotion did not require the purchase of liquor as a condition of participation, the Authority concluded that it did not breach standard 5 of the Radio Rules if, in fact, GOAL wished to have that area of its complaint dealt with.

The core of GOAL's complaint to the Authority was the allegation that the advertisement breached the Purpose of the Code for Advertising Alcoholic Beverages which begins:

Advertising will be conducted in a manner which is not in conflict with the principle of moderation in alcohol advertising.

Although it could be argued that the advertisement did not encourage consumers to drink a large quantity of alcohol and that urination is an expected consequence of drinking beer anyway, that approach has to be balanced against the tone of the advertisement. In its final comment after reading the script, GOAL lamented the fact that it had not complained initially that the advertisement breached the broadcasting standard requiring good taste. Had it done so, there is little doubt that the complaint would have been upheld.

The Authority, of course, did not assess the advertisement against the taste and decency standard. However, the Authority acknowledged that its tone, or mood, was designed to do no more than appeal to patrons, first, to obtain free beer, secondly to drink as much beer as possible in a short time, and thirdly, to continue drinking.

In view of this finding, the Authority concluded that the advertisement conflicted with the moderation principle in the Code's purpose.

For the reasons set forth above, the Authority upholds the complaint that the broadcast of a "Bladderbusters" promotion by Kiwi FM on 20 June 1991 breached the Purpose of the Code for Advertising Alcoholic Beverages.

There are three other matters on which the Authority comments. First, it took the broadcaster three months to respond to the Authority's request for comment on what was a brief and straightforward complaint. The comment was received only after a second request and shortly before the Authority intended to determine the complaint without



the broadcaster's reply. As the broadcaster had already considered the issue following GOAL's initial complaint, the Authority is hard pressed to understand why the reply took so long. The Authority has already advised broadcasters that, unless it is satisfied that there is a good reason for delay, it intends to proceed to determine complaints without the broadcaster's comments if they are not received within 60 working days. The Authority gives notice that consideration is now being given to reducing that period to 20 working days - i.e. the same length of time during which a complainant must lodge the initial complaint with the broadcaster.

The second issue relates to the taste and decency aspect of the advertisement. As noted, the Authority did not rule on this matter as it was not an aspect of the complaint. Nevertheless, it will be apparent from the Authority's comments that it found the advertisement offensive and that finding was one of the reasons why the complaint, focusing on the moderation principle, was upheld.

Finally, advertisements such as this one are one of the reasons why the Authority has recently revised the standards for liquor advertising on radio and television.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



10 December 1991

Appendix

GOAL's Complaint to Kiwi FM

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, wrote to Kiwi FM on 2 July 1991 about an advertisement broadcast on the afternoon of the 20 June. He said:

The advertisement was publicising a "bladderburst" competition which I am informed is a competition to see who can drink the most beer without recourse to urination.

That advertisement, he added, breached the Purpose of the Code for Advertising Alcoholic Beverages which provides:

Advertising will be conducted in a manner which is not in conflict with the principle of moderation in alcohol consumption.

In addition, as the advertisement mentioned "free beer", he said that it breached requirement 1.2 of the Rules Controlling the Advertising of Liquor on Radio which prohibits advertising the price of any alcohol.

Kiwi FM's Response to the Formal Complaint

Kiwi FM advised Mr Turner of its decision in a letter dated 15 July 1991.

It explained that the advertisement did not promote a competition - it promoted the giving away of a free product which would continue until someone urinated. "Hence the name of the promotion "BLADDER BUSTERS".

As the product was free, it continued, it was not price specific and thus did not breach rule 1.2.

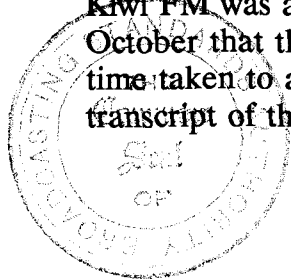
GOAL's Complaint to the Broadcasting Standards Authority

As GOAL was dissatisfied with Kiwi FM's response, Mr Turner, on GOAL's behalf, referred the complaint to the Authority on 18 July 1991 under s.8(a) of the Broadcasting Act 1989.

The details of the complaint to the broadcaster were repeated with particular emphasis upon the allegation that the reply had not addressed the moderation issue.

Kiwi FM's Response to the Broadcasting Standards Authority

Kiwi FM was asked for its comments on 22 July and after being advised on 18 October that the Authority intended to proceed without a response, in view of the time taken to answer, its reply was finally received on 25 October 1991 enclosing a transcript of the advertisement. The transcript read:



SFX (Noisy bar drinking crowd in the background please).

GUY Oh ar oh, I've, I've gotta go ...

ANN Tonight, get your favourite German Style Beer FREE of charge at the Filling Station.

GUY Oh ah, I can't hold on, please let me in ... I've gotta go.

ANN From 7.30 tonight your favourite German Style Beer is FREE at The Filling Station ... until someone ...

GUY Ahhhh ...

SFX (Toilet Flushing)

ANN Goes.

Bladderbusters, join the fun tonight from 7.30 at The Filling Station.

The broadcaster's client, it said, held a beer tasting and:

Rather than calling it a tasting, whereby FREE product was given to patrons, they called it BLADDERBUSTERS and set the condition that the samples were free until such time as someone went to the toilet.

That was not a competition the broadcaster added and as a free product has no price, the advertisement was not price specific.

GOAL's Final Comment to the Authority

When asked by the Authority to comment on Kiwi FM's reply, Mr Turner, as secretary of GOAL, in a letter dated 29 October acknowledged that he had misunderstood the advertisement.

I thought that the competition would produce a winner, i.e. the last person to urinate.

He also accepted that a "free" product was not price specific, but maintained that the advertisement referred to a competition.

Having read the transcript, he now thought the advertisement was in bad taste.

Meanwhile:

I retain my belief that the promotion was unlikely to lead to moderation in the consumption of liquor.

