

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 29/92

Dated the 4th day of June 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

CHARLES G.A. ROSA

of Wellington

Broadcaster

TV3 NETWORK SERVICES  
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

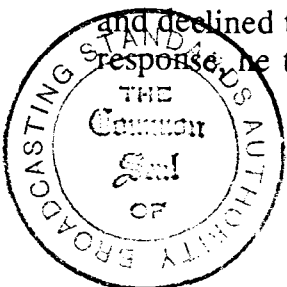
DECISION

Introduction

An advertisement for Vaseline Intensive Care Lotion was broadcast by TV3 Network Services Ltd at 6.15pm on 16 November 1991. The advertisement showed three women favourably describing the product and their comments were interspersed with brief shots of the product being smoothed over a naked female torso.

Mr Rosa complained that the advertisement breached the standard requiring good taste and decency, first, as the portrayal of the torso seemed designed to draw attention to an unrelated product, and secondly, as the portrayal was demeaning to women and offensive to many viewers.

As Mr Rosa did not receive a formal response to his complaint within 60 working days, he complained to the Broadcasting Standards Authority under s.8(b) of the Broadcasting Act 1989. In response to the Authority's inquiries, TV3 repeated its earlier request to the Television Commercial Approvals Bureau to reply on its behalf. The Bureau did so and declined to uphold the complaint. As Mr Rosa was dissatisfied with the substantive response, he then referred his complaint to the Authority under s.8(a) of the Act.



## Decision

The members of the Authority have viewed the advertisement to which the complaint relates and have read the correspondence (summarised in the Appendix). As is its usual practice, the Authority has determined the complaint without a formal hearing.

Mr Rosa initially referred his complaint to the Authority under the provisions of s.8(b) of the Broadcasting Act 1989 as TV3 had not responded to his complaint after 60 working days. After the Authority had sought TV3's comments to the complaint, Mr Rosa received a response from the Television Commercial Approvals Bureau which replied on TV3's behalf. The Bureau, which had been asked to respond to the complaint much earlier, apologised to Mr Rosa for the delay and explained that the complaint had initially been put to one side to evaluate the public reaction to it and had then been misplaced when the Bureau moved premises.

The Authority appreciates that broadcasters may well seek advice when responding to complaints. However, it would draw all broadcasters' attention to s.5(a) of the Broadcasting Act 1989 which reads:

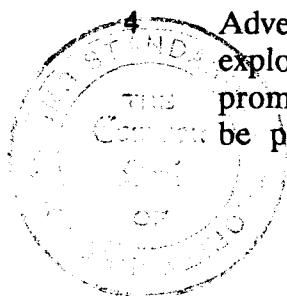
- (a) Broadcasters have a responsibility to deal with complaints relating to broadcasts and must establish a proper procedure to deal with them.

It will be apparent that the Act requires each broadcaster to establish a procedure to ensure a response to a complaint within 60 working days. Furthermore, the Authority expects TV3, not the Television Commercial Approvals Bureau, to ensure that complainants are replied to appropriately.

Upon receipt of the Bureau's response on TV3's behalf, Mr Rosa continued with his reference to the Authority although now on the basis that he was dissatisfied with the broadcaster's decision. The Authority is pleased to note that when it asked TV3 for its response to the referral on that basis, it received a reply not from the Bureau but from TV3's Complaints Committee.

Mr Rosa complained to TV3 in November 1991 that the Vaseline advertisement breached s.4(1)(a) of the Broadcasting Act 1989 which requires broadcasters to maintain standards consistent with the observance of good taste and decency. The advertisement did not maintain that standard, he stated, as it breached standards 1 and 4 of the Code for People in Advertising. They read:

- 1 Advertising should not portray individuals or groups within society in a manner which is likely to expose them to violence, exploitation, hatred, contempt, abuse, denigration or ridicule from other members of the community.



- 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.

Mr Rosa cited the shots of the naked female torso, which he said "constituted a fairly large part" of the advertisement, as the evidence of his contention that the advertisement breached both standards 1 and 4.

The Television Commercial Approvals Bureau, with which TV3 agreed, said that the advertisement included two brief scenes of an apparently nude female model which showed neither her breasts nor her genitalia. The Bureau argued that the advertisement did not breach the good taste and decency standard and that it was in accord with the attitudes, values and expectations of New Zealand society. The advertisement did not, it maintained, expose a significant group to exploitation or denigration and did not use sexual appeal to draw attention to an unrelated product.

Having viewed the advertisement, the Authority agreed with the points made by and on behalf of TV3. The shots of the apparently nude female model were relatively brief and their broadcast could not be considered to be out of step with generally accepted New Zealand values.

The Authority noted that in his correspondence Mr Rosa referred to the Vaseline advertisement and TV3 also used that title. The commercial, however, was called the Vaseline Intensive Care Lotion advertisement by the Television Commercial Approvals Bureau in its letter to Mr Rosa dated 26 March. The product being advertised was in fact Vaseline Intensive Care Lotion. That product is a thin moisturising liquid primarily for the hands but which can be applied to all parts of the body. Vaseline was not the product being advertised. That product is a thick jelly-like substance used for preventing nappy rashes and similar complaints. The Authority raises this matter as the basis of the complaint is more readily understood should the complainant have misconstrued the product being advertised. Vaseline, unlike the product which was advertised, would not be spread generously over the body and it could well be inappropriate to include shots of an apparently naked female model in an advertisement promoting that product.

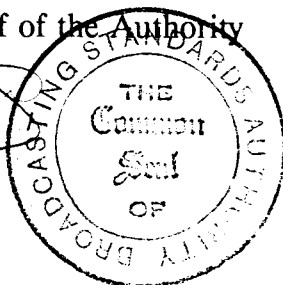
In view of the product being advertised, the Authority accepted that the portrayals used in the advertisement were appropriate and concluded that it breached neither the Code for People in Advertising nor the good taste and decency requirement in the Broadcasting Act 1989.

**For the reasons set forth above, the Authority declines to uphold the complaint.**

Signed for and on behalf of the Authority

*Iain Gallaway*

Iain Gallaway  
Chairperson  
4 June 1992



## Appendix

### Mr Charles G.A. Rosa's Complaint to TV3 Network Services Ltd

In a letter dated 21 November 1991, Mr Rosa complained to TV3 Network Services Ltd about a Vaseline advertisement which was shown on 16 November. The advertisement, he wrote, breached the standard in the Broadcasting Act 1989 requiring good taste and decency as it breached the provisions in the Code for People in Advertising which prohibit the depiction of people in a degrading, demeaning or offensive manner and the portrayal of people in a manner which draws attention to an unrelated product.

He said the Vaseline advertisement showed a female model apparently using the product interspersed with shots of a naked female torso. The depiction of the torso, he argued, both drew the viewers' attention to an unrelated product and was demeaning and offensive.

### Correspondence between December 1991 and March 1992

In a letter dated 3 December, TV3 advised Mr Rosa that it had referred the complaint to the Television Commercial Approvals Bureau (TCAB) as the Bureau approved all advertisements before their broadcast. It said that Mr Rosa could expect a letter soon from Mr Winston Richards, the Executive Director of the Bureau.

As he did not receive a reply from Mr Richards, Mr Rosa referred his complaint to the Broadcasting Standards Authority on the 18 March 1992 under s.8(b) of the Broadcasting Act 1989. The Act requires the broadcaster to respond to a complainant within 60 working days of receiving a complaint.

After referring the complaint to TV3, the Authority was advised by TV3 that Mr Rosa would shortly receive a reply from Mr Richards of the TCAB on TV3's behalf.

### TV3's Response to the Complaint

In a letter dated 26 March 1992, Mr Rosa finally received a response from Mr Richards of the TCAB. He said that the advertisement for Vaseline Intensive Care Lotion was in accord with the generally accepted values and expectations of New Zealand society. That opinion was reinforced, he wrote, by the fact that Mr Rosa was the sole complainant.

He described the two brief scenes of an apparently nude female model as she applied the lotion to her body and said that, as the shots avoided any depiction of her breasts or her genital area, they did not give offence. He stated that they did not breach the standard requiring good taste and decency. As vaseline lotion was applied to the

body, he could not understand the complaint which alleged that the portrayal of the model was unrelated to the product being advertised.

He declined to uphold the complaint.

#### Mr Rosa's Complaint to the Broadcasting Standards Authority

Upon receiving the substantive response to his complaint, Mr Rosa referred the matter to the Authority under s.8(a) of the Broadcasting Act 1989. He wrote:

My point is that I doubt whether women use the product all over the body as the advertisement suggests. Further, I fail to see the necessity of having to show a nude female torso to inform the public of the merits of the product. I would contend that the shot of the nude female torso is therefore unrelated to both the product and the advertisement.

#### TV3's Response to the Authority

As is its practice, the Authority sought TV3's response to the referral. Its request is dated 2 April 1992 and TV3 in its reply dated 8 April expressed its agreements with Mr Richards' views and had nothing further to add.

#### Mr Rosa's Final Comment to the Authority

When asked for his comment on TV3's letter, Mr Rosa stated that he stood by his original complaint to TV3.

