

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 33/92

Dated the 25th day of June 1992

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
TV3 NETWORK SERVICES
LIMITED

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

DECISION

Introduction

An advertisement for DB Export Lager was broadcast by TV3 Network Services Ltd on a number of occasions in February 1992. It depicted some people setting out to go surfing but who were required to push their old car to the beach after it broke down. Upon arriving at the beach there was no surf and the men drank beer. The final scene showed the arrival of a tow truck and the female member of the group dancing on the roof of the car again.

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Turner, complained to TV3 that the depictions breached three standards in the Code for Advertising Alcoholic Beverages and one standard in each of the Advertising Code of Ethics and the Code for People in Advertising.

As GOAL did not receive a formal response to its complaint within 60 working days, it referred its complaint to the Broadcasting Standards Authority under s.8(b) of the Broadcasting Act 1989. In response to the Authority's inquiries, TV3 said that the Advertising Standards Complaints Board, because of community disquiet, had noted that the advertisement breached the spirit of the Code for Advertising Alcoholic Beverages. Consequently, the advertisement had been withdrawn from broadcast.



As GOAL was dissatisfied with the substantive response, it then referred the complaint to the Authority under s.8(a) of the Act.

Decision

The members of the Authority have viewed the advertisement complained about and have read the correspondence. The referral to the Authority by GOAL was initially under s.8(b) of the Broadcasting Act 1989 as TV3 failed to respond to the complaint within 60 working days of the broadcast complained about. Upon receiving a substantive response following the Authority's inquiries, GOAL continued with its referral, amending the basis to s.8(a) of the Act, as it was dissatisfied with the broadcaster's substantive response.

TV3 said that it was an oversight that it did not respond to the complaint but pointed out that the advertisement had been withdrawn following a well publicised decision from the Advertising Standards Complaints Board dated 24 February 1992.

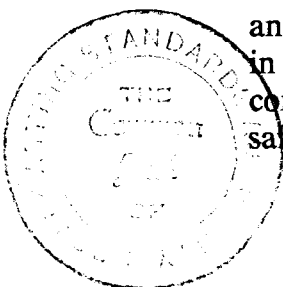
GOAL complained to TV3 that the advertisement breached standards 6 and 7 of the Code for Advertising Alcoholic Beverages on the following grounds. Standard 6 was breached by the provocative dancing movements screened and standard 7 by suggesting, first, an association between drinking and waters sports, and secondly, an association between drinking and driving. The advertisement also breached standard 4 of the Code for People in Advertising, GOAL added, as it used a woman's sexual appeal to draw attention to an unrelated product. Further, standard 12 of the Advertising Code of Ethics was breached as the shots of the woman dancing on the roof of a moving car showed an illegal and unsafe practice.

The relevant standards from the Code for Advertising Alcoholic Beverages read:

6. Liquor advertisements may depict the consumption of liquor as part of a friendly and happy social environment. However, it is unacceptable to suggest that the consumption or presence of liquor will create a significant change in mood or environment. The depiction of liquor as part of a celebration shall not imply that the beverage is the cause of success or achievement. Further, it is unacceptable to depict the consumption or presence of liquor as a necessary component of the achievement of personal, business, social, sporting or sexual success.

Liquor advertisements shall not suggest a relationship between liquor and sex by placing immoderate or immodest emphasis on romantic situations or by using illustrations or poses which are provocative or suggestive.

7. There shall be no direct association between the consumption of liquor and the operation of a motor vehicle, boat or aeroplane, or engagement in swimming, water sports or other potentially hazardous activities. Any consumption shall clearly be after the relevant activity and involve only safe practice.



In the case of liquor advertisements for low alcohol beverages, an association with the above-listed activities may be made for the purposes of promoting low alcohol beverages.

Standard 4 from the Code for People in Advertising provides:

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.

The provision cited from the Advertising Code of Ethics states:

12. **Safety** - Advertisements should not, unless justifiable on educational or social grounds contain any visual presentation or any description of dangerous or illegal practices or situations which show a disregard for safety.

In its comments on the substantive aspect of the complaint, TV3 reported that it concurred with the Television Commercial Approvals Bureau and the Advertising Standards Authority that the advertisement did not breach the standards. It noted that, as the advertisement had been withdrawn, the Advertising Standards Complaints Board had not ruled on the complaint that the advertisement had breached a number of specific standards but, nevertheless, had concluded that the spirit of the Code had been breached. TV3 believed that this decision did not amount to finding that the Code had been breached.

As the advertisement has not been broadcast since the Advertising Standards Complaints Board's decision in February, the Authority decided in those circumstances it would be pedantic to continue to determine this complaint. It notes the following comment from the Board's decision:

In the light of the decision to withdraw the advertisement, the Board spent some time discussing whether this process was appropriate in this case. The majority of the members were of the view that the self-regulatory process had been served by adopting the precedent in Complaint 91/146 but stated that if they were considering the complaint without the withdrawal it would have been in breach of the Code.

It registers its agreement with the Board's final comment:

The Board agreed that as the advertisement had been withdrawn there was no need to examine each rule but ruled that the spirit of the Code had been breached. Consequently the Board would view with some concern a similar style of advertisement.



Indeed, the Authority is prepared to be more forthright and notes for the benefit of makers of any similar advertisements in the future that its concerns focused particularly on the two aspects of the complaint under standard 7 of the Code for Advertising Alcoholic Beverages (the association between drinking and water sports and drinking and driving) and standard 12 of the Advertising Code of Ethics (displaying an unsafe practice).

In conclusion, as the complaint to the Advertising Standards Complaints Board was settled when the advertisement was withdrawn from broadcast and would not be screened again, the Authority declines to determine the current complaint.

For the reasons set forth above, under s.11(b) of the Broadcasting Act 1989 the Authority in all the circumstances, declines to determine the complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson

25 June 1992

