

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 36/92

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
CANTERBURY TELEVISION
LIMITED

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

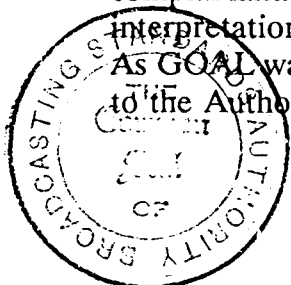
DECISION

Introduction

A corporate image advertisement for DB South Island Brewery Ltd, concluding with the words "Putting our strength to work in the mainland", was broadcast by Canterbury Television Ltd on 9 December 1991.

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to CTV that the brewery's claim to be a benefactor was absurd in view of the negative consequences of liquor consumption. Accordingly, the advertisement breached the principle in the Advertising Code of Ethics which prohibited misleading and deceptive advertisements.

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, CTV said that GOAL's complaint was the first one it had received and it apologised for not replying to the complainant. With regard to the specifics of the complaint, it disagreed with GOAL's interpretation of the wording of the advertisement and declined to uphold the complaint. 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 (summarised in the Appendix). As is its practice, the Authority determined the complaint without a formal hearing.

GOAL complained to CTV that a corporate image advertisement for Dominion Breweries broadcast on 9 December 1991, concluding with the words "DB South Island Ltd: Putting our strength to work in the mainland", breached standard 2 of the Advertising Code of Ethics. Standard 2 reads:

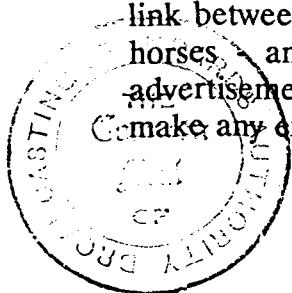
2. **Truthful Presentation** - Advertisements must not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, or makes false and misleading representation.

Liquor consumption, GOAL continued, played a role in filling hospitals, prisons and psychiatric institutions and it was misleading and deceptive for the advertiser to suggest that it was a benefactor.

CTV did not respond to GOAL about its complaint and the Authority, having earlier advised the broadcaster of its statutory responsibilities, was unimpressed when CTV subsequently said that it did not reply as it did not recognise that it was required to do so upon receipt of a formal complaint. CTV finally responded to the complaint although, despite a written request, it has yet to supply a copy of the relevant tape to the Authority. Fortunately, the complainant was able to make a copy available.

In its reply about the substance of the complaint, CTV reported the advertiser's view that it regarded itself as a benefactor in view of its sponsorship of a number of teams and community events. CTV added that it agreed with that interpretation which conformed with the advertisement's comment about the advertiser "Putting our strength to work in the mainland".

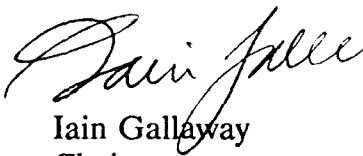
Having viewed the advertisement, the Authority decided it was unnecessary to rule on GOAL's claim that the advertisement misleadingly represented DB South Island Brewery Ltd to be a benefactor and CTV's response that it was reasonable to regard the advertiser as a benefactor in light of its community activities. The advertisement showed some Clydesdale horses wearing DB logos and pulling an open wagon across vast expanses of countryside. Although the Authority does not dispute that the advertiser may be a major South Island company involved in sponsorship in some South Island community activities, that was not the message it took from the advertisement. The advertisement was clearly concerned with the advertiser's corporate image. It did not appear to be making any explicit claims other but seeking to give a positive impression about the company as a corporate citizen. The Authority believed that the only explicit link between the visuals and the wording would be a reference to the strength of the horses, and that was not a matter in dispute. The Authority decided that the advertisement, contrary to both the complainant's and broadcaster's allegations, did not make any explicit claims about the advertiser's role as a community benefactor.



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

CTV has shown what amounts to a cavalier disregard of its responsibilities under the Broadcasting Act 1989, especially ss.5 - 17. The Authority regarded this with serious displeasure particularly in view of the fact that its Executive Officer, in spite of an almost total lack of response from the broadcaster, made a special trip to Christchurch to discuss and explain its responsibilities under the Act. Because of the unnecessary delay and the inconvenience imposed on the complainant, the Authority considered an order for costs against the broadcaster under s.16 of the Act. However, as the complaint was the first with which CTV has had to deal and as the complaint was not upheld, the Authority has decided not to make an order on this occasion.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



25 June 1992

Appendix

GOAL's Complaint to Canterbury Television Limited

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, wrote to Canterbury Television Ltd on 13 December 1991 about a corporate image advertisement for DB South Island Brewery Ltd broadcast on 9 December.

The advertisement, GOAL wrote, concluded with the words "Putting our power to work for the mainland". In view of the role that liquor consumption played in filling the hospitals, prisons and psychiatric institutions, GOAL said that the advertising breached standard 2 of the Advertising Code of Ethics by claiming that the advertiser was a benefactor. Standard 2 reads:

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.

GOAL's Complaint to the Broadcasting Standards Authority

As GOAL did not receive a reply to its complaint, Mr Turner on GOAL's behalf referred it to the Broadcasting Standards Authority on 3 April 1992 under s.8(b) of the Broadcasting Act 1989. In letters dated 6 April and 11 May the Authority sought CTV's response to the referral.

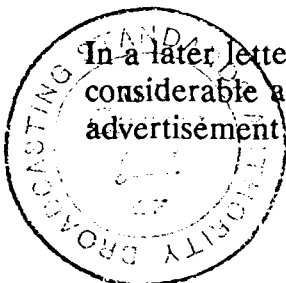
CTV's Response to the Authority

CTV, in a letter dated 18 May, responded to the Authority. Pointing out that GOAL's complaint was the first it had received, CTV apologised to Mr Turner for failing to respond. It said that it had delayed responding to the Authority while ascertaining its legislative obligations.

In regard to the specifics raised by the complaint, CTV argued that it did not agree with GOAL's interpretation of the wording and, consequently, it considered that the advertisement was neither misleading or deceptive. It concluded:

We understand that the other Television Networks use this advertisement and we screened it in good faith. We will however refer the complaint to the advertiser for its comment.

In a later letter dated 9 June, CTV reported the advertiser's comment that it put a considerable amount back into the South Island by way of sponsorship and that the advertisement complained about had been shown by TVNZ and TV3. CTV



repeated its opinion, taking the advertiser's comment into account, that the commercial was neither misleading or deceptive.

GOAL's Comment to the Authority

Mr Turner, on GOAL's behalf, advised the Authority by telephone on 22 May that he wanted the Authority to continue with its consideration of the specifics raised by the complaint. The Authority thus treated the referral as one under s.8(a) of the Broadcasting Act 1989.

In regard to the substantive points in CTV's response, in a letter dated 25 May 1992 Mr Turner said that he found CTV's argument unconvincing. Although it disagreed with his interpretation of the advertisement, he pointed out that CTV had not offered an alternative interpretation.

CTV's Further Response to the Authority about the substance of the Complaint

In a letter dated 9 June 1992, CTV reported that the advertiser advised that the advertisement indicated that the company put "a great deal back into the South Island". It did so by way of sponsorship of events and teams.

CTV expressed the opinion that that interpretation was a natural construction of the words used and that, therefore, the advertisement was not misleading or deceptive. It added that the advertisement had also been screened by TVNZ and TV3 and that CTV was unaware of any other complaints.

GOAL's Final Comment to the Authority

In a letter dated 12 June, Mr Turner on GOAL's behalf responded to CTV's letter. He wrote:

I am pleased to note that CTV admits that the advertisement was a claim that Dominion Breweries regard themselves as a public benefactor. That was the crux of the complaint.

He concluded:

No part of the liquor industry is a benefactor. This is not "my own particular viewpoint" but a matter of well established facts.

