

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 57/92

Dated the 14th day of September 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

G R O W T H T H R O U G H
MODERATION SOC. INC.
of Hamilton

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

The Captain of the All Blacks, Mr Sean Fitzpatrick, was shown drawing the "Steinlager" Finest Tries competition on TV1 on Saturday afternoon, 30 May 1992.

The Secretary of the Growth Through Moderation Society Inc., Ms E.E. Bell, complained to Television New Zealand Ltd, as the broadcaster, that the item was a liquor advertisement which contravened the Code for Advertising Alcoholic Beverages by using an identifiable hero of the young.

TVNZ acknowledged that, because of a technical mistake, some wording had been used on the item which had meant that what was supposed to have been a sponsorship credit became a liquor advertisement. It upheld the complaint and reported that action had been taken to remedy the problem and that staff had been advised again of the need for vigilance when dealing with liquor advertisements and sponsorship advertisements and credits.

As the Society was dissatisfied with the extent of the action taken by TVNZ, Ms Bell on its behalf referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

The Secretary of the Growth Through Moderation Society Inc., Ms E E Bell, complained to Television New Zealand Ltd that the broadcast of an item on 30 May showing the All Black Captain, Mr Sean Fitzpatrick, drawing the winner of the "Steinlager" Finest Tries competition breached standard 4 of the Code for Advertising Alcoholic Beverages. Standard 4 states:

4. Liquor advertisements shall not use or refer to identifiable heroes or heroines of the young.

TVNZ upheld the complaint. Whereas the reference to "Steinlager" was supposed to amount to a sponsored programme identification or credit, it said, the accidental broadcast of the written description of "Steinlager" as "New Zealand's Finest" beer meant the announcement was a sales message and the broadcast thus became an advertising programme to which the Code for Advertising Alcoholic Beverages applied. By showing the All Black captain, TVNZ admitted, the broadcast breached standard 4.

TVNZ explained that it took care to abide by the liquor advertising rules and that the mistake had occurred in this case as its sports department had received an imperfectly printed message sent by fax. A "transmission judder" made ineligible a correction to some of the wording used. Following complaints, TVNZ added, the message had later been corrected and staff had been reminded of the need for "constant vigilance".

Ms Bell, on the Society's behalf, was dissatisfied with the action taken by TVNZ after upholding the complaint and referred it to the Authority. In subsequent correspondence, Ms Bell has expressed the Society's concern about sponsorship advertisements by liquor companies and the constant association of alcohol on television with sport and sporting heroes. The Society has also made a submission focusing on the point to the Authority's current review of alcohol advertising.

The Authority accepted that the message which, in this case, turned a sponsorship credit into a liquor advertisement occurred because of a technical mistake which TVNZ has acknowledged. The Authority believed that the action taken by TVNZ to prevent a recurrence was appropriate in the circumstances. It also acknowledged the complainant's concern and considered that sending its submission to the Authority's review was the appropriate manner to express it. Accordingly, the Authority decided that TVNZ's action, after upholding the complaint, was appropriate in the circumstances.

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

14 September 1992



Appendix

Growth Through Moderation Soc. Inc.'s Complaint to Television New Zealand Limited

In a letter dated 8 June 1992, the Secretary of the Growth Through Moderation Society Inc., Ms E.E. Bell, complained to Television New Zealand Ltd about the draw of the "Steinlager" Finest Tries competition on TV1 on Saturday afternoon 30 May.

By using the All Black Captain, Mr Sean Fitzpatrick to conduct the draw, the Society wrote, the item breached the provision in the Code for Advertising Alcoholic Beverages which prohibited the use of identifiable heroes of the young.

TVNZ's Response to the Formal Complaint

TVNZ advised the Society of its Complaints Committee's decision in a letter dated 10 July 1992.

It said that the item was supposed to comply with the requirements for a sponsorship programme identification or credit in which Mr Fitzpatrick's participation would have been acceptable, but the inclusion of the words "New Zealand's Finest" to described the beer meant that the item contained a sales message. Consequently, it came under the Code for Advertising Alcoholic Beverages and had breached standard 4 which prohibits the use of identifiable heroes of the young in liquor advertisements.

Explaining that great care was usually taken to ensure compliance with the liquor advertising rules, TVNZ explained that a mistake had occurred on this occasion because of an imperfectly printed message sent by a fax machine.

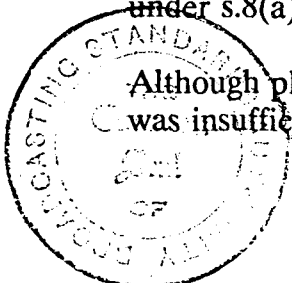
TVNZ wrote:

Given the circumstances of the technicality which served to convert the sponsorship credit to a liquor advertisement your complaint was upheld. Action had already been taken to remedy the matter and all staff concerned have been re-alerted to the need for constant vigilance.

Growth Through Moderation Society's Complaint to the Broadcasting Standards Authority

As the Society was dissatisfied with the action taken by TVNZ after upholding the complaint, Ms Bell on its behalf referred the complaint to the Authority on 23 July under s.8(a) of the Broadcasting Act 1989.

Although pleased that the complaint had been upheld, Ms Bell felt TVNZ's action was insufficient in view of the seriousness of the breach.



TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 27 July and TVNZ's responses, 30 July and 3 August.

Pointing out that the Society's letter to the Authority contained an extended description of the offending item while the letter of original complaint only objected to the appearance of the All Black captain, TVNZ said that it was difficult to decide what further action the complainant sought.

As the complainant has been told action has been taken to prevent a recurrence of any sales messages in similar circumstances and all staff concerned have been reminded of the need for constant vigilance.

In view of some of the complainant's comments, TVNZ explained that, had not the beer been described as "New Zealand's Finest", the item would have been "a sponsorship programme" to which the rules for liquor advertisements and sponsorship advertisements did not apply.

Growth Through Moderation Society's Final Comment to the Authority

When asked to comment on TVNZ's replies, in a letter dated 11 August, Ms Bell on the Society's behalf maintained that the item which was broadcast promoted beer. She expressed the Society's deep concern about the sponsorship of sport undertaken by liquor companies. A particular concern was expressed about the effect on the young of the constant association of alcohol with sport and sporting heroes. The Society noted that the Authority was reviewing the rules and said that it had made a submission on the issue of the liquor company's use of sponsorship.

