

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 71/92

Dated the 8th day of October 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MARGARET JACKSON
of Cambridge

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

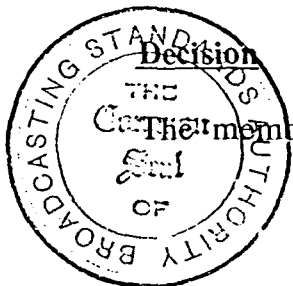
DECISION

Introduction

"Aussie League on 2" was broadcast by Television New Zealand Ltd on TV2 on Sunday evening 19 April. A roundel containing the Lion Red logo and the words "Lion Red Beer" appeared on the screen during the broadcast on a number of occasions.

Mrs Margaret Jackson complained to TVNZ that, as the roundel was screened at least 15 times during the programme which was, on average, once every five minutes, it breached the prohibition on the saturation of liquor advertising. Furthermore, she wrote, it breached the prohibition on contrived liquor advertising.

Describing the appearances of the roundel as a sponsorship credit to which Lion Red was entitled and maintaining that its appearances were spasmodic and brief during the 90 minute programme, TVNZ declined to uphold the complaint. As she was dissatisfied with TVNZ's decision, Mrs Jackson referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



The members of the Authority have viewed a substantial part of the programme

complained about in order to gain a thorough impression of Mrs Jackson's complaint and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

In her initial complaint to TVNZ, Mrs Jackson described the emblem to which she objected as a "roundel". The Authority accepts that this word is the most appropriate in the circumstances. To quote part of the Concise Oxford definition, a roundel is a small disk or a circular identifying mark such as those painted on military aircraft. The roundel which was complained about contained the Lion Breweries logo in the centre with the words "Lion Red Beer" in an outer circle around it.

Mrs Jackson's complained that the programme "Aussie League on 2" raised two issues. First, she argued that the appearance of the roundels, as they were contrived advertising, breached standard 27(a) of the Television Code of Broadcasting Practice. Standard 27(a) reads:

27. Broadcasters will ensure that the promotion of liquor which is incidental to a programme is minimised and in particular:
- (a) Will not be a party to any contract or arrangement where incidental liquor promotion is a contrived part of the programme. However, the brand names of alcoholic beverages and company names may be used in sponsorship advertisements, credits or trailers.

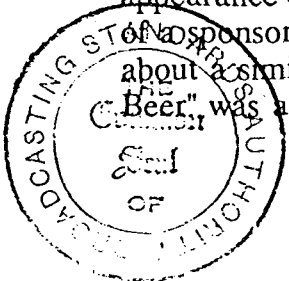
Explaining that the appearances of the roundel involved the use of a brand name in a sponsorship credit, TVNZ declined to uphold that aspect of the complaint.

Secondly, regardless of whether the broadcast of the roundels was contrived liquor promotion, as the relevant rule applied to both, Mrs Jackson complained that the broadcast breached standard 29 of the Television Code of Broadcasting Practice which reads in part:

29. Saturation or an impression of saturation of liquor promotion, including liquor advertising, sponsorship advertising and programme sponsorship credits by liquor advertisers, must be avoided.

With regard to that complaint, on the basis that the appearances of the roundel were brief and occurred during breaks and replays, TVNZ argued that they did not give the appearance of saturation advertising contrary to standard 29.

The Authority, first, declined to uphold the aspect of the complaint that the appearances of the roundel involved incidental liquor promotion in a contrived manner for the reason that their appearances were acceptable as an aspect of a sponsorship advertisement. Their appearances were part of a sponsorship advertisement as they followed the initial appearance of the roundel which included the words "Proud Sponsor" and the definition of a sponsorship advertisement allows the use of the sponsor's name. In a complaint about a similar programme, GOAL raised the question whether the words "Lion Red Beer" was an acceptable brand name or whether it was unacceptable as it depicted a



liquor product. That point is discussed in Decision No: 70/92. The Authority's task is to review a broadcaster's decision and as Mrs Jackson only raised that point when she referred her complaint to the Authority, the Authority declined to deal with it.

The second aspect of the complaint alleged that the frequent appearance of the roundel breached the requirement that the impression of saturation advertising be avoided. The Authority arbitrarily took one 20 minutes section of the broadcast and counted the number of times the roundel appeared. It totalled six and was screened to accompany four replays and two player profiles. Thus four of the appearances of the roundel were accompanied by wording on the bottom of the screen which drew the viewer's attention to the roundel and two of the replays included the audio comment that they were "Lion Red Replays". On the other hand, although the roundel appeared on six occasions during a 20 minute sequence, each appearance was relatively brief - between three and five seconds. Thus it could be argued that the six appearances more or less corresponded with one full length sponsorship advertisement and that one such commercial during a 20 minute spell was unlikely to give the impression of saturation advertising.

But, as noted in the previous sentence, the standard is concerned with the "impression of saturation of liquor promotion". That requirement inevitably involves a subjective judgment to some degree. Taking into account the impression given that the roundel was apparently screened on almost every possible occasion and that its repeated appearance, albeit brief, had a cumulative effect which had a greater impact than one single advertisement, the Authority decided in this case its appearances gave an impression of saturation of liquor promotion. The impression of saturation was reinforced by the audio message referring to the sponsor which accompanied some of the roundel's appearances. Accordingly, the Authority concluded that standard 29 was breached.

For the reasons set forth above, the Authority upholds the complaint that the broadcast by Television New Zealand Ltd of "Aussie League on 2" on TV2 on 19 April 1992 breached standard 29 of the Television Code of Broadcasting Practice.

The Authority declines to uphold the complaint that the broadcast of the same programme breached standard 27(a) of the same Code.

Having upheld a complaint, the Authority may make an order under s.13(1) of the Broadcasting Act 1989. As the current complaint is the second it has received under standard 29 and as it relates to a similar programme as the first and as it was broadcast before the release of its decision on the issue, the Authority does not intend to make an order on this occasion. However, it wants to make it clear to broadcasters that it will not accept sponsorship liquor advertisements gratuitously tacked onto such things as players' profiles, scorelines and replays to the extent that occurred in this programme.

Signed for and on behalf of the Authority

Iain Gallaway
Iain Gallaway

Chairperson

8 October 1992



Appendix

Mrs Jackson's Complaint to Television New Zealand Limited

In a letter dated 24 April 1992, Mrs Margaret Jackson complained to Television New Zealand Ltd about the appearance of a roundel containing the words "Lion Red Beer" during the programme "Aussie League on 2" broadcast on TV2 during the evening of 19 April.

Stating that the roundel was screened at least 15 times during the programme which was, on average, once every five minutes, Mrs Jackson complained that it breached standard 29 of the Television Code of Broadcasting Practice which prohibits saturation or an impression of saturation liquor advertising. Furthermore, she wrote, it breached standard 27(a) which bans contrived liquor advertising.

TVNZ's Response to the Formal Complaint

TVNZ advised Mrs Jackson of its Complaints Committee's decision in a letter dated 12 June 1992.

Explaining that Lion Red was the programme's sponsor and entitled to sponsorship credits, TVNZ said the roundels were an integral part of the sponsorship package and, as such, were neither incidental nor contrived. It also noted that the frequency and the small on-screen size of the sponsorship credits was in keeping with the programme's format.

Describing the appearances of the roundels as spasmodic and brief and stating that they occurred during natural breaks in the game, TVNZ argued that its 15 or so appearances during a 90 minute programme did not amount to, nor give the impression of, saturation advertising.

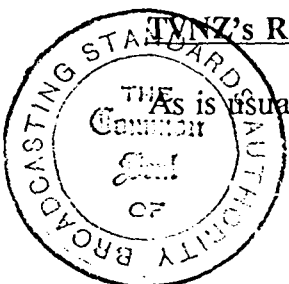
Mrs Jackson's Complaint to the Broadcasting Standards Authority

As she was dissatisfied with TVNZ's response, on 19 June Mrs Jackson referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

She maintained that the appearance of the roundel, or motif, once every six minutes was saturation advertising and argued that its frequent appearances turned the advertisement into a liquor one rather than a sponsorship one.

TVNZ's Response to the Authority

As is usual practice, the Authority sought the broadcaster's response to the complaint.



Its request is dated 25 June and TVNZ's reply, 23 July.

TVNZ denied that a sponsorship credit was turned into a liquor advertisement by adding the word "Beer" to the words "Lion Red". Standard 27(a) of the Television Code, it stated, allowed the use of brand names in sponsorship credits and the addition of the word "Beer", it continued, did not constitute a sales message which would transform the advertisement into one for liquor.

It disputed forcefully Mrs Jackson's contention that the brief and spasmodic appearance of the roundel amounted to saturation advertising. To meet the dictionary definition of saturation, TVNZ added, the roundel would need to be on screen during the full programme.

Mrs Jackson's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter received on 10 August Mrs Jackson rejected TVNZ's argument that the continuous appearance of the roundel was necessary to breach the prohibition on saturation advertising. If that was the case, she added, the rule was a "complete waste of time".

