

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 8/93

Dated the 15th day of February 1993

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

DB Sport is the title of a programme regularly broadcast by Canterbury Television Ltd between 7.00 - 7.30pm. The Secretary of the Group Opposed to the Advertising of Liquor (GOAL), Mr Turner, complained to CTV that, because the words "DB Draught" appeared on the screen more than 20 times during the 1/2 hour programme on 7 September 1992, it breached the prohibition on the saturation of liquor promotion on television.

Arguing that frequency was not the only relevant component when considering saturation, CTV maintained that because of the logo's size, prominence, the length of time of the display and its context, the standard had not been breached. Dissatisfied with CTV's response, GOAL 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 programme 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 GOAL, Mr Cliff Turner, complained to CTV about the programme "DB Sport" screened on 7 September 1992. Because the words "DB Draught" appeared on the screen more than 20 times during a 1/2 hour programme, he said that it breached standard 29 of the Television Code of Broadcasting Practice. Standard 29 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.

CTV argued that by referring only to frequency, GOAL overlooked other attributes which might contribute to an impression of saturation. Some other attributes included size, prominence, length of time of the display and context. Taking into account that the display of only a small and unobtrusive logo on the bottom right or left hand corner of the screen as part of a caption amounted to 2 minutes 15 seconds of the 3 minutes 51 seconds the logo was screened, CTV denied that the portrayal of the logo amounted to saturation, or gave an impression of saturation of liquor promotion.

When referring GOAL's complaint to the Authority, Mr Turner referred to the Authority's decision No: 70/92. That decision dealt with a complaint from GOAL that, among other things, the broadcast of a roundel promoting Lion Red during a broadcast of "Aussie League on 2" in April 1992 breached the saturation restriction in standard 29. In relation to that aspect of the complaint, the Authority stated in Decision No: 70/92:

GOAL dismissed as irrelevant TVNZ's comment that the roundel only appeared in the corner of the screen. The Authority was prepared to give a little weight to TVNZ's argument about the reduced impact owing to the small size of the roundel but regarded the number of appearances and the impression given by those appearances to be very important. It also noted that the roundel when accompanying a replay was often matched by the audio comment that a "Lion Red Replay" was being screened.

The Authority arbitrarily took one 20 minutes section of the broadcast and counted the number of times the roundel appeared. It totalled seven and was screened to accompany the following items - three replays, two player profiles and two scorelines. Moreover, four of the appearances of the roundel were accompanied by other wording on the bottom of the screen which drew the viewer's attention to the roundel. On the other hand, although the roundel appeared on seven occasions during a 20 minute sequence, each appearance was relatively brief - between three and five seconds. Thus it could be argued that the seven 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 advertisement.

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 verbal references to the sponsor which accompanied some of the roundel's appearances. Accordingly, the Authority concluded that standard 29 was breached.

After deciding in that complaint that size was a matter of only low importance, the Authority concluded that the frequency of seven appearances over 20 minutes, amounting in total to 30 seconds, breached standard 29. As the current complaint refers to 12 appearances of the DB Draught roundel, during a little more than 23 minutes, amounting to 2 minutes 15 seconds, the precedent set by Decision No: 70/92 leads the Authority to uphold the current complaint unless there is some outstanding feature which justifies distinguishing the two complaints.

Some of the appearances of the roundel in the earlier decision were accompanied by a verbal reference to the sponsor which, the Authority decided, reinforced the impression of saturation. That did not occur with the CTV programme "DB Sport". However, on the CTV programme, a large logo was part of the background of the announcers' set and was seen when both announcers were filmed. That dominant logo was screened five times for a total of 72 seconds during the broadcast.

Thus, the Authority decided, although the appearances of the logo were not accompanied by a verbal reference to the sponsor, the greater number of appearances of the roundel at the corner of the screen (12 as opposed to 5 over a slightly longer period) and the extra appearances of the large logo behind the announcers (five appearances) more than compensated for the omission of the verbal references. Indeed, as CTV acknowledged, the total time during which the logo containing the words "DB Draught Sport" appeared was 3 minutes 51 seconds.

As noted in Decision No: 70/92 and despite these mathematical calculations, the standard also refers to the *impression of saturation of liquor promotion*. That is a subjective concept and each complaint, therefore, involves a matter of degree. The calculations have been included on this occasion solely to give some guidance as to the Authority's interpretation of the standard.

Accordingly, following and endorsing the precedent set in the earlier decision, the Authority concluded that the appearances of the logo on "DB Sport" broadcast by CTV gave the impression of saturation of liquor promotion and thus breached standard 29. The Authority also noted that CTV stated that the appearances of the logo were justified in the interests of the programme and its promotion rather than that of the sponsor. If the particular logo used was not promoting the sponsor, the Authority considered then, that if one was used at all, it would surely have promoted CTV, sport in general or the particular sport or team being featured. The Authority could not understand how it could be argued that a logo, particularly in the liquor industry where brands, brand names and logos are of paramount importance, could not be said to be promoting the Brewery of a brand name.



For the reasons set forth above, the Authority upholds the complaint that the broadcast by Canterbury Television Ltd of "DB Sport" on CTV on 7 September 1992 breached standard 29 of the Television Code of Broadcasting Practice.

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 first it has received against CTV under standard 29, the Authority does not intend to make an order on this occasion. The Authority is at present revising the standards on the Television Code which apply to liquor promotion and, although the current requirement in standard 29 will continue to have an overriding impact, it is discussing with broadcasters an amendment which will make it clear that sponsorship credits must be used with restraint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



15 February 1992

Appendix

GOAL's Complaint to Canterbury Television Limited

In a letter dated 14 September 1992, the Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to Canterbury Television Ltd about the programme *DB Sport* broadcast between 7.00 - 7.30pm on 7 September.

During the 1/2 hour programme, Mr Turner wrote, the words "DB Draught" appeared on the screen more than 20 times. The frequency of those appearances, he continued, was a breach of standard 29 of the Television Code of Broadcasting Practice which prohibits the saturation or the impression of saturation of liquor promotion on television.

CTV's Response to the Formal Complaint

CTV advised GOAL of its decision on the complaint in a letter dated 8 December 1992.

Noting that the complaint alleged saturation on the basis of frequency, CTV argued that that approach ignored the other aspects of the broadcast of the words "DB Draught" such as size, prominence, length of time of their display and context.

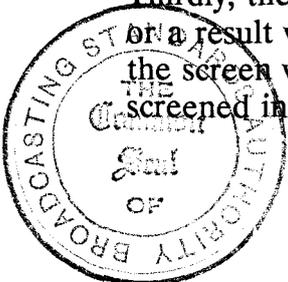
Reference only to frequency is, in Canterbury Television's view, to misrepresent the significance and impact of the word's appearance in the context of the programme.

CTV said that the logo, with the exception in the introduction, was screened in four different situations all of which, it added, were justified in the interests of the programme rather than in the interests of the sponsor.

Although in its letter CTV said that the logo was screened in four different situations, it only listed three occasions on which it was screened. First, it appeared as part of the opening and closing titles and before and after each commercial break. On the programme complained about it screened five times in this way for a total of 24 seconds.

Secondly, it was part of the background of the announcers' set and was seen when both announcers were filmed. It was thus screened five times for a total of 72 seconds.

Thirdly, the logo appeared as part of the supercaptions when an interviewer, a guest or a result was presented. The small logo on the bottom right or left hand corner of the screen was "very unobtrusive". During the 7 September programme, it was screened in this way 12 times for a total of 2 minutes 15 seconds:



Pointing out that the number of appearances of the logo on the 7 September programme was similar to the number of appearances on similar programmes about which complaints had not been received, CTV concluded:

The total time therefore during which the logo containing the words DB Draught Sport appeared was three minutes fifty one seconds.

When all these considerations having been taken into account, it is Canterbury Television's view that neither the time of the exposure, the manner in which the words appear, their size nor their place in the construction of the various pictures, can justify in the slightest way the suggestion that they constitute saturation advertising. Canterbury Television considers that it has complied fully with Standard 29 of the Television Programme Standards.

GOAL's Complaint to the Broadcasting Standards Authority

Dissatisfied with CTV's response to the complaint, in a letter dated 9 December 1992 Mr Turner on GOAL's behalf referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1992.

GOAL maintained that the number of the appearances of the logo breached standard 29 of the Television Code and referred to the Authority's Decision No: 70/92. In that Decision the Authority upheld a complaint that the number of appearances of the Lion Red logo during the programme "Aussie League on 2" broadcast by Television New Zealand Ltd on 5 April 1992 breached the prohibition on the saturation of liquor promotion in standard 29.

CTV's Response to the Authority

When asked by the Authority whether it wanted to comment on the referral of the complaint, on 21 December 1992 CTV supplied the Authority with a copy of its letter to GOAL dated 8 December

