

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 140/93

Dated the 4th day of November 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
TELEVISION NEW ZEALAND
LIMITED

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

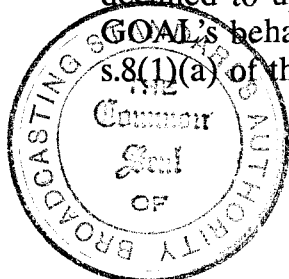
DECISION

Summary

The third rugby test between the All Blacks and the Lions was covered by TV1 between 2.00 and 6.00pm on Saturday 3 July 1993. The coverage included shots of the ball boys under the stand before the game and, after the game, interviews with All Blacks Va'aiga Tuigamala and John Kirwan.

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to Television New Zealand Ltd that during the shots of the ball boys, during some other pre-game visuals from under the grandstand and during the interview with Va'aiga Tuigamala, signs promoting liquor were clearly visible in breach of the standards. As the signs were not seen during the interview with John Kirwan who had been standing alongside his team mate, Mr Turner argued that it would have been easy to interview Va'aiga Tuigamala without a background of liquor promotion signage.

Maintaining that the signs did not contain any sales messages but were clearly linked to the All Blacks or the Lions tour, TVNZ said that the rules had not been breached and declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr Turner on GOAL's behalf referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the aspects of 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.

During a broadcast of the third rugby test between the Lions and the All Blacks at Eden Park on Saturday afternoon 3 July, TVNZ showed some scenes from under the grandstand. While waiting for the game to start, the shots included one of a dressing room door which bore a sign featuring the sponsor and later, the uniformed ball boys lining up before going onto the park. The broadcast after the game included interviews with All Black wingers Va'aiga Tuigamala and John Kirwan.

The Secretary of GOAL, Mr Cliff Turner, complained to TVNZ that some of the shots included signs promoting liquor. They were seen on the door of the dressing room, on the wall behind the ball boys and while Va'aiga Tuigamala was being interviewed but not during the interview with John Kirwan who had been standing alongside him. The appearances of those signs, Mr Turner stated, breached the requirements in the (renumbered) standard A3.c of the (renamed) Programme Standards for the Promotion of Liquor. It reads:

- A3. Broadcasters will ensure that the **incidental promotion of liquor** is minimised and in particular:
- c. Will not unduly focus in a live or on-location event on any particular advertising signage, logo or any other sound or visual effect which promotes liquor.

The standard records that footnote 3 applies. It provides:

- 3. Standard A3.c is not intended to prevent television cameras from including background signage, logos and other such incidental advertising, as they normally occur, in the course of filming an event.

In its response to the complaint, TVNZ referred to footnote 3 (above) and to standard 1.5 of the Voluntary Sports Code for Liquor Advertising and Promotion on Television as an indication of the type of incidental liquor promotion which was acceptable. The Authority accepts that the Voluntary Sports Code is relevant when applying the Programme Standards for the Promotion of Liquor as standard A3.d of the latter code records that a breach of the Voluntary Code is also a breach of the Programme Standards. Standard 1.5 of the Voluntary Code states:

1.5 Changing Room Signage

Changing room signage shall focus on the specific team, event or tour and may incorporate sponsorship logos. There shall be no reference to liquor advertisements.



TVNZ said that the coverage did not amount to a breach of standard 1.5 as the changing room signage, although incorporating sponsorship logos, contained no reference to liquor advertisements. Under standard A3.c, TVNZ declined to uphold the complaint as the broadcast from an on-location event had not focussed on any signage which promoted liquor.

When he referred the complaint to the Authority on GOAL's behalf, Mr Turner argued that while the logos might not contain references to liquor advertisements or to sales messages, the logos in themselves "promoted" liquor.

The Authority agreed with GOAL on this point - liquor company logos in themselves promote liquor and the inclusion of a sales message is not necessary to give rise to the possibility that a broadcast may contravene the requirement in standard A3.c. In regard to this complaint, the Authority also noted that it involved "a live or on-location" event within the terms of standard A3.c.

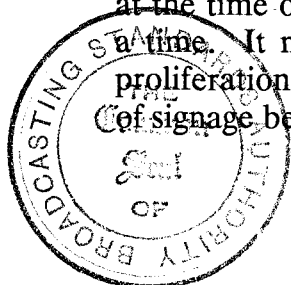
The substantial issue raised by the complaint was whether, contrary to the requirement that the incidental promotion of liquor be minimised, the broadcast had unduly focussed on any signage or logo promoting liquor.

The Authority proceeded to examine each of the incidents raised by GOAL. With regard to the dressing room door, the focus was on two men having a brief conversation. As for the ball boys, their state of nervousness while in a line waiting to go onto the field was the feature. There was in both of these shots, the Authority decided, no undue focus on any signs promoting liquor and, accordingly, it accepted TVNZ's contention that it had tried to minimise the incidental promotion of liquor as required by the standard.

With regard to the interviews with the two All Blacks, the Authority agreed with GOAL that the players had apparently been standing alongside each other and that, while liquor signs were apparent in the background when one player was being interviewed, they were scarcely visible during the interview with the other player.

As noted above, the appearance of a sign or logo in itself is not sufficient to amount to a breach of standard A3.c. The broadcaster must try to minimise the incidental promotion of liquor by not "unduly" focussing on the signage during a "live or on-location" broadcast.

Noting that incidental liquor promotion was barely visible in the distance during the interview with John Kirwan, a majority of the Authority also accepted that the broadcast did not "unduly focus" on the signage during the interview with Va'aiga Tuigamala. In fact much of the signage was partly obscured by his head but was seen from time to time when he moved his head. A majority of the Authority considered carefully GOAL's suggestion that it was an appropriate time to ask an interviewee to move to a site with no background signage. Because of the bustle of players and officials under the stand at the time of the interviews, the majority could not be certain that it was, in fact, such a time. It might not have been practical for that reason or possibly because of the proliferation of the signage. In this latter respect it is clearly apparent that the broadcast of signage beneath grandstands risks being in breach of standard A3.c, especially in view



of the footnote to the Authority's standards relating to liquor promotion which concludes:

It will be considered a breach of this standard to broadcast coverage of interviews or announcements in venues where the signage is so close and so extensive that it is impossible to prevent its blatant intrusion in the picture.

The Authority is of the opinion that the Programme Standards for the Promotion of Liquor must be applied with common sense. During the interview with Va'aiga Tuigamala, a majority of the Authority concluded that, although borderline, TVNZ had made some effort not to focus unduly on the signs or logos promoting liquor and, in the circumstances, had made a sufficient effort to minimise the incidental promotion of liquor so as not to breach standard A3.c.

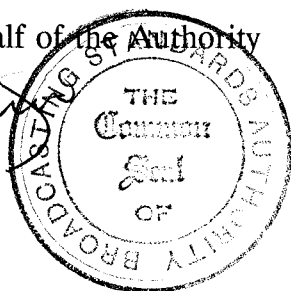
A minority of the Authority disagreed. Referring first to the intent of standard A3 which requires "that the incidental promotion of alcohol is minimised", and secondly, to the fact that incidental alcohol promotion was barely visible during the interview with John Kirwan, the minority decided that because parts of the sponsor's sign framed Va'aiga Tuigamala's head, the standard had been contravened. It considered that it should have been a simple matter to film Tuigamala in the same or a similar position to Kirwan and if that was not possible, it would have been because there was already existing a breach of the Code for the reasons mentioned in the footnote quoted above.

For the reasons set forth above, a majority of the Authority declines to uphold any aspects of the complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson
4 November 1993



Appendix

GOAL's Complaint to Television New Zealand Limited

In a letter dated 5 July 1993, the Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to Television New Zealand Ltd about aspects of the coverage of the third rugby test between the All Blacks and the Lions on TV1 between 2.00 - 6.00pm on Saturday 3 July.

During some shots of the ball boys under the stand before the game and during the interview with Va'aiga Tuigamala after the game, signs promoting liquor were seen in breach of standard 14.c of the Additional Standards to the ASA Code for Advertising Liquor. Following the interview with Mr Tuigamala, he added, John Kirwan was spoken to. Although he was standing alongside his teammate, no liquor sign was seen and thus it would have been a simple matter to interview Mr Tuigamala without a background of liquor promotion.

(The standard under which the complaint was laid has been renamed as the Programme Standards for the Promotion of Liquor and have been renumbered. The new name and number have been used in the Authority's decision.)

TVNZ's Response to the Formal Complaint

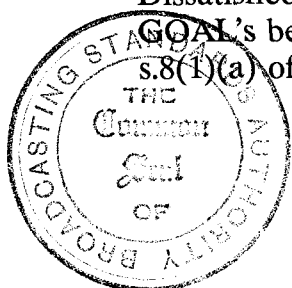
TVNZ advised GOAL of its Complaints Committee's decision in a letter dated 23 July 1993.

The complaint had been assessed under standard 14.c of the ASA Code for Advertising Liquor (A3.c of the Programme Standards for the Promotion of Liquor) and attention had been given to explanatory note (7) which accompanies the standard. That explanatory note accepts that background signage and logos may appear in the course of filming an event. Furthermore, attention was also given to standard 1.5 of the Voluntary Sports Code which also accepts background signage in changing rooms provided there is no reference to liquor advertisements.

Pointing out that no sales message was contained in any of the liquor signage which was seen in the background, only sponsorship material, and furthermore, that the producer had been careful to exclude any material which contained a sales message, TVNZ declined to uphold the complaint.

GOAL's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's decision, in a letter dated 26 July 1993, Mr Turner on GOAL's behalf referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Mr Turner contested TVNZ's interpretation of the rules. Standard 14.c (A3.c), he maintained, as it used the word "promotes", applied both to liquor and sponsorship promotions whether they carried a sales message or not.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 29 July 1993 and TVNZ's response, 8 August.

Strenuously denying that it had "deliberately" showed liquor promotions, TVNZ pointed out that the programme had been a live telecast of a sporting event sponsored by a liquor company and, that as a consequence:

... it was inevitable that on occasion sponsorship signage which was displayed around the ground, near changing rooms and in areas through which players must pass would appear in camera shot.

TVNZ referred to the intent of standard 14 (A3) which was the minimisation of the incidental promotion of liquor and to the note to the standard which accepted that it would be impossible to exclude signage completely. Pointing out that it was not in any way responsible for the placement of liquor promotion material, TVNZ argued that none of the messages contained a sales message and:

... that incidental sponsorship signage has found its way into camera shot only on those occasions when to eliminate it would have also meant denying viewers significant and interesting material associated with the test match.

TVNZ agreed that the two players who were interviewed had been standing alongside each other and expressed the opinion that skill was shown in catching both men without including any signage containing a sales message. It added that the three brief incidents complained about arose from a live telecast which had lasted for more than three hours.

Noting that it had upheld a complaint from GOAL about the incidental promotion of liquor shown in the broadcast of the first test, TVNZ said that the current incidents disclosed that those responsible for the third test coverage had been much more diligent in excluding incidental liquor promotion.

GOAL's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 11 August 1993 Mr Turner on GOAL's behalf disputed TVNZ's distinction between signage and sales messages and its stance that standard 14.c (A3.c) was not breached if a sign did not contain a sales message.



Standard 14.c (A3.c), he wrote, referred to liquor promotion - not liquor advertising. As the definition of liquor promotion included sponsorship advertising by liquor companies and as the signs seen during the broadcast fell into that category, the type of advertising complained about clearly came into the type of material referred to in 14.c (A3.c).

Referring to the shot of the ball boys, Mr Turner stated:

There can be no excuse for showing a door bearing liquor promotion. The scene changed from a view of the crowd to the door and after a few seconds back to the crowd. No verbal reference was made to the door; its appearance was quite irrelevant and unnecessary.

