

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 150/93

Dated the 18th 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 Wellington v. Canterbury rugby league clash was highlighted on TV1's *Countrywide Bank Grandstand* broadcast on Sunday afternoon, 30 May 1993.

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to Television New Zealand Ltd that the "plethora" of signs around the ground advertising Lion Red beer was unbalanced and gave the impression of saturation of liquor advertising in contravention of the standards.

Pointing out that permanent ground signage was incidental to the game and was seen only in the background when the cameras followed the nearby play, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, on GOAL's behalf Mr Turner referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

For the reasons given below, the Authority declined to uphold the complaint.



Decision

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

The rugby league game between Wellington and Canterbury featured on *Countrywide Bank Grandstand* on Sunday afternoon 30 May. The game was played at the showgrounds in Christchurch and the playing area was surrounded by advertising signs, including a number which advertised Lion Red beer.

The Secretary of GOAL, Mr Cliff Turner, complained about the plethora of Lion Red advertising to be seen. Along one touchline there were two banks of identical signs, containing nine and ten contiguous signs respectively, bearing the words "Lion Red the measure of a man's thirst". Behind the goal posts, he added, there were a further three similar signs. He maintained that the 22 signs breached standard 1 of the Voluntary Sports Code for Liquor Advertising and Promotion on Television and, under the (renumbered) standard A3.d of the (renamed) Programme Standards for the Promotion of Liquor, a breach of the Voluntary Code constituted a breach of the programme standards. The standards read:

1. Incidental Promotion and Saturation

1.1 Ground Signage

Care must be taken to ensure that ground signage is balanced and does not give the impression of saturation. Standard ground hoardings may carry advertising positioning statements. Other ground signage is limited to the use of logos and, when appropriate, a statement of sponsorship support of the team or event.

A3. Broadcasters will ensure that the **incidental promotion of liquor** is minimised and in particular:

- d. Will not broadcast anything which is in breach of section 1, relating to incidental promotion and saturation, of the *Voluntary Sports Code for Liquor Advertising and Promotion on Television*.

Mr Turner commented that he was not sure what was meant by the word "balanced" in standard 1.1 but believed it to mean "not excessive". He added:

Twenty two signs sited on two sides of a rugby pitch can be fairly described as an excess of signs. Twenty two signs, which all carried the same message, certainly give the impression of saturation when they are displayed on two sides of a rugby field.

In response, TVNZ commented that the appearance of the signs was at all times



incidental to the broadcast of the game and that they were only seen in the background as the cameras followed the course of play. It referred to the concluding comment in standard A3 which provides:

It is recognised that incidental liquor promotion occurs from time to time in programmes where broadcasters have little or no control over the situation. In those situations they must minimise the exposure to the best of their ability. Where broadcasters have control of the situation, they will ensure that the standards regarding incidental promotion are followed in the spirit as well as the letter.

The decision required, TVNZ added, was whether standard 1 was contravened because the ground signage was unbalanced or gave an impression of saturation. Reporting that the ground signage was the responsibility of the Canterbury A & P Association, not Canterbury Rugby League, TVNZ said that the Association had contracted with New Zealand Breweries for 22 permanent signs around the total boundary of the two grounds at the showgrounds. For the televised game, an additional three free-standing signs referring to "Lion Red" had been placed by Canterbury League behind the in-goal area at one end of the ground and goalpost bolsters and flags bore "Lion Red" logos.

In declining to uphold the complaint, TVNZ continued:

Referring back to the footnote to Rule 14 [A3], here was an occasion where neither the broadcaster, nor the sports body (the Canterbury Rugby League) had control over the situation.

Therefore the only consideration was whether the three free-standing signs and the assortment of goal post bolsters, touch line flags and buckets gave an impression of saturation.

It is the [Complaints] Committee's view that they did not.

GOAL did not accept that explanation. The standard, it stressed, stated that the ground signage had to be balanced and did not give the impression of saturation. The amount of signage portrayed in the broadcast on 3 May, it insisted, breached that requirement. TVNZ in its comments to the Authority on the complaint emphasised the concluding provision in standard A3 (above) which accepts that incidental liquor promotion can occur from time to time when broadcasters have no control over the situation. In that situation, TVNZ maintained, the broadcaster was required to minimise the exposure and that injunction had been complied with.

The Authority approached the complaint on the following basis. It accepted, first, there were a large number of signs around the ground which promoted Lion Red beer, and secondly, most of the signs were sited following an agreement between the advertiser and the owner - neither of which was required either to comply with the Programme Standards for the Promotion of Liquor or the Voluntary Sports Code. The Authority acknowledged that the three free-standing signs, the goalpost bolsters and touchline flags were separate but was of the view that they were relatively unobtrusive during the



broadcast. Furthermore, the three free-standing signs apparently did not contain any message other than the name of the sponsor in accordance with the requirement in the final sentence in standard 1.1.

Although neither the advertiser nor the owner was required to comply with the Voluntary Sports Code, Canterbury League chose to play the match at the showgrounds. By doing so, the Authority concluded, Canterbury League as a party to the Code accepted responsibility for the signage. Responsibility for complying with standard 1.1 rests with the sport and when the sport controls the ground, it is obviously responsible. If the sport chooses to use any other ground, it assumes a similar responsibility. Should the amount of ground signage or its balance conflict with standard 1.1 and the ground operator declines to remove or adjust it, the sport then has the responsibility to refuse to use that ground and to move elsewhere.

The Authority understands that the requirement for ground signage to be balanced in standard 1.1 means that there must be advertisements promoting a number of other products or services so that, overall, liquor advertising does not dominate. On that basis, the Authority observed that a large number of signs from other advertisers - not from liquor companies - were to be seen. For example, advertisements promoted, among others, Telecom, Air New Zealand and Coca Cola. In view of the variety of signs, the Authority was of the opinion that, although marginal, the advertising was not unbalanced.

In addition, the standard requires that the signage does not give the impression of saturation of incidental liquor promotion. The Authority acknowledges that this requirement involves a subjective judgment. Accordingly, it is not possible to list explicitly when the amount displayed contravenes the requirement. Nevertheless, the Authority is able to record the following points which it took into account when reaching a decision on this occasion.

First, the cameras focussed on the action in the game and the signs, when they were seen, were incidental to the play. The Authority would also note that sideline play and use of the touchline is of considerably less importance in rugby league than in rugby and, consequently, the incidental televising of the signs featured less on the broadcast in question than would have occurred in an equivalent rugby game. Likewise, rugby league makes considerably less use of set pieces than does rugby and, thus, the cameras in following the game seldom dwell for long on any action near the touchline where incidental advertising might feature extensively. Indeed, because of the action shown during the broadcast, the ground signage more often than not seemed blurred rather than depicting specific messages.

On balance, the Authority concluded that although the amount of incidental liquor promotion was at the limit of what is acceptable before breaching the impression of saturation prohibition, the broadcast did not breach standard 1.1 of the Voluntary Sports Code and, therefore, did not contravene standard A3.d of the Programme Standards for the Promotion of Liquor.

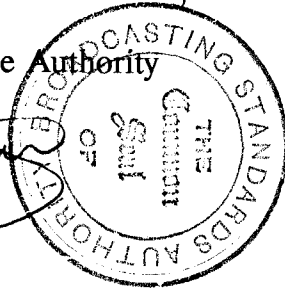
For the reasons set forth above, the Authority declines to uphold the complaint.



Signed for and on behalf of the Authority

Iain Gallaway

Iain Gallaway
Chairperson



18 November 1993

Appendix

GOAL's Complaint to Television New Zealand Limited

In a letter dated 31 May 1993, the Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to Television New Zealand Ltd about the broadcast of *Countrywide Bank Grandstand* on Sunday afternoon 30 May.

The programme highlighted the Wellington v. Canterbury rugby league match during which, Mr Turner wrote, "a plethora of Lion Red advertising" was seen. The signage had consisted of two banks of identical signs carrying the words "Lion Red The Measure of a Man's Thirst". One bank contained 10 such signs, there were nine in the second bank and a further three signs were behind the goal posts at one end of the ground.

Mr Turner argued that 22 signs breached Rule 1 of the NZ Sports Assembly Voluntary Sports Code and thus constituted a breach of standard 14 of the ASA Code for Advertising Liquor. Rule 1 of the Voluntary Sports code requires balanced ground signage which does not give an impression of saturation. Although "balanced" was not defined, Mr Turner said that it obviously meant "not excessive" which had been breached by 22 signs carrying the same message.

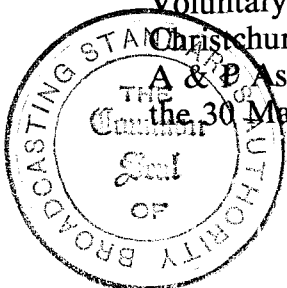
(The standard in the ASA Code for Advertising Liquor under which the complaint was laid has been renamed as the Programme Standards for the Promotion of Liquor and have been renumbered. The news name and number has been used in the Authority's decision and, subsequently, in the Appendix.)

TVNZ's Response to the Formal Complaint

TVNZ advised GOAL of its Complaints Committee's decision in a letter dated 30 July 1993 when it reported that the complaint had been assessed under rule 1 of the Voluntary Sports Code and standard 14 of the ASA Code for Advertising Liquor (now standard A3 of the Programme Standards for the Promotion of Liquor).

The ground signage, TVNZ began, was at all times incidental and was only seen in the background when the cameras followed on nearby play. Such incidental exposure, it continued, was specifically allowed for in a footnote to standard 14 (A3) when broadcasters have little or no control over the situation. The decision thus required was whether the signage contravened Rule 1 by being unbalanced and giving an impression of saturation.

Reporting that the Canterbury Rugby Football League was a signatory to the Voluntary code, TVNZ said however that it had no control over the signage at the Christchurch Show Grounds. The Grounds were under the control of the Canterbury A & B Association which was not a signatory to the Code. The signage displayed on the 30 May, TVNZ stated, consisted of:



- 22 permanent signs displaying "Lion Red" as negotiated between the Canterbury A and P Association and New Zealand Breweries on a yearly contract basis. The game that was televised was on the No. 1 ground and permanent signage is found around the total fence boundary which also incorporates the No 2 ground.
- 3 free-standing signs placed by the Canterbury Rugby Football League behind the northern in-goal area in accordance with a sponsorship agreement with "Lion Red".
- Goal post bolsters, touch line flags and some sand buckets bearing "Lion Red" logos.

Also present was some permanent signage (the responsibility of the A and P Association) for Dominion Breweries.

Maintaining that the Voluntary Code could not be breached by permanent signage placed by an organisation responsible for the ground, because neither the broadcaster nor the sports body had any control over the situation, TVNZ argued standard 14 (A3) had not be contravened.

The advertising over which the sports organisation had control - three free standing signs, goalpost bolsters, touch line flags and buckets - had not given an impression of saturation. Accordingly, TVNZ concluded, the broadcast had not breached the ASA Code for Advertising Liquor.

GOAL's Complaint to the Broadcasting Standards Authority

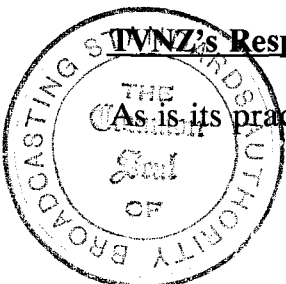
As it was dissatisfied with TVNZ's decision, in a letter dated 4 August 1993 Mr Turner on GOAL's behalf referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Mr Turner began by stressing that the 22 signs which he saw were close to the field of play. Nineteen were along the touch line and three behind one of the goalposts.

With regard to TVNZ's argument that the Canterbury Rugby Football League were not responsible for the signage, Mr Turner responded that the League would have been aware of it. Pointing out that rule 1 requires a sports body to take care that signage was balanced, Mr Turner maintained that by adding some free standing signs, League had not taken the appropriate care as required by rule 1.1 and, consequently, breached the standard. As a result of the League's breach of rule 1.1 of the Voluntary Code, TVNZ had contravened standard 14 (A3) of the ASA Code.

TVNZ's Response to the Authority

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



Its letter is dated 9 August 1993 and TVNZ's response, 12 August.

Emphasising that it had absolutely no control over the signs, that it had made every effort to minimise the broadcast of incidental liquor advertising and that the signs were not shown gratuitously, TVNZ stated:

The cross-reference to the Voluntary Code contained in 14(d) [A3.d] makes no mention or allowance for permanent signage over which the signatory sports body nor the broadcaster has any control, but the footnote to 14 recognises that there will be situations "from time to time" over which the broadcaster has no control.

This was one of those occasions.

Goal's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 17 August 1993 Mr Turner on GOAL's behalf wrote:

TVNZ appears to not fully understand the purpose of Additional Standard 14.d [A3.d]. The rule confers on broadcasters the right to refuse to give television coverage to any event at which the signs around the venue do not conform to the first sentence of Section 1 of the *Voluntary Sports Code for Liquor Advertising and Promotion on Television*.

Standard 14.d [A3.d] does not only confer that right but also imposes a duty not to televise an event where advertising signs are such as to breach Section 1 of the Sports Code.

As Canterbury League had not complied with rule 1 of the Sports code, he continued, TVNZ had breached standard 14.d (A3.d).

Referring in addition to the phrase "impression of advertising" in rule 1, Mr Turner maintained that the additional signs added to that impression. He concluded:

If the ground had been lined with signs from another liquor company there might have been some excuse for the Rugby League to accept the extra advertising from its sponsor, but this was not the case.

