

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 156/93

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

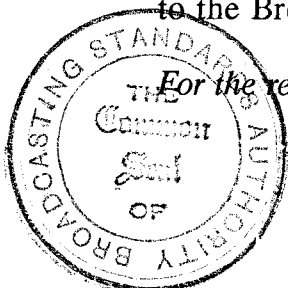
Summary

Three liquor advertisements totalling two minutes were broadcast in a two and three quarter minute commercial break by TV2 in the Hamilton region at about 11.33pm on 30 August 1993.

The Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Turner, complained to Television New Zealand Ltd that not only did liquor advertising dominate the break but the last two advertisements were broadcast consecutively and, for both reasons, the standards were contravened.

TVNZ upheld the complaint that the consecutive broadcast of liquor advertisements breached the standards but, as liquor advertising did not dominate the entire programme, it declined to uphold the other aspect. Dissatisfied with TVNZ's decision on the saturation aspect of the complaint, Mr Turner on GOAL's behalf referred the decision to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

For the reasons given below, the Authority upheld the complaint.



Decision

The members of the Authority have read the correspondence relating to this complaint (summarised in the Appendix). Because the commercial break contained a regional breakout, TVNZ has been unable to supply the Authority with a tape of the break but it has confirmed that the following advertisements were broadcast by TV2 in the Hamilton region during the break:

- 30" Seagram Whisky (Network)
- 15" Schick Razor (Network)
- 30" Bendon underwear (Network)
- 30" Super Liquorman (Network)
- 60" NZ Breweries (Hamilton Region)

The complaint was made under (renumbered) standard A1 of the (renamed) Programme Standards for the Promotion of Liquor. It reads:

- A1 **Saturation** of liquor promotions, separately or in combination, must be avoided. In addition, liquor advertisements shall not be broadcast consecutively in any one break.

The Code also includes a definition of "saturation" which provides:

"**Saturation**" refers to a degree of exposure which gives the impression that liquor promotion is dominating that viewing or listening period.

TVNZ upheld the aspect of GOAL's complaint which alleged a breach because two liquor advertisements were broadcast consecutively. It explained to GOAL that that had occurred as a specific liquor restriction code had been omitted when the Super Liquorman advertisement was entered into the computer. It called for greater diligence internally to ensure effective checking. GOAL did not refer that aspect of the complaint to the Authority.

TVNZ declined to uphold the saturation complaint, pointing out that saturation, following the definition, occurred when liquor promotion dominated the "viewing period". Maintaining that viewers did not turn on their set just to watch a commercial break, TVNZ argued that the entire programme constituted a "viewing period". As liquor promotion had not dominated that time span, it declined to uphold the complaint. GOAL referred that aspect of the complaint to the Authority.

In recent decisions (Nos: 141/93 - 143/93 dated 4 November 1993), issued after TVNZ declined to uphold the current complaint, the Authority considered the point as to what amounted to a "viewing period" in the definition of "saturation". It reported:

The central point raised by these complaints was the wording in the definition of "saturation" contained in the Code which states that liquor promotion must not dominate a "viewing period". The Authority was required to decide whether or not a three-minute commercial break was such a period.



The Authority concluded:

In consultation with broadcasters, the Authority was involved in the preparation of the Code and consequently is aware of the reason why the definition uses the term "viewing period" rather than referring to a "programme". Although a programme is probably the maximum size of a "viewing period", the Authority recalled that the term "viewing period" had been chosen to allow segments of a shorter duration than an entire programme to be considered as a "viewing period" when appropriate. The Authority would not accept that an arbitrarily selected period within a programme of perhaps 2, 5, or 10 minutes could be defined as a "viewing period". However, it was adamant that a "viewing period" could be the entire programme or discrete sections such as each portion between commercial breaks or, as occurred with these complaints, the commercial breaks themselves.

Agreeing that a three-minute commercial break could be a "viewing period" for the purposes of standard A1, the Authority then considered whether the extent of the liquor promotions broadcast on each occasion complained about amounted to saturation in contravention of standard A1.

It concluded in that case that four advertisements which in total amounted to 90 seconds or one half of a three minute break constituted saturation.

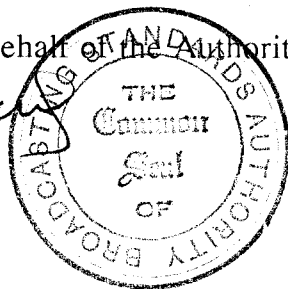
In view of that decision, the Authority had no hesitation in upholding the current complaint about the commercial break on 30 August 1993.

For the reasons set forth above, the Authority upholds the complaints that the broadcast of liquor advertisements by Television New Zealand Ltd in the Hamilton region during a commercial break on 30 August 1993 breached the prohibition on the saturation of liquor promotions in standard A1 of the Programme Standards for the Promotion of Liquor.

Having upheld a complaint, the Authority may impose an order under s.13(1) of the Broadcasting Act. It does not intend to do so as the broadcast took place before the Authority ruled on the definition of a "viewing period" for the purposes of standard A1 of the Programme Standards for the Promotion of Liquor. It reiterates, however, its comment in Decision Nos: 141/93 - 143/93 that it is disappointed that TVNZ has not complied with its own submission made recently to the Authority that it did not intend to broadcast more than two liquor advertisements in any one commercial break.

Signed for and on behalf of the Authority

Gavin Gallaway
Gavin Gallaway
Chairperson
18 November 1993



Appendix

GOAL's Complaint to Television New Zealand Limited

In a letter dated 13 September 1993, the Secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, complained to Television New Zealand Ltd about the number and sequence of the advertisements in a commercial break broadcast in Hamilton on TV2 at about 11.33pm on 30 August.

Three of the five advertisements, he wrote, were liquor advertisements and comprised two minutes of the two and three quarter minute break which, he argued, meant that liquor advertising dominated the break. As the last two liquor advertisements were broadcast consecutively, he added, that aspect of the broadcast also contravened the standards.

TVNZ's Response to the Formal Complaint

TVNZ advised GOAL of its Complaint Committee's decision in a letter dated 4 October 1993 when it advised that the complaint was considered under (renumbered) standard A1 of the (renamed) Programme Standards for the Promotion of Liquor.

TVNZ recorded that a viewer in Hamilton would have seen the following advertisements during the commercial break complained about:

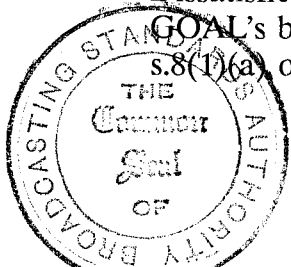
- 30" Seagram Whisky (Network)
- 15" Schick Razor (Network)
- 30" Bendon underwear (Network)
- 30" Super Liquorman (Network)
- 60" NZ Breweries (Hamilton Region)

As standard A1 prohibits the broadcast of liquor advertisements consecutively, TVNZ "had no hesitation" in upholding that aspect of the complaint. The error had occurred, TVNZ continued, as the appropriate code had not been entered into the computer and greater diligence was now expected in checking the advertising log.

On the basis that people did not switch on just to watch one commercial break and, consequently, it believed saturation should be judged over the entire programme rather than over one commercial break, TVNZ declined to uphold the saturation aspect of the complaint.

GOAL's Complaint to the Broadcasting Standards Authority

Dissatisfied that TVNZ did not uphold the saturation complaint, Mr Turner on GOAL's behalf referred that aspect to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



He argued that devoting nearly three quarters of an advertising break to liquor advertising constituted saturation advertising.

TVNZ's Response to the Broadcasting Standards Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 12 October 1993 and TVNZ's reply, 19 October.

While pointing out that the complaint about consecutive liquor advertisements had been upheld, TVNZ argued that saturation could not and should not be judged in "such a restricted time frame as a 2 minute 45 second commercial break". Viewers, it continued, watched an entire programme, not an advertising break in isolation, and liquor promotion in the context of the entire programme did not amount to saturation.

TVNZ advised that it was unable to supply a tape of the break because, as a regional breakout, it was not recorded in Auckland. It confirmed the break consisted of the commercials listed above.

GOAL's Final Comment to the Authority

When asked whether it wished to comment on TVNZ's reply, in a letter dated 27 October 1997 Mr Turner on GOAL's behalf advised that he did not wish to respond.

