

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 49/93

Dated the 22nd day of April 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

TOGETHER ENDING ALCOHOL
MISUSE (TEAM)
of Christchurch

Broadcaster
TV3 NETWORK SERVICES
LIMITED

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

DECISION

Introduction

Referring to a prize-winning beer brewed by Captain James Cook in Dusky Sound in 1773 to combat scurvy, an advertisement for Steinlager beer broadcast by TV3 at 11.15pm on 30 October 1992 stated that New Zealand beer had been winning awards for more than 200 years.

The Health Promotion Adviser at the Christchurch School of Medicine's Department of Community Health, Ms Vivien Daley, complained to TV3 Network Services Ltd about the advertisement on behalf of TEAM (Together Ending Alcohol Misuse). She said that the advertisement breached the Code for Advertising Alcoholic Beverages by carrying the innuendo that modern beer had health giving qualities.

Denying that the advertisement claimed that beer contained health giving qualities, TV3 declined to uphold the complaint. Dissatisfied with TV3's decision, TEAM referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act



Decision

The members of the Authority have viewed the advertisement 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.

On behalf of TEAM, a Health Promotion Adviser with the Christchurch School of Medicine (Ms Vivien Daley) complained to TV3 about the broadcast of an advertisement for Steinlager beer which referred to a prize-winning beer brewed by Captain Cook in Dusky Sound in 1773. She maintained that the advertisement contained an innuendo that Steinlager, a modern beer, was similar to Captain Cook's brew in that it contained health giving qualities.

Accordingly, TEAM said, the advertisement breached standard 1 of the Code for Advertising Alcoholic Beverages which reads:

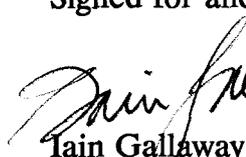
1. Advertising shall not by use of illustration or copy, directly or by innuendo, contain any description, claim or comparison which is misleading about the product advertised, or about any other product, or suggest some special quality or property which cannot be sustained.

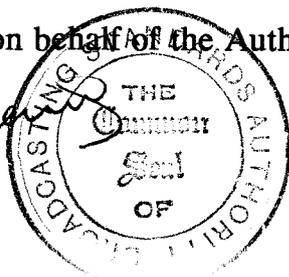
TV3 declined to uphold the complaint. Denying that the commercial could be interpreted as claiming or implying that modern beer had health giving qualities, TV3 said it was correct to report that beer had improved since Cook's time. Further, TV3 added, it did not suggest that Cook won an award for the quality of his brew but as a weapon against scurvy.

The Authority examined the advertisement to see whether it implied that modern beer had health giving qualities. There was some division of opinion as to whether the advertisement contained such an innuendo taking into account only the emphasis given in the advertisement to the fact that Captain Cook's brew was used to maintain the health of his crew. However, when the reference to scurvy was taken into consideration together with the current widespread knowledge about nutrition, the Authority was unable to accept that the innuendo, if indeed present, would have any credibility in the 1990s. Accordingly, the Authority decided that the advertisement was neither misleading nor did it make an unsustainable claim about beer contrary to standard 1 of the Code for Advertising Alcoholic Beverages.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



22 April 1993

Appendix

TEAM's Complaint to TV3 Network Services Limited

In a letter dated 16 November 1992, the Health Promotion Adviser at the Christchurch Medical School's Department of Community Health (Ms Vivien Daley) complained to TV3 Network Services Ltd on behalf of Together Ending Alcohol Misuse (TEAM) about the broadcast of a Steinlager advertisement on 30 October which mentioned that Captain James Cook knew about the health giving properties of beer.

Ms Daley maintained that the advertisement was misleading in that it contained the innuendo that modern beer also had health giving qualities and consequently breached standard 1 of the Code for Advertising Alcoholic Beverages.

TV3's Response to the Formal Complaint

TV3 advised TEAM of its Complaints Committee's decision in a letter dated 25 January 1993.

It stated that it was a realistic claim to suggest that New Zealand beer had improved since Captain Cook's brew but denied that the advertisement claimed or implied that modern beer contained health giving qualities.

Referring to a number of documented facts, TV3 also denied that the advertisement was inaccurate or misleading and declined to uphold the complaint.

TEAM's Complaint to the Broadcasting Standards Authority

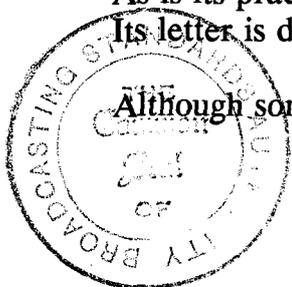
Dissatisfied with TV3's decision, in a letter dated 15 February 1993 Ms Daley on TEAM's behalf referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Maintaining that the advertisement claimed by innuendo that Steinlager beer was similar to Captain Cook's brew in being good for your health, Ms Daley said that it contained misleading information.

TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 16 February 1993 and TV3's reply, 19 February.

Although some of the ingredients of beer could be construed as health giving, TV3



denied that it was the advertisement's intention to make that claim. "If it was, there are far more direct ways of achieving it." TEAM, it argued, was splitting hairs rather than advancing a substantive argument.

It noted that a very similar complaint about the same advertisement on the same ground had been received from the Group Opposed to Advertising of Liquor (GOAL).

TEAM's Final Comment to the Authority

When asked to comment on TV3's response, in a letter dated 4 March 1993 Ms Daley on TEAM's behalf commented that TV3's argument about splitting hairs did not relate to a specific example(s) and maintained:

We believe that people viewing this advertisement would take the interpretation that Steinlager had the same health giving properties as the beer for which Captain Cook received his gold medal award.

