

COMPLAINT NUMBER	18/151
COMPLAINANT	N Cowie
ADVERTISER	Lion Beer, Spirits & Wine (NZ) LTD
ADVERTISEMENT	Steinlager, Television
DATE OF MEETING	12 June 2018
OUTCOME	Settled - Media Error

SUMMARY

The television advertisement for Steinlager shows a ship broadcasting radio in international waters and then cuts to DJ Zane Lowe drinking a bottle of Steinlager. He says “My Dad was one of the original Radio Hauraki pirates and it is because he stayed pure that we get to play the music we want today.” The advertisement ends with a bottle of Steinlager and the tagline “Keep it pure.”

The Complainant was concerned an alcohol advertisement had played during a children’s programme. The Complainant further questioned how such an error could occur and what steps were being taken to ensure this did not happen again.

The Advertiser confirmed it booked a time slot after 8:30pm with the media to play the alcohol related advertisement during a PG 13 rated programme, *The Shallows*. Without the Advertiser’s consent the advertisement was mistakenly shown during *The Good Dinosaur* a G rated programme.

The Media said an error had been made and the usual ‘no alcohol rule’ was not set up to prevent the playing of an alcohol related advertisement during a children’s G rated programme. The Media apologised for the rare failure of the checks normally in place to prevent such mistakes.

The Complaints Board agreed that a high standard of social responsibility had not been observed by playing an alcohol related advertisement during a programme aimed at children and there had been a breach of Principle 1 and Principle 3 of the Code for Advertising and Promotion of Alcohol. The Complaints Board acknowledged the manual process had resulted in a human error in the management of the advertisement programming.

As the Media had accepted responsibility for the error, the Complaints Board ruled the complaint was Settled – Media Error

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Principle 1 and Principle 3 of the Code for Advertising and Promotion of Alcohol. Principle 1 required the Complaints Board to consider whether the advertisement observed a high standard of social responsibility. Principle 3 required alcohol advertising be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

The Complaints Board ruled the complaint was Settled – Media Error

The Complaint

The Complainant was concerned that an alcohol advertisement had played during a children's programme. The Complainant further questioned how such an error could occur and what steps were being taken to ensure this did not happen again.

The Advertiser's Response

The Advertiser confirmed it booked a time slot after 8:30pm with the media to play the alcohol related advertisement during a PG 13 rated programme, *The Shallows*. Without the Advertiser's consent the advertisement was mistakenly shown during *The Good Dinosaur* a G rated programme. The Advertiser said it would seek an undertaking from the Media this would not happen again.

The Media's Response

The Media said the usual 'no alcohol rule' was not set up to prevent the playing of an alcohol related advertisement during a children's G rated programme. The Media explained this was a manual process and therefore open to human error. The Media apologised for the rare failure of the checks normally in place to prevent such mistakes.

The Complaints Board Discussion

The Complaints Board acknowledged the Complainant's concern that the alcohol advertisement had screened during a movie aimed at children.

The Complaints Board accepted the Advertiser had booked an appropriate time slot to play its alcohol related advertisement after the alcohol advertising watershed of 8.30pm and that the placement was not the result of any action by the Advertiser

The Board accepted the Media's apology for the human error which had occurred in the placement of the advertisement, resulting in it screening during a programme outside its rating. The Complaints Board accepted there had been no intent by the media to breach the Code for Advertising and Promotion of Alcohol.

However, the Complaints Board agreed that a high standard of social responsibility had not been observed by playing an alcohol advertisement during a programme aimed at children and there had been a breach of Principle 1 and Principle 3 of the Code for Advertising and Promotion of Alcohol.

The Complaints Board accepted that the manual process used by the broadcaster had failed in this instance as a result of a human error to properly manage the advertisement programming. The Complaints Board agreed that as the Media had taken responsibility for the mistake made, under the principles of self-regulation, the complaint was Settled.

Accordingly, the Complaints Board ruled the complaint was Settled – Media Error

DESCRIPTION OF ADVERTISEMENT

The television advertisement for Steinlager shows a ship broadcasting radio in international waters and then cuts to DJ Zane Lowe drinking a bottle of Steinlager and said "My Dad was one of the original Radio Hauraki pirates and it is because he stayed pure that we get to play the music we want today." The advertisement ends with a bottle of Steinlager and the tagline "Keep it pure."

COMPLAINT FROM N COWIE

I wish to make a complaint about an alcohol advertisement screened during a children's television program.

Last Sunday night April 15th my four year old daughter and I were watching a kids movie together on TV2. The movie was The Good Dinosaur, a Disney-Pixar animated movie featuring dinosaurs and a coming of age theme. At around 8:30-8:35pm and advertisement was shown for Steinlager Pure featuring International DJ Zane Lowe and dramatizing the story of Radio Hauraki's early days as a pirate radio station broadcasting from sea. It was quite disappointing to see this advertisement being shown during children's programming.

I consulted the Advertising Standards Authority Code for the Advertising and Promotion of Alcohol, in particular Principle 3:

"Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement."

I do think that an alcohol advertisement placed during broadcast of a children's animated movie should be considered inappropriate placement.

I would expect the audience for this movie to be mostly children and parents watching with their children, not an appropriate audience I would think for beer commercials.

FURTHER QUESTIONS FROM COMPLAINANT

I do have some further questions.

1. How did the error come to occur?
2. What steps has the broadcaster taken to ensure such errors will not happen again?
3. What leads the Advertising Standards Authority to believe that such errors will not happen again?
4. How can members of the public be confident that such errors will not happen again?
5. Did the placement of this advertisement constitute or represent a breach of the Code for the Advertising and Promotion of Alcohol?
6. Did the broadcaster acknowledge that the error resulted in a breach of the Code for the Advertising and Promotion of Alcohol?
7. Did the broadcaster offer any apologies for the error breaching the Code for the Advertising and Promotion of Alcohol?

I look forward to further responses from the Advertising Standards Authority, and in the meantime consider this complaint to be unresolved and ongoing.

CODES OF PRACTICE

CODE FOR THE ADVERTISING AND PROMOTION OF ALCOHOL

Principle 1: Alcohol advertising and promotions shall observe a high standard of social responsibility.

Principle 3: Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

RESPONSE FROM ADVERTISER, RUSSELL MCVEAGH, ON BEHALF OF LION -BEER, SPIRITS & WINE (NZ) LTD

1. We act for Lion — Beer, Spirits & Wine (NZ) Limited ("Lion") in relation to Lion's Steinlager Pure television advertisement ("Advertisement") and the above complaint ("Complaint"). We set out our client's response below.

Summary of the Complaint

2. The Complaint concerns the placement of the Advertisement after 8.30 pm during the screening of The Good Dinosaur on TVNZ Channel 2. The Complaint was made pursuant to Principle 1 and Principle 3 of the Code for the Advertising and Promotion of Alcohol ("Code").
3. Principle 1 of the Code states:

Alcohol Advertising and promotions shall observe a high standard of social responsibility...

g. Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

4. Principle 3 of the Code states:

Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

Response to the Complaint

5. Lion instructs advertisers that all alcohol-related advertisements featuring Lion's products should only be aired after 8:30pm in accordance with Guideline 3(d) of the Code.
6. In relation to this specific Advertisement:
 - a) Lion booked a time slot with TVNZ to place the Advertisement after 8:30 pm, during a screening of a program called The Shallows. The Shallows is a thriller film directed at adult audiences, and is rated PG - 13 because it includes bloody images, intense sequences of peril, and strong language.
 - b) TVNZ confirmed this booking and informed Lion that the Advertisement would be shown during the screening of The Shallows after 8.30 pm.

- c) Without notifying Lion or obtaining Lion's consent, TVNZ mistakenly changed the placement of the Advertisement to a different time slot, during the screening of The Good Dinosaur.
 - d) TVNZ acknowledged that the original placement of the Advertisement was changed without notifying Lion or obtaining Lion's consent.
7. As such, Lion had no knowledge of the change in the Advertisement's placement. Lion took all possible steps to ensure that the Advertisement would be directed at an adult audience and considered that it had satisfied its obligations under the Code to observe a high standard of social responsibility when preparing and placing the Advertisement.

Lion's Commitment

- 8. It is not Lion's practice to place alcohol-related advertisements during children's programming. Lion takes its responsibilities under the Code very seriously and is committed to advertising in a socially responsible manner.
 - 9. Accordingly, Lion will contact TVNZ seeking a detailed explanation of how this error occurred without Lion's knowledge or consent. As part of this detailed explanation, Lion will also seek an undertaking from TVNZ that such an error will not occur again. On this basis, we consider the Complaint is resolved.
10. If there are any questions in relation to the above, please let us know.

Further to our response, we note yesterday's decision regarding TVNZ and the Blockers advertisement: <http://www.asa.co.nz/backend/documents/2018/04/27/18119.pdf>.

We should be grateful if this decision could be considered as part of Lion's response and we would appreciate it if you could attach a copy of this decision to Lion's response.

RESPONSE FROM MEDIA, TVNZ

How did the error come to occur?

TVNZ would normally set up a 'no alcohol' rule on kids' animated movies. This was not done and therefore no 'red flag' showed up internally that a commercial was unfit for the zone when it was scheduled. This was the human error we referred to. The ad was scheduled in the last ad break of the movie at 20:40 (alcohol zone 20:30 onwards). Unfortunately the break played early at 20:28 i.e. pre alcohol zone. It does happen from time to time that scheduled breaks don't always payout at the time that is named. In hindsight, rather than playing in the last break of the movie the ad should have been scheduled in the first of the programming following.

What steps has the broadcaster taken to ensure such errors will not happen again?

TVNZ cannot absolutely ensure such errors will not happen again in the future. The management of commercial breaks is a manual process and TVNZ prides itself on always being strictly aware of guidelines set out by the ASA and CAB. We have checks and balances in place to act as filters but unfortunately every now and again mistakes happen. We are fiercely aware of the impact mistakes have on viewers, advertisers and clients and the TVNZ brand and we apologise for the error that occurred here.

How can members of the public be confident that such errors will not happen again?

The Authority will be aware of the large number of ads which screen on TNZ channels and the relatively small amount of complaints which occur where TVNZ is at fault. TVNZ seeks to meet the requirement of the Codes and it is disappointing that this error occurred.

Did the broadcaster acknowledge that the error resulted in a breach of the Code for the Advertising and Promotion of Alcohol?

TVNZ acknowledged that an error had been made at the time the ASA first examined the complaint. In our view while we can make submissions to help the inquiries it is the role of the ASA to decide whether a breach has occurred.

Did the broadcaster offer any apologies for the error breaching the Code for the Advertising and Promotion of Alcohol?

TVNZ acknowledged that an error had been made at the time the ASA first examined the complaint and apologised for this error at that time.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.