

COMPLAINT NUMBER	19/148
COMPLAINANT	K Moore & M Jennings
ADVERTISER	Wellington BBQs & Fire
ADVERTISEMENT	Wellington BBQs & Fire, Radio
DATE OF MEETING	14 May 2019
OUTCOME	Not Upheld

SUMMARY

The radio advertisement for Wellington BBQs and Fire begins with a siren and says, “Everyone’s in a hurry to get to Wellington BBQ’s and Fire gas and wood fireplace expo.”

Two Complainants are concerned the use of an emergency siren at the beginning of the advertisement, without any warning or disclaimer, is distracting to drivers who may think it is from a real emergency vehicle nearby.

The Advertiser said the siren is kept to a short 2 second timeframe and referred to other advertising which also used sirens.

The Media said the siren referred to customers rushing to beat the crowds to the sale. It says that a siren used sparingly in radio advertising is not socially irresponsible and drivers should always be alert to the sounds of sirens and other noises as road users.

The Complaints Board agreed the siren played for a very short duration with a voice speaking over it. The Complaints Board said even if drivers hearing the siren were to glance in their mirrors, this was unlikely to cause any safety issues nor should it cause fear or distress for drivers.

The Complaints Board said the advertisement did not reach the threshold to breach Rule 1(e) or Rule 1(g) of the Advertising Standards Code.

The majority of the Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and it had not reached the threshold to breach of Principle 1 of the Advertising Standards Code.

A minority of the Complaints Board said the way the siren was used in the advertisement could cause a distraction for drivers and desensitise reaction times for real emergency sirens. A minority of the Complaints Board said the advertisement was not socially responsible and was in breach of Principle 1 of the Advertising Standards Code.

In accordance with the majority, the Complaints Board ruled the complaints were Not Upheld.

[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 complaints with reference to Principle 1 and Rules 1(e) and 1(g) of the Advertising Standards Code.

Principle 1 required the Board to consider whether the advertisement had been prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(e) Safety required the Board to consider whether the advertisement had, unless justified on educational or social grounds, encouraged or condoned dangerous, illegal or unsafe practices, or portrayed situations which encouraged or condoned a disregard for safety.

Rule 1(g) Fear and Distress required the Board to consider whether the advertisement contained anything that might cause fear of distress without justification.

The Complaints Board ruled the complaints were Not Upheld.

The Complaints

Two Complainants are concerned the use of an emergency siren at the beginning of the advertisement, without any warning or disclaimer, is distracting to drivers who may think it is from a real emergency vehicle nearby.

The Advertiser's Response

The Advertiser said it had checked about the legality of using sirens in advertising. The siren is kept to a short 2 second timeframe and referred to other advertising which also used sirens.

The Media's Response

The Media, NZME referred to a precedent decision 09/256 which used a siren and was ruled not grounds to proceed by the Chair because of the short duration of the siren to gain the audience's attention. The Media said the siren referred to customers rushing to beat the crowds to the sale. It says that a siren used sparingly in radio advertising is not socially irresponsible and drivers should always be alert to the sounds of sirens and other noises as road users.

Precedents

In considering the issue of sirens playing in radio advertisements, the Complaints Board referred to 3 precedent Decisions:

Decision 09/256 - The Colgate advertisement was ruled no grounds to proceed by the Chair of the Complaints Board due to the short duration of the alarm siren.

Decision 17/206 - The NZ Fire Service advertisement was ruled no grounds to proceed by the Chair of the Complaints Board because the Chair considered the advertisement's subject matter of fire alarms had been given sufficient explanation before any siren sounded in the advertisement. The Chair said the siren in the advertisement was a smoke detector, rather than an emergency vehicle siren.

Decision 18/283 - The Worksafe advertisement was ruled no grounds to proceed by the Chair of the Complaints Board because the Chair said the siren sound in the advertisement was at a low volume and was only audible during a short middle section of the advertisement in the context of the voiceover saying it could get "too hot for comfort."

Complaints Board Discussion

Consumer Takeout

The Complaints Board began by discussing the likely consumer takeout of the advertisement and agreed it was alerting consumers to a BBQ and fire sale. The Board said the siren was an attention-grabbing technique.

Does the siren portray a situation which encourages a disregard for safety?

The Complaints Board said the siren played for a very short duration with a voice speaking over it, which meant it was quickly apparent it is an advertisement. The Complaints Board said even if drivers hearing the siren were to glance in their mirrors, this was unlikely to cause any safety issues.

Does the siren in a radio advertisement cause distress without justification?

The Complaints Board said the use of a siren in the advertisement was fleeting and was not a sound which should cause fear or distress for drivers who should be alert to a range of stimuli. The Complaints Board noted that not everyone listening to the advertisement would be driving. The Complaints Board said while the siren could cause a reaction for some listeners, it did not reach the threshold to breach Rule 1(e) or Rule 1(g) of the Advertising Standards Code.

Is the advertisement socially responsible?

The majority of the Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and had not reached the threshold to breach of Principle 1 of the Advertising Standards Code.

A minority of the Complaints Board said the way the siren could be used in the advertisement could cause a distraction for drivers and desensitise reaction times for real emergency sirens. It said that unlike the precedent decisions, the siren used in the advertisement was recognisable as an emergency vehicle siren and played at the beginning of the advertisement without any context. A minority of the Complaints Board said the advertisement was not socially responsible and was in breach of Principle 1 of the Advertising Standards Code.

However, in accordance with the majority, the Complaint Board ruled the advertisement had not breached Principle 1, Rule 1(e) or Rule 1(g) of the Advertising Standards Code.

The Complaints Board ruled the complaints were Not Upheld.

DESCRIPTION OF ADVERTISEMENT

The radio advertisement for Wellington BBQs and Fire begins with a siren and says "Everyone's in a hurry to get to Wellington BBQ's and Fire gas and wood fireplace expo."

COMPLAINT FROM K MOORE

I wanted to notify that the ad currently being played for Wellington Barbeque and Fire has a siren playing at the beginning and both my partner and I have found this very distracting when we are driving with thinking it could be an emergency vehicle needing to get past before realising that it is part of an ad. It doesn't feel safe to be distracted from driving when the ad comes on.

COMPLAINT FROM M JENNINGS

The advert airs regularly day and night and the first part of the ad is a loud fire truck siren and horns. When driving it is incredibly alarming and distracting. It makes me stop concentrating on the drive and start searching mirrors to locate the source and manoeuvre accordingly. I am a former police comms 111 call taker and dispatcher and am certain it is illegal to broadcast police/fire/ambulance sirens in any way. This ad does this without any warning or disclaimer for attention getting and impact at the price of safety.

CODES OF PRACTICE

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(e): Safety: Advertisements must not, unless justified on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

Rule 1 (g): Fear and Distress: Advertisements must not cause fear or distress without justification.

RESPONSE FROM ADVERTISER, WELLINGTON BBQ & FIRE

Further to you contacting us with two complaints.

We have been running these ads across many stations on both NZME and Mediaworks platforms. We are concerned that the ads have had a negative effect on the two complainants but overall we have had a very positive response to the campaign. Our understanding is that legally there is no requirement not to use sirens under NZ law and that Harvey Normans regularly use sirens in their super Saturday advertising. Sirens and cell phones are used by other advertisers with no issues. We have kept the siren to a very small two second timeframe at the start of the ad. The advice we received from both NZME and Mediaworks is that there is no issues with the ads.

RESPONSE FROM MEDIA, NZME ALSO ON BEHALF OF ADVERTISER

We are writing on behalf of NZME (the broadcaster) and Wellington BBQ and Fire (the advertiser) in response to the above complaint regarding Wellington BBQ and Fire's advertising.

This advertisement was designed and submitted on behalf of the client, but accepted by NZME Publishing for broadcast, as we believe it did not contravene ASA codes.

The ASA identified Principle 1, Rule 1(e), Rule 1(g) of the Advertising Standards Code:

Principle 1: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(e): Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

Rule 1(g): Advertisements must not cause fear or distress without justification.

The complainants have indicated a concern regarding the use of a siren at the start of the advertisement.

In decision 09/256, a similar siren was used at the beginning of an advertisement. Because of the short period of time in which the siren sounded, and the fact it was used as a technique to pique attention, it was decided that the advertisement was not socially irresponsible.

In this case, the siren was used as a cheeky nod to a person using a siren to beat the crowds to a sale. This is not suggesting that emergency personnel should use sirens in this way in reality, but instead as a storyline to show people hurrying to the sale.

In our view, the use of a siren in a radio advertisement, if used sparingly and briefly, is not socially irresponsible; nor should it endanger drivers or cause distress. Drivers should always be alert to the sound of sirens and other noises as a road user. Managing the road while such sounds can enter your driving environment is the road user's responsibility.

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.