

use of McWilliams wines brand name on 1ZM has also been upheld.

Several complaints by Mr Turner were upheld in a decision given by the Tribunal on 16 May 1980 (Decision 3/80). At that time the control of liquor advertising was contained in the rules and in Regulation 14 (3) and (4) Broadcasting Regulations 1977 (S.R. 1977/11), as inserted by Amendment No. 3 (S.R. 1978/71). The text of the regulation was also incorporated in the rule.

Following the decision the regulation was revoked (S.R. 1980/120) and the Broadcasting Rules Committee amended the rule. Immediately the Corporation resumed Lion Breweries advertisements and other types of advertising which had previously been ruled as in breach of the regulation or the rules.

It is clear that irrespective of those instances where it could be said a conscious decision had been taken to broadcast material in the belief that it was permitted (although subsequently ruled to be contrary to the rules and standards), there were other cases where the advertisements were carelessly accepted and should never have been broadcast.

The Corporation had misdirected itself as to the effect of the new rule which the Rules Committee had passed.

For both reasons therefore the Corporation television and commercial radio stations have been operated contrary to the programme rules. Under section 83 (1) the Tribunal may give to a warrant holder such directions in writing as the Tribunal thinks necessary to ensure that the rules are complied with, if it appears to the Tribunal that a station is being operated in a manner contrary to the rules made under the Act.

The Tribunal has already given a direction to the Corporation under section 83 (1) in the decision of 16 May 1980 (Decision 3/80). The Corporation was directed to notify staff responsible for accepting advertisements that the spirit of the rules ought to be observed. A direction was also given that the warrant holder notify staff responsible for accepting advertisements of the limitations imposed by the then regulation 14 and the Radio Rules and Standards. The Tribunal is satisfied that the necessary circulars were sent to the staff concerned.

However the rules were then changed and there has obviously been confusion as to what the letter of the rule was let alone the spirit.

However breaches of the present rule relating to liquor advertising have occurred. The Tribunal has therefore resolved that it is necessary that the following further direction be given to the Corporation:

1. No advertisements associated with liquor or mentioning liquor or including a liquor brand name or the name of any vendor of liquor shall be broadcast unless the text thereof has first been approved personally by one of the following persons:

- (a) The Director-General of Radio New Zealand;
- (b) The Advertising Manager of Radio New Zealand;
- (c) The Director-General of Television New Zealand;
- (d) The Advertising Manager of Television New Zealand;
- (e) A person for the time being acting as deputy for any of the abovenamed persons.

2. All staff responsible for accepting advertisements shall be informed of this direction and that if any doubt exists as to the application of this direction to any advertisements submitted for broadcast, then approval should be obtained from the person named in paragraph 1 of this direction.

It appears to the Tribunal that the Rules Committee may have known what it wanted to have as a rule but failed to enact it. There is an appearance of setting out with a high-minded rule which is later interpreted in practice to include unstated exceptions such as corporate image advertising.

Following the series of successful complaints by Mr Turner last year the Corporation reinstated the Lion Breweries racing advertisements immediately Regulation 14 (3) and (4) was revoked by the Government and the rules amended by the Rules Committee.

It took no steps to acquaint Mr Turner with the reasons why it considered the advertisement complied with the new rule. It compelled Mr Turner to use the complaints procedure again. If it had referred such a reply to its solicitors it may have been recognised that the advertisement offended against the new rule.

Mr Turner referred the matter to the Tribunal which considered further action under section 83. Since Mr Turner had lodged a number of formal complaints however, it was decided to await the outcome of the complaints and to see the basis of the Corporation's reasoning that the rule permitted the advertising complained of.

We have since ruled that the Lion Breweries advertisement was in breach of the rule.

We do not consider the Corporation should be tempted to follow the same course again. It should have to satisfy the Tribunal that any Lion Breweries advertisement does comply before it is broadcast. The following direction will therefore be given to the Corporation in respect of all its commercial sound radio warrants:

3. No advertisement containing the brand name or corporate title Lion or Lion Breweries shall be broadcast without the prior consent of the Tribunal.

All three directions will take effect 14 days after the date hereof. This will enable a full review of all existing advertising to be undertaken.

Failure to comply with the directions or the broadcasting of any matter contrary to the directions is deemed to be a breach of the conditions of the relevant warrant. The procedure which can follow is referred to earlier in this decision.

Mr Turner has now proved a number of breaches of advertising rules by the Corporation, some for the same advertisement or the same type of advertising. It is not a record of which the Corporation can be proud. He complains, as well, that he has been fed "an orchestrated rigmorole of rubbish" by Radio New Zealand, Television New Zealand and the Corporation. We understand his annoyance.

We consider our direction, which is unprecedented, is sufficient comment.

Dated the 17th day of June 1981.

For the Tribunal:

B. H. SLANE, Chairman.

*Redefinitions of Awatere and Flaxbourne Wards of the Marlborough Pest Destruction District—(Notice No. 2624, Ag. 6/13/2/6A)*

PURSUANT to section 22 (1) (c) of the Agricultural Pests Destruction Act 1967, the Marlborough Pest Destruction Board hereby gives notice that:

The boundaries of the Awatere and Flaxbourne wards of the Marlborough Pest Destruction District as constituted by notice entitled "Division of Marlborough Pest Destruction District into wards and declaring certain areas to be non-rateable" (Notice No. 1809, Ag. 6/13/2/6A) in the *New Zealand Gazette*, Thursday, 6 October 1977, No. 104, page 2642, are hereby altered and the said wards shall be those specified in the Schedule hereto.

SCHEDULE

AWATERE WARD

ALL that area in the Marlborough Land District, Marlborough County, bounded by a line commencing at the intersection of the middle of the Waima River and the production of the middle line of Dunsandel Stream, in Block XVI, Cape Campbell Survey District; thence generally westerly along the middle of that river to a point due north of the intersection of the right bank of the said river and the production of the eastern boundary of part Lot 6, D.P. 346 in Block III, Whernside Survey District; thence due south to that right bank, and generally southerly, south westerly and north westerly to and along the eastern, south eastern and south western boundaries of that part Lot 6 to the north eastern corner of D.P. 710, in Block III, Whernside Survey District; thence generally westerly along the northern boundary of D.P. 710 to its westernmost corner; thence generally westerly along the southern boundary of the Crown land lying between the said Run 209 and the Swale River, and continuing generally westerly to and along the said boundary and the southern boundary of Run 121A to the eastern boundary of part Run 207 in Block VII, Tapuaenuku Survey District; thence generally south westerly along the south eastern boundary of part Run 207 to the eastern boundary of Section 1, Block X, Tapuaenuku Survey District; thence generally south westerly along the summit of the Inland Kaikoura Range to the point known as Pinnacle, 1.2 kilometres north of Tapuaenuku; thence along a bearing of 240° for a distance of approximately 4.32 kilometres to the summit of the said range; thence generally south westerly along the summit of the said range to the south western boundary of Section 1, Block IX, Tapuaenuku Survey District; thence generally south westerly and westerly along the south eastern and southern boundaries of part Run 216 and the southern boundary of Run 219 to the westernmost corner of the said Run 219 in Block VI, Barefell Survey District; thence north easterly along the north western boundary of the said Run 219 to a point in line with the north eastern boundary of Run 226 in Block VI, Barefell Survey District; thence generally north westerly and north