

*Mr Turner's Reply to Television New Zealand Ltd.'s submission*

Mr Turner in his reply stated that dropping the word "Ltd." from company names often still left a description of the organisation. However, he said, dropping the word "Ltd." from "Lion Red Ltd." left the name of the beer.

*Decision*

The relevant rules are:

1.11.2 Advertisements other than those referred to in 1.11.1 (point of sale advertising) made by or on behalf of any person or persons or body corporate who manufacture, distribute or sell alcoholic liquor, or whose name is associated with the manufacture, distribution or sale of alcoholic liquor, may be broadcast if they meet the following requirements:

1.11.2 (1) The advertisement does not make any reference to the availability of alcoholic liquor for sale.

1.11.2 (2) The advertisement does not include references to brand names of alcoholic liquor as such except to the extent that the brand name is incorporated in or identical with the name of the advertiser.

1.11.2 (3) No descriptions of the qualities of the alcoholic liquor manufactured, distributed or sold by the advertiser are included in the advertisement.

Mr Turner did not allege any breach of 1.11.2 (3).

We have previously stated that advertisements of this type have to be taken as a whole including the theme, words and pictures and their juxtaposition.

In that respect, the Tribunal is of the view that the use of the phrase "Give 'em a taste (of kiwi)" in the context was clearly not a reference to Lion Red (beer). We agree with Television New Zealand that it refers to a New Zealander's sporting prowess.

A rival brewery group markets a beer called "Kiwi Lager" and it is inconceivable that the owners of Lion Red Ltd. would promote a competitor's brand when using the whole phrase "Give 'em a taste of kiwi". When the shortened "Give 'em a taste" is used, it is presumably kiwi determination on the sports field that is still being referred to.

We also find that the omission of the word "Ltd." in this case does not, in itself, turn the advertisement from being a sponsorship announcement by the company into an advertisement for a brand of beer. We consider it desirable that the word "Limited" or "Ltd." be shown on screen in advertisements of this nature in future to avoid doubt, or at least be spoken on the soundtrack.

In this case the voice-over made it clear the advertisement was for the Lion Red series softball. We note, however, that in the closing titles the word "series" is separated by the softball from the words "Lion Red" and is smaller. That would not matter as much if the words "Lion Red Ltd." had been used. But with "Ltd." left out, the brand name is left with less emphasis on the corporate name.

Rule 1.11.2 (2) permits the use of the words "Lion Red" as part of the manufacturer's name "Lion Red Ltd.". It does not mean that because "Lion Red" is part of "Lion Red Ltd.", "Lion Red" can be used by itself. There appeared to be some confusion in Television New Zealand's submissions to us on this particular aspect. However, the brand name was not used "as such". It was used only in connection with series or series softball or visually with a softball and the word series.

Three other factors influenced us. The use of the word Ltd. is an appendage to the name of nearly every company. If the company name consists of no more than the liquor brand name, it is desirable that the word Ltd. should also be included. Otherwise we accept that company names are often used without the legally required indication of limited liability. But we do not think it is decisive in this case because the remaining

words Lion Red were not used as a reference to a brand name as such; they were only used as part of a group of words or title "Lion Red series".

Secondly, a reference to rule 1.11.3 assists. In that rule, if an event conducted by a sporting body is sponsored by a manufacturer, distributor or supplier of alcoholic liquor, advertisements referring to the event may include reference to that sponsorship. While this rule was not pleaded by Television New Zealand, we consider it is relevant to the approach taken in interpreting the rules.

The third factor is the allegation that leaving off the Ltd. makes it an advertisement for beer and therefore in breach of the advertising rules. Neither follows. Leaving off the word Ltd. may constitute a breach of rule 1.11.2 (2) but it does not follow that, taken as a whole, the advertisement was for anything other than the Lion Red series softball.

As the advertisement does not make any reference to the availability of Lion Red for sale nor to its qualities and because the corporate name was used only within the name of the series, we decline to uphold the complaint.

We do say that the advice from TVNZ to the advertiser was justified and it is desirable to include a reference to the company although we do not accept that repeated use of Ltd. is necessary.

The use of brand names as corporate titles has been an accepted way to maintain brand name recognition within the liquor advertising rules and it is inappropriate to attempt to foil that so long as the real nature of the advertisement is to promote the sporting events.

*Co-opted Members*

Messrs Carter and Stephenson were co-opted as persons whose qualifications and experience were likely to be of assistance to the Tribunal. They took part in the deliberations of the Tribunal but the decision is that of the permanent members.

Signed for the Tribunal.

B. H. SLANE, Chairman.

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Decision No. 51/89

COM 10/89

**Before the Broadcasting Tribunal**

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Clifford Reginald Turner** of Hamilton:

*Warrant Holder: Television New Zealand Ltd.:*

*Chairman: Judge B. H. Slane.*

*Member: Robert Boyd-Bell.*

*Co-opted Members: R. M. Carter and B. W. Stephenson.*

**Decision**

Dated this 29th day of November 1989.

*Introduction*

During the evening of 29 June 1989, TVNZ Ltd. showed an advertisement on TV1 for a live telecast of a forthcoming rugby test match.

In the advertisement, a boy was shown coming into the house, going upstairs and taking an old All Black jersey out of a trunk. He dreams of becoming an All Black. Next, a large man dressed as a rugby player and then clearly as an All Black is shown aggressively running with the ball, would-be tacklers being shouldered aside. Then followed the spoken words:

"Television New Zealand and Steinlager Ltd. present the Second Test, France versus New Zealand, live, this Saturday on Television One."

The viewer then sees 2 captions the first showing the silver