

# Alcohol Advertising in New Zealand

Bruce Slane examines new solutions for the broadcast of alcohol advertisements

**D**ouble standards have been nowhere more evident in New Zealand than in official and private attitudes towards the regulation and control of alcohol.

A nation with a high per capita consumption of beer (in particular) nearly carried prohibition during the First World War and maintained 6 pm closing of bars until well after the Second World War. Restrictions have always been maintained against brand advertising of alcoholic beverages on radio and television.

## Background

**U**nder the previous *Broadcasting Act 1976* an attempt was made to introduce a rational code for radio advertising of alcohol products. When the State owned Broadcasting Corporation of New Zealand resisted change, the independent radio broadcasters requested me to preside over a special meeting of the Broadcasting Rules Committee and deliver a casting vote in the event of a deadlock. I did so in favour of the adoption of some rules based on the British Code.

Within about a week the Muldoon Government had passed a regulation outsting the new rules and restoring the old ones. For the next ten years the New Zealand Broadcasting Tribunal received a series of complaints, mainly from one complainant, about breaches of the alcohol advertising rules. The Broadcasting Rules were accepted as anomalous, badly drafted, inconsistent and in many ways avoidable. No government was prepared to tackle the situation. It was convenient for the Government to say that brand advertising was banned.

## Corporate Advertising

**T**he evidence seen and heard by the public was that brands were promoted. One simple way was to use the provision for corporate advertising. This provision allowed the name of a company, even though it incorporated the brand name of an alcoholic beverage, to be promoted and advertised on television and radio.

Liquor companies formed subsidiaries whose names were identical with their brands. While a complete ban on advertising of cigarettes was successful, was quite impossible to control brand advertising of alcohol. Tobacco outlets do

not incorporate the name of cigarette brands into their trading names. Liquor outlets did. An effective rule would have incidentally banned the advertising of the names of many restaurants and hotels. Sponsorship of sport and recreational events was another problem.

The liquor industry seemed not unhappy with the anomalous rules. Broadcasters became increasingly frustrated as they saw media advertising budgets allocated to print and extensive sponsorship deals providing "free" television and radio coverage of brand names.

The position was not resolved by the *Broadcasting Act 1989* but it did provide a framework by authorising the Broadcasting Standards Authority to approve codes for advertising and to maintain restrictions on alcohol advertising and to protect the young in respect of advertising.

## Liberalisation

**T**he Broadcasting Standards Authority (BSA) accepted the challenge and after carefully preparing the ground with interested groups and carrying out research, has proceeded to liberalisation to permit liquor brand advertising in return for concurrent moderation messages of sophistication and impact. While some believe that the broadcast media have sold themselves into a package that they will find increasingly inconvenient in the years to come, and the liquor industry does not seem to have encouraged the changes, the charge is over and direct brand advertising commenced on 1 February 1992.

Significantly, the BSA has adopted an industry code developed for some years for the print media and more latterly incorporated into the Broadcasting Standards under the old regime where it sat somewhat uneasily. The BSA has made some specific modifications for both radio and television but has come down firmly in favour of an alcohol code for all media with specific rules as may be necessary for a particular medium.

## Self-regulation

**T**he advertising industry's body, the Advertising Standards Authority Inc. (ASA) promulgates and administers a

voluntary code and has set up the Advertising Standards Complaints Board (ASCB) with lay participation to adjudicate on complaints. The ASCB has dealt with a large number of complaints quickly and informally. It has made a bid to take over administration of complaints under the *Broadcasting Act*. The BSA has resisted this move saying that it should at least be responsible for the promulgation of the code. The industry body has no disciplinary power other than the agreement of all media to desist from publishing an offending advertisement. A review by the Ministry of Commerce favours a transfer of the complaints jurisdiction from the BSA to the self-regulating ASCB.

It will be interesting to see whether the Government accepts that a non-legally enforceable role for an industry body is acceptable or whether it needs to be vested with statutory powers. Its lack of statutory powers enables it to act informally and to be largely free from judicial review.

The speed with which it can deal with complaints is somewhat better than the BSA which has to follow statutory procedures and is subject to a right of appeal to the High Court.

## Brand Advertising

**T**he BSA was aware that the existing rules regarding sponsorship advertising by alcohol advertisers were being evaded and the meaning of the rules inappropriately extended. The new rules would bring sponsorship advertising under the same strict code which currently covers brand advertising in print and cinema.

Research had shown that sponsorship advertising had become so extensive that the public were under the impression that alcohol advertising was already permitted on radio and television.

The BSA had also been concerned that the existing alcohol sponsorship advertising was "very macho and aggressive", a style which it finds undesirable.

The BSA acknowledged that there could be an effect on the amount of sponsorship money available when direct brand advertising became available, but it believed that direct brand advertising was to be preferred to sponsorship provided it was carefully controlled in content and

timing. The existing rules tended to prevent the advertising of essential information about price and availability while sponsorship promoted alcohol products by giving them positive images of health, fun, sport, winning, the positive attributes of a team approach, and nationalism.

Overall the Authority found that there was more evidence that there was no strong causal link between advertising and consumption than there was to the contrary.

Evidence presented to the BSA showed that the amount spent on alcohol advertising in New Zealand, in inflation adjusted dollars, had increased significantly over the past decade, whereas the consumption of branded alcohol products, excluding home brew, had stabilised or declined. For the protection of children and young people the BSA decided there would be no alcohol advertisements permitted on television between 6 am and 9 pm. It did not want to restrict too severely the time when brand advertising was permitted as the effect may be to create a blitz of advertising for products which, because of the saturation of advertising emphasised the products unduly.

The BSA is opposed to alcohol advertisements which show children or teenagers at all, even though they are clearly not drinking alcohol. Beyond that, the BSA endorsed the present industry rule that anyone shown in an

advertisement must be over 25 and depicted as an adult.

Clearly concerned about public opinion the BSA decided to trial the new codes for a two year period with the first review after six months. The BSA was particularly perturbed about aggressive macho themes in recent sponsorship advertising and wanted to see a willingness to facilitate promotion of educated messages regarding moderation and the no-alcohol option. It rejected compulsory warnings and advertisements in favour of an agreement with the industry which has to produce and broadcast moderation messages of a similar quality and standard to alcohol advertisements.

Some problem areas have been foreseen. Advertising on radio stations targeted at a young audience was one. The BSA has accepted broadcasters' assurances that the new rules will be followed in the spirit as well as the letter of the law. That was not always the case under the old rules.

### Warnings to industry

**T**here are warnings for the industry: if there is an impression of saturation of liquor promotion, including sponsorship and programme credits, the BSA will impose restrictions on the number of liquor promotion messages per hour: liquor advertisements must not employ aggressive themes, nor portray

competitive behaviour or exaggerated stereo-typed masculine images in an overly dramatic manner; advertisements which feature sport must place emphasis on scenes typical of the sport and within the rules of the sport rather than the aggression of the participants especially in contact sports.

Sponsorships may feature heroes or heroines of the young participating in a sponsored event or engaged in conduct related to a sponsored event but such people are banned from advertisements except those advocating moderation in alcohol consumption or the non-alcohol option, provided there was no reference to a branded product.

Although the definition of advertisement under the code does not include the former *Broadcasting Act* definition which defines advertisements to include those for which payment is made indirectly, it appears that the BSA, at least during the two year period, will have a heavy influence on the attitude of broadcasters who want to maintain the new regime.

The BSA appears to have done a very good job in pulling a difficult area together into some coherent and sensible approach. Probably it was the only body which could take this role. Certainly politicians would have buckled under a very long-standing and successful industry lobbying ability (and may yet do so)

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### Recent developments in Australia by Ian McGill and in New Zealand by Bruce Slane

#### SECOND CARRIER OPTUS COMMUNICATIONS

On 6 December then Transport and Communications Minister Beazley announced that Optus Communications was selected to be the second Australian general telecommunications carrier. The announcement was made after the signing of formal contracts with the Federal Government for the sale of AUSSAT. At the signing, the Government accepted a deposit of \$10 million in what will be a total payment of \$800 million by Optus for the purchase of shares in AUSSAT.

#### Network rollout

The documents signed included an Optus industry commitment concerning telecommunications industry development in Australia, and a network rollout commitment in which Optus specified its confidential plans for a rival network to that of the merged Telecom/OTC. Signing of these documents now allows the final steps to be taken to enable Optus to take ownership of AUSSAT following repayment of AUSSAT's debt and the restructuring of lease arrangements associated with the acquisition and ownership of the AUSSAT satellites.

#### Future operations

In total, Optus plans to spend \$1.6 billion over the next six years

in building its own network. STD and IDD services will begin in Sydney and Melbourne in late 1992 and full competitive services will be available by 1997.

Optus Communications is a newly formed company, 51 percent owned by Australian investors including Mayne Nickless, AMP, National Mutual and the AIDC Telecommunications Fund. Overseas equity holders are Bell South of the US and Cable and Wireless of the UK.

#### Public mobile licences

Optus as second general carrier has also secured the second public mobile telephone licence. (The first to be held by the merged Telecom/OTC.) The third licence holder is expected to be selected towards the end of 1992.

#### OTHER TELECOMMUNICATIONS REFORM

##### National Transmission Agency

In October Mr Beazley announced the establishment of a new agency, to be called the National Transmission Agency ("NTA"), to operate the Commonwealth's broadcasting transmitting network and deliver, primarily, ABC and SBS services.

##### Transport and Communications amendments

On 25 November an omnibus *Transport and Communications*