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BSA rules on two Fair Go complaints

The BSA has released findings in relation to two Fair Go stories aired last year. One was found to have breached standards while the other was deemed acceptable because it carried a high level of public interest.

A complaint of unfairness and inaccuracy has been upheld against Television New Zealand for an item broadcast in July last year about gym contracts in Christchurch, following the earthquakes.

The item interviewed a group of women who wanted to get out of their gym membership contracts due to the temporary closure or relocation of premises. The item focused on whether the gyms were within their rights to enforce the contracts, or whether they were being unreasonable.

John Moore from Configure Express Northlands complained that interviews with two women were unfair and inaccurate because their circumstances were unique and did not relate solely to the gym's relocation.

Mr Moore said a woman who claimed that she would have to pay \$575 to get out of her gym contract actually owed the gym money and had not paid in advance or been subject to an extortionate cancellation fee as suggested.

He said the other woman who claimed she had paid 18 months in advance and would be \$1000 out of pocket had had her contract cancelled for reasons unrelated to the relocation and had been fully refunded.

The BSA considered whether this aspect of the story was misleading and unfair to such an extent that it outweighed the broadcaster's right to free speech and to tell the story in the way it wanted. The BSA said the impression created by the item was that the gym was acting unfairly and that those who paid in advance "lost big time".

"Only one other woman in the item referred to a specific amount of money paid in advance. If the comments by the two women were removed, all that was left was one reference to a

specific amount, the reporter's statement that the other members had to pay \$80 in lieu of a month's notice."

Mr Moore persistently clarified the women's positions with TVNZ prior to the broadcast.

"As TVNZ was aware of these facts and could have removed the women's comments at editing or included a clarification at the end of the item, we consider that reasonable efforts were not made by TVNZ to ensure the item did not mislead," said the BSA.

The BSA declined to uphold another complaint about items broadcast in July and August last year about The Battery Clinic in South Auckland and a system developed to extend the life of batteries in older hybrid vehicles. The item expressed concerns about the safety of the system.

The Battery Clinic alleged the items were unbalanced, inaccurate and unfair.

The BSA said Fair Go had sufficient basis for presenting the view that the system was potentially dangerous, that the complainant was provided with a fair and reasonable opportunity to respond to claims and to defend his invention and that his perspective was fairly presented in the broadcasts. It concluded that the high public interest in the items outweighed the alleged harm to the complainant's business.

"Investigations into electrical and mechanical devices and systems being sold to consumers, where concerns have been raised about the safety of those devices and systems, carry a high level of public interest and are of the utmost importance and value in terms of freedom of expression. Such investigations facilitate important dialogue and discussion about issues of public safety, and in our view, it is imperative that such concerns are allowed to be ventilated without undue limitation or restriction.

"Overall, we find that the public interest and alleged danger to consumers outweighed the private interests of the complainant and his company, and that upholding the complaint would be an unjustifiable limit on the right to free speech."

The full report is available at www.bsa.govt.nz

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