

Bus Campaign Continues



Our bus campaign in Wellington and Auckland has one month to go and we have received very positive feedback on the artwork.

The posters, which are in English, Chinese and Samoan, promote understanding

of programme classifications, and are specifically aimed at caregivers of children. Please let us know if you have seen them during your travels and what you think of them. Email kate@bsa.govt.nz with your feedback.

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- 29% of complaints (40) were upheld in full or in part (22% or 27 in 2007)
- 32 of the 40 upheld decisions concerned television broadcasts; 8 concerned radio
- 53% of decisions concerned news, current affairs and talk radio (70% in 2007)
- 65 alleged breaches of balance, fairness or accuracy standards. 35% were upheld (24% in 2007)
- 43 alleged breaches of good taste and decency. 16% were upheld (4% in 2007)

The Annual Report contains a full overview of the year's complaints statistics as well as brief summaries of each BSA decision.



A PDF of the Annual Report is available on the BSA website www.bsa.govt.nz. If you would like a hard copy, please email kate@bsa.govt.nz

0800 number evaluation

Following on from the last newsletter, where we mentioned the review of our website, we are also currently reviewing our 0800 number.

If you have used our 0800 number recently we would appreciate you letting us know your thoughts on this service. Is the information contained there useful? Did you find the service easy to use and navigate? Do you have any suggestions on how we could improve the service?

Send your comments to kateb@bsa.govt.nz or, if you would prefer anonymity, use the feedback form on the contacts page of the BSA website <http://bsa.govt.nz/contact.php>

Directory

The current members of the Broadcasting Standards Authority are: Joanne Morris (Chair), Tapu Misa, Diane Musgrave and Paul France.

Contact us at: 2nd Floor, Lotteries Commission Building, 54-56 Cambridge Terrace,

PO Box 9213, Wellington, 6141, New Zealand. Phone: 64 4 382 9508 Fax: 64 4 382 9543 Email: info@bsa.govt.nz Website: www.bsa.govt.nz Editorial enquiries: info@bsa.govt.nz

0800 Number

The Broadcasting Standards Authority's free phone number is

0800 366 996

A recorded message explains the complaints process, and a connection through to the office is provided.

QUARTERLY

NUMBER 41, MARCH 2009



Revised Free-To-Air Broadcasting Code Released for Public Consultation

The New Zealand Television Broadcasters' Council (NZ TBC) and BSA have jointly released a draft revised Free-to-Air Television Code of Broadcasting Practice and we are now calling for public submissions on the proposed changes. The code covers the standards that apply to free-to-air television broadcasting in New Zealand.

Codes are revised from time to time to reflect community expectations, to keep them relevant to broadcasting practice, and to support fair and efficient decision-making by the BSA.

The draft of the revised code compared alongside the current code can be found on the NZ TBC's website www.nzttbc.co.nz and BSA's website www.bsa.govt.nz. The deadline for submissions is **Thursday 9 April**. Submissions can be made to either organisation by email to

Rick Friesen rick@nzttbc.co.nz or Dominic Sheehan dominics@bsa.govt.nz.

The wording in the Code as a whole has been streamlined to improve readability. The old Standard 4 entitled Balance has been re-named Controversial Issues – Viewpoints and rewritten in line with changes made to the newly revised Radio Code that came into force in July 2008. The Accuracy standard has also been modified. The current standard says that "news, current affairs and factual programming must be truthful and accurate on points of fact". The draft revised standard says that "broadcasters should make reasonable efforts to ensure all material points of fact in new, current affairs and factual programming are accurate". We welcome all feedback on the revisions in the draft Code.



Following the public consultation period the NZ TBC and BSA will meet to discuss the feedback received. If you would like further information on the revised Code contact NZ TBC Chief Executive Rick Friesen on 09 366 5998 or BSA CEO Dominic Sheehan 04 382 9508.



2007-2008 Annual Report

The BSA's 2007-2008 Annual Report was released in early December last year. In the twelve months covered in the report the BSA determined complaints on everything from *Breakfast to Nightline*, from a children's story read on radio to the sexually charged television show *Californication*.

During that time the BSA received 148 complaints, compared with 131 in the previous year, and issued 139 decisions, compared to last year's 125. Of the 139 decisions issued:

- 82% (114 decisions) concerned television programmes (compared to 73% or 91 in 2007)
- 18% (25) concerned radio broadcasts (27% or 34 in 2007)

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DECISIONS

The BSA issued 48 decisions between October and December 2008

Decisions of interest included the following:

Balance and Fairness

An item on *60 Minutes*, broadcast on 15 October 2007, presented the story of a man, Ewan Campbell, who had “invented a way to make farms grow faster” but had been prosecuted by the Commerce Commission and faced a fine of “over a quarter of a million dollars for false representation”. The programme included a sympathetic interview with Mr Campbell, and an interview with soil scientist Doug Edmeades who had acted as the Commission’s expert witness in the case against Mr Campbell. The reporter questioned why the Commission had prosecuted Mr Campbell when Dr Edmeades had not visited his farm and conducted any tests on the fertilizer system, called Probitas. The programme also interviewed several farmers who were happy with the results they had received using Probitas, and were angry at the Commission’s decision to prosecute Mr Campbell.

The Commerce Commission complained that the programme was unbalanced, inaccurate and unfair. The Authority upheld the balance and fairness complaints. With respect to balance, it noted that the broadcaster had copies of the District Court judgment and sentencing notes in Mr Campbell’s case. The judge accepted that Probitas was “snake oil” and that Mr Campbell’s marketing of the “ineffective product” was clearly deliberate. He agreed with the prosecutor’s description of the scheme as a “get rich quick scam”. The judge also noted that Mr Campbell had failed to testify at the hearing, and that the one witness he had called to testify to the effectiveness of Probitas had also been applying other forms of fertiliser to his farm.

Because the judge’s findings were in direct conflict with the information being put forward by Mr Campbell, the Authority considered that the broadcast omitted a significant perspective which was critical to viewers’ ability to reach an informed view on the issue under discussion.

Looking at fairness, the Authority found that by omitting this information the broadcaster did not fairly present the Commission’s side of the story, and this led to the Commission being portrayed in an unfavourable light.

The Authority ordered TVWorks to broadcast a statement summarizing its decision, and to pay \$2182.50 costs to the complainant and \$2000 costs to the Crown.

Decision ref. 2008-014

Childrens Interests

An episode of *Shortland Street*, broadcast on Wednesday 30 April 2008, included a scene in which two male characters, Gerald and Lindsay, were involved in a sexual encounter which began with them undressing and kissing.

The two characters were then shown lying in bed talking, covered up to their bare chests by blankets. Lindsay went under the blankets and Gerald nervously asked him “where are you going?” Lindsay popped his head back up and replied “it’s a surprise” before descending back under but came back up when Gerald began giggling. After Lindsay went back under the blankets, Gerald moved suddenly and accidentally hit Lindsay in the face with his knee, giving him a bloody nose.

The episode was rated PGR and preceded by this written and verbal warning:

The following programme contains sexual material that may not be suitable for a younger audience. We recommend the guidance of a parent or other adult.

Lewis Cross complained that the scene was inappropriate for children and breached standards of good taste and decency.

The Authority upheld the complaint under Standard 9 (children’s interests). It said that the scene was not sufficiently discreet in its depiction of the sexual content, and was therefore unsuitable for child viewers even when subject to the guidance of an adult. The Authority made it clear that its findings had nothing to do with the fact that the scene involved two men; it said the scene would have been equally inappropriate if it had involved a heterosexual couple.

The Authority did not impose an order. It said that the decision clarified its expectations surrounding the broadcast of sexual content of this nature during the PGR time-band at 7pm. It noted that TVNZ had reviewed the appraisal process for

Shortland Street, and was satisfied that procedures had been put in place to ensure that similar breaches did not occur in the future. In addition, it acknowledged that the decision was likely to receive extensive publicity due to the nature of the complaint and the programme involved. **Decision ref. 2008-059**

Good Taste and Decency

An episode of *Shortland Street*, broadcast on Tuesday 2 September 2008, began with a car chase involving one of the central characters, Dr Craig Valentine, who was eventually forced off the road and down a bank. Fighting with one of his pursuers, Dr Valentine grabbed the man by the shoulders and hit his head on a rock on the ground.

Later, the three henchmen confronted Dr Valentine in a clearing and one hit him with a baseball bat. The blow was not shown on screen; the first shot showed the man swinging the bat, then in the next shot Dr Valentine fell to the ground. Towards the end of the episode, Dr Valentine was shown bruised and bloodied in the front passenger seat of his car. The henchmen set the car alight, and Dr Valentine could be seen through the passenger window as the flames started rising outside the car. The following shot showed the car from above completely consumed by flames.

The episode was preceded by this verbal and written warning:

The following programme is rated PGR. It contains violence that may disturb and scenes that may not be suitable for a younger audience. We recommend the guidance of a parent or other adult.

Mark Turner complained that the episode breached standards of good taste and decency due to its violent content.

A majority of the Authority considered that the violence in this episode of *Shortland Street* was unsuitable for children even when supervised by an adult, and therefore the episode should have received a higher classification than PGR. The majority found that the theme was likely to frighten and disturb child

viewers, particularly because the violence - which included easily accessible weapons such as baseball bats - was realistic in the sense that it could happen in New Zealand.

Given that the decision was not unanimous, no order was imposed. The majority was satisfied that its decision would serve as a reminder to TVNZ to exercise special care and discretion when including violent material in PGR programmes screened at 7pm. **Decision ref. 2008-112**