

Awareness About the Complaints System: resources for ethnic communities

One of the BSA's community advisory panel's workplan activities is to raise awareness among New Zealand's diverse ethnic communities about the broadcasting standards and the formal complaints system.

Translations of the *Television and Radio Complaints Guide for Viewers and Listeners* are on the BSA's website in 8 different languages: Arabic, Chinese, Cook Island Maori, Khmer, Korean, Punjabi, Samoan and Tongan.

Posters, leaflets and ads explaining the basics of how the formal complaints system works will shortly be distributed to ethnic associations and newspapers.

Interviews conducted with local community leaders prior to development of these resources revealed that none of those we spoke to were aware of any formal complaints regarding TV or radio programming having been made by anyone in their community. If a situation arose where offensive material was broadcast, the community leaders said that the following actions were more likely:

- Turn off the radio/TV and don't complain.
- Discuss the issue amongst themselves, and don't complain.



BSA leaflets explaining the broadcast programme complaints system.

- Discuss the issue and if considered serious go through a spokesperson, eg, a church leader or association president to take it up further with the appropriate formal organisation. The community leaders said that new migrants in particular would not be aware of their rights in this area. NZ-born ethnic community members would be more likely to take action.

Overall, the area found to be of most offence to ethnic community members was explicit sexual behaviour. Other areas of concern included violence, offensive language, cultural insensitivity and the promotion of drinking and alcohol. All of these areas of concern are covered by standards in the codes of broadcasting practice and can be complained about using the formal complaints system.



New Legal Advisor

We are pleased to welcome Patricia Windle to the complaints team as a legal advisor. Patricia joined the BSA in February. Patricia is fresh from completing an LLB and BA Hons in Film and Media Studies at Otago University.

Directory

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

Contact us at:
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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 37, FEBRUARY 2008



Review of the Future of Content Regulation

The BSA encourages people to make submissions on the government's review of the future of content regulation which is out now for public submissions and feedback. Responses are invited by Friday 4 April 2008.

In a public consultation paper and questionnaire entitled *Broadcasting and New Digital Media: Future of Content Regulation*, the Ministry for Culture and Heritage is seeking the public's response to a range of questions on how broadcast and new media content should be regulated in the future.

The consultation has been prompted by the vast changes to the media landscape in the last 10 years as a result of the information technology revolution.

"We are moving away from the traditional model of broadcasting where there is general transmission of content at scheduled times to a model where individuals take greater control over what, when and how they watch and listen," says Dominic Sheehan, Chief Executive of the BSA. "Content is now available 24/7, is more interactive and more consumers are

creating the news themselves via blogs and podcasts."

"However, the Broadcasting Act, the BSA's governing legislation, has not kept pace with these changes and is now out of step with the realities of the brave new media. For example, although you can access television-like content on the internet or mobile devices, at this point you cannot make any complaints about it. The very same content that is subject to conditions when screened on television or played on radio is currently subject to no conditions if travelling via the internet or to your mobile phone."

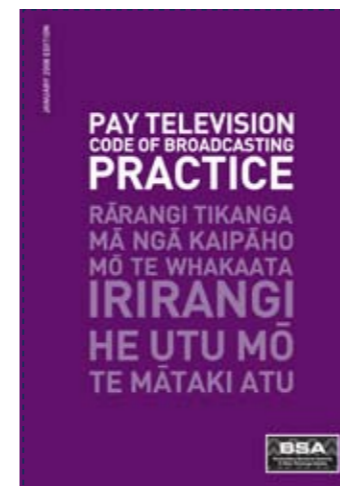
The Ministry seeks views on questions such as, should all broadcasting-like content be subject to bottom-line standards no matter how it is distributed? Does it make a difference when the viewer or listener exercises control over when and how they access a programme? Are there other roles a state regulator should play apart from determining complaints and approving codes of practice? Do the current concepts guiding broadcast standards, such

as 'good taste and decency' and 'balance' still apply or should they change?

Responses to the consultation paper will help the government to develop future content regulation options for New Zealand media. Further consultation will be held should any changes to the current regime be proposed.

The future of content regulation paper has been released alongside another discussion document about the regulation of digital broadcasting in general. This wider-themed document contains, among other things, a discussion about whether the BSA and other media regulatory bodies should be converged into a single entity. The Ministry is also seeking public feedback on the questions posed in this document.

For copies of the *Future of Content Regulation* consultation paper and the *Digital Broadcasting Review of Regulation* volumes 1 & 2 and response form, go to the Ministry for Culture and Heritage website page: <http://www.mch.govt.nz/publications/digital-tv/index.html#views>



New Code Design

Our codes of broadcasting practice have a new look! This updated design will be rolled out across all our codes as reviews are completed. The first, requiring a reprint, was the Pay TV Code (shown).

Election Code Review

A draft version of a revised Election Code has been circulated to broadcaster representatives for comment. The Code rewrite was necessary because of changes to the Broadcasting Act made in conjunction with the newly passed Electoral Finance Act. The major change is that complaints about election programmes must now be referred directly to the BSA. Another change is that complainants will have 60 working days from the date of broadcast to lodge a complaint. Once finalised, copies of the revised code will be circulated to all broadcasters and freely available to the public through the BSA's website and office.

DECISIONS

The BSA issued 30 decisions between October and December 2007

Decisions of interest included the following:

Fairness

An item on *Close Up*, broadcast in May 2007, discussed the practice of *The Dominion Post* of publishing the names of people convicted of driving with excess breath or blood alcohol. The item also included a segment in which a *Close Up* reporter attended an Auckland court. The reporter attempted to speak to a woman, whose face was pixelated, but she did not want to be interviewed because she feared she could lose her job. She was shown running away and being chased by the reporter. The fact that the woman now had two convictions for drink-driving, along with her age, marital status and salary, were reported.

At the end of the item, the reporter said that the public court record had identified the woman, and he named her. The woman's face was then shown without any pixelation.

David and Heather Green complained that the item was unfair to the woman who was identified in the item.

The Authority upheld the complaint. It said that although the woman's conviction was a matter of public record, the fairness standard recognised the rights of individuals not to be humiliated or unnecessarily identified. It agreed with the complainants that it was the manner and the circumstances in which the woman was identified, rather than the identification alone, that led to the unfairness.

The Authority noted that the woman was not a public figure whose identity may have made a drink-driving conviction newsworthy; nor was her drink-driving conviction otherwise remarkable or newsworthy. It said that the woman was singled out and humiliated, simply because she happened to be in the wrong place at the wrong time.

The Authority acknowledged that there were occasions when the public humiliation of an individual was a regrettable but necessary consequence of the pursuit of a story in the public interest, but, in its view, this was not one of those occasions.

The Authority did not impose an order. TVNZ is appealing the decision (see over). **Decision ref. 2007-068**

Liquor

Studentville, broadcast on C4 in April 2007, covered events at the 2007 "Uni Games" held at Canterbury University.

The programme showed a series of events and parties in which students were shown drinking and at various levels of intoxication. At one point in the programme, a male student was seen pouring a drink that appeared to be vodka into his mouth straight from the bottle. Many of the students also spoke about having drunk to excess the night before their sporting events.

Graham Harrop complained that the programme was "a 30 minute advertisement for binge drinking" and had breached the liquor standard.

The Authority upheld the complaint, finding that *Studentville* advocated liquor consumption in a manner that was not socially responsible. The Authority said that the programme not only implicitly condoned the consumption of liquor, but in fact presented it in a positive light and as a necessary part of attending the "Uni Games". The programme paid scant attention to the sports games, and when the reporter did turn to the sports fields, participants were questioned almost exclusively about their previous or intended alcohol consumption.

The Authority noted the footage of a young man pouring a substantial quantity of a vodka-based drink into his mouth, the "mandatory Scrumpy hands" where bottles of cider were taped to the hands of students to be consumed during a sports match, and comments such as, "It's all about getting really pissed".

The Authority said that the programme portrayed the consumption of excessive amounts of liquor as enjoyable and acceptable, while the negative effects of drinking to excess were minimised. It did not accept that the widespread and obvious abuse of alcohol shown in the programme did not result in illness, violence, injury or any of the other well-known negative effects of excessive consumption.

The Authority did not impose an order. **Decision ref. 2007-063**

Law and order / Good taste and decency

An item on *Balls of Steel*, broadcast on TV2 in May 2007, included a segment called "Pain Men" that involved two men who used various methods to inflict pain on one another. The man inflicting the pain applied an electric belt sander twice to the other man's buttocks. He then hammered a nail through the skin between the other man's thumb and forefinger and into a block of wood.

Wayne Atkins complained to Television New Zealand Ltd, the broadcaster, that the item set a dangerous and stupid example, and breached standards of good taste and decency, law and order, and children's interests.

The Authority upheld the complaint that the programme breached the good taste and decency and law and order standards. It took the view that the degree of pain and injury inflicted in the programme, purely for the purpose of entertainment, overstepped the limits of good taste and decency. In particular, the man who had his buttocks sanded was plainly in considerable pain and his buttocks were clearly skinned and bloodied.

The Authority also found that the programme glamorised and condoned assault, in breach of the law and order standard.

The Authority noted that it is a criminal offence to assault another person, even with their consent. Although the common law recognises a defence of consent in sporting activities, the Authority drew a distinction between the technical assaults committed by players in legitimate sports games, and the acts committed in this programme.

The Authority also pointed out that, unlike other programmes that contain potentially dangerous stunts in which participants try to "beat the odds", the sole purpose of the *Balls of Steel* "challenge" was to inflict considerable pain for entertainment.

The Authority did not impose an order. **Decision ref. 2007-066**

Appeals and Other Court Proceedings

Green and TVNZ

TVNZ has appealed the Green decision (2007-068) – see summary. The case has been set down for 15 May 2008 in Wellington.

Du Fresne and Canwest TV Works

This appeal was heard in the High Court in Wellington on 7 February. The judge has reserved his decision.

KW and TVNZ

The case has been set down for 5 May in Auckland. This decision (2006-086) concerned a *Close Up* item that alleged that KW's property was a suburban brothel. TVNZ is appealing the BSA's findings and has applied for a judicial review of the BSA's process.

Printed copies of the codes of broadcasting practice for radio, free-to-air television, and pay TV, and of the radio and television complaints guide are available free of charge from the BSA, email: info@bsa.govt.nz, freephone: 0800 366 996 | Full decisions can be found on the BSA's website www.bsa.govt.nz