

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 58/92

Dated the 14th day of September 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MENTAL HEALTH FOUNDATION

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson
J.R. Morris
R.A. Barraclough
L.M. Dawson

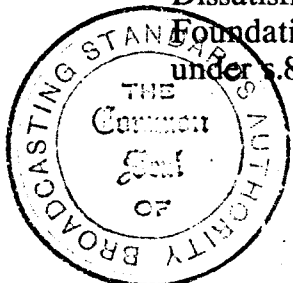
DECISION

Introduction

"A civil war" was the wording used, accompanied by some direct physical action, in a promotional message (promo) broadcast by Television New Zealand Ltd on 15 May 1992 to describe the forthcoming second Australian State of Origin Rugby League match between New South Wales and Queensland.

The Director of the Mental Health Foundation (Dr Barbara Disley) complained to TVNZ that the promo involved the gratuitous use of violence to achieve heightened impact. TVNZ upheld the complaint and noted that, because of internal concerns about the violent nature of the promo, its Director of Programmes had earlier issued an instruction that promos for rugby league were not to promote violence.

The Foundation's Director asked TVNZ to broadcast a public apology to explain that it had been inappropriate for the promo to link sport and violence. TVNZ declined to do so and pointed out that it had issued its internal instruction before the formal complaint had been received and that a public apology would raise viewers' interest in a promo which had been removed because it breached broadcasting standards. Dissatisfied with TVNZ's decision not to broadcast an apology, Dr Disley on the Foundation's behalf referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the promo complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

The Director of the Mental Health Foundation (Dr Barbara Disley) complained to Television New Zealand Ltd about the broadcast of a promo for the second State of Origin Rugby League match between Queensland and New South Wales. The promo, she wrote, involved the gratuitous use of violence in order to achieve heightened impact. TVNZ upheld the complaint and advised the Foundation that, prior to the receipt of the formal complaint, an internal memorandum had been issued directing that rugby league promos were not to promote violence.

Dr Disley on the Foundation's behalf considered that that action was insufficient and argued that self regulation of the media would only operate satisfactorily when broadcasters publicly acknowledged their errors. She said that an apology in this instance should be screened within the same time bands and with the same degree of frequency as the original promo. TVNZ declined to adopt the suggestion partly on the basis that, for viewers to understand the apology, it would be necessary to rescreen the offending promo and it was not prepared to do that.

The Authority disagreed with TVNZ that it would be necessary to broadcast the promo again in order to broadcast a correction. Indeed, it wondered whether the superficiality of that argument provoked the Foundation into referring the complaint to the Authority when a more thoughtful response might otherwise have been acceptable.

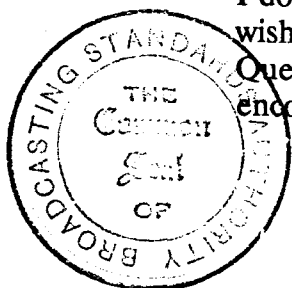
The Authority, however, did not accept the Foundation's argument that a public apology was necessary each time a broadcaster breached the broadcasting codes. Sometimes the broadcast of a correction might be appropriate but it would depend on the facts of each situation.

In considering TVNZ's action after it had upheld the Foundation's complaint and the request that the apology be broadcast to the same extent as the promo, the Authority noted that the promo, which should not have been screened at all because it breached the Television Code, was broadcast for an unknown number of times before it was removed following a directive from the Director of Programming. Further, the Authority took into account the fact that the directive was issued some days before the Foundation's formal complaint was received.

The directive stated:

Rugby League Promos

I don't want our promos for Rugby League to promote violence and, whilst not wishing to take away the excitement of major confrontations such as NSW versus Queensland, I do believe we can get that excitement without necessarily encouraging violence.



Would you ensure that a more creative approach that shows the excitement of the game is our preferred way of doing things.

John McCready
Director of Programmes
19 May 1992

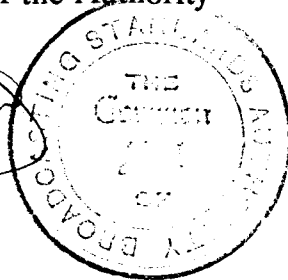
The Authority decided that this short and sharp directive displayed a sense of responsibility. As TVNZ took responsible, if unannounced action, the Authority concluded that the self-regulatory regime had operated satisfactorily in this case and that nothing more would be achieved by ordering the broadcast of a public correction.

For the reasons set forth above, the Authority declines to uphold the complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



14 September 1992

Appendix

Mental Health Foundation's Complaint to Television New Zealand Ltd

In a letter dated 25 May 1992, the Director of the Mental Health Foundation (Dr Barbara Disley) complained to Television New Zealand Ltd about a promo broadcast to promote the forthcoming rugby league match between New South Wales and Queensland. The promo, she said, described the game as "a civil war" and was accompanied by some direct physical interaction between players.

Expressing the Foundation's concern that the promo reinforced the concept of violence in sport, she said that it breached the broadcasting standard which prohibited the gratuitous use of violence to achieve heightened impact.

TVNZ's Response to the Formal Complaint

TVNZ advised the Mental Health Foundation of its Complaints Committee's decision in a letter dated 11 June. It recorded that the promo had been assessed under standard 22 which had been cited by the complainant. TVNZ wrote:

After viewing the trailer the Committee was in no doubt that aspects of battering, even foul play, had been prominent. This had been highlighted by the technique of fast repeat editing. There could be no doubt that the code in question had not been properly observed even though it was claimed that the trailer represented a fair reflection of the style of programme being promoted, and that humour was an ingredient.

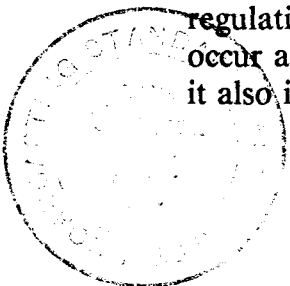
The complaint, it added, had been upheld.

TVNZ also recorded that, because of internal concerns expressed before the complaint had been lodged, its Director of Programmes had issued an instruction that promos for rugby league were not to promote violence.

Mental Health Foundation's Response to TVNZ

On being advised that its complaint had been upheld, in a letter to TVNZ dated 15 June 1992, Dr Disley on the Foundation's behalf requested the broadcast of a public apology to the extent that the offending promo had been screened. It was important, she wrote, for TVNZ to acknowledge and to apologise for not adhering to the Code. She added:

The television industry has a major responsibility within the context of self regulation of media codes on violence to ensure that such incidents do not occur and to publicly apologise when they do. Self regulation will only work if it also includes this latter responsibility.



TVNZ's Response to the Mental Health Foundation

In a letter dated 23 June, TVNZ advised the Foundation that it declined to act on the suggestion. First, it said, an apology would require the rebroadcast of the offending promo to ensure that viewers understood the issue and it was not prepared to do that. Secondly, internal action had been taken before the receipt of the Foundation's formal complaint which would suggest that self-regulation was operating appropriately.

Mental Health Foundation's Complaint to the Broadcasting Standards Authority

As it was dissatisfied with TVNZ's decision not to broadcast an apology, in a letter dated 29 June, Dr Disley on the Foundation's behalf referred the complaint to the Authority under s.8(a) of the Broadcasting Act 1989. Having upheld the complaint, she said, TVNZ should be held accountable for the breach of the Television Code.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. The letter is dated 17 July and TVNZ's reply, 23 July. TVNZ said that the promo would need to be broadcast again to ensure that the apology was properly understood. In response to the Foundation's request that the apology should be broadcast for the same number of times as the original promo, TVNZ regarded the request as both unrealistic and untenable. It also argued that the promo, as it portrayed some not unusual rugby league action, would not be regarded as unsuitable for screening by a number of viewers.

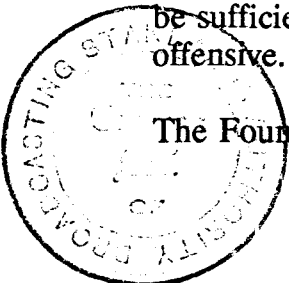
TVNZ believed that it had taken the appropriate action, adding:

It was recognised that there will always be lapses of judgement in even the best run organisations. We would submit that provided steps are taken to remedy such shortcomings promptly and properly there is no call for excessively punitive on-air measures, which could have the end result of provoking an unnecessary and possibly heated public debate between those who would claim that the material was a good reflection of rugby league and those who would say such material should be banned.

Mental Health Foundation's Final Comment

When asked to comment on TVNZ's reply, in a letter dated 3 August 1992, Dr Disley argued that an apology with a brief reference to the offending advertisement would be sufficient to stir the memory of viewers - particularly those who had found it offensive.

The Foundation rejected the argument that repeated broadcasting of an apology



would be untenable when there was constant repetition of advertisements and promotions which appeared to be part of the marketing strategy of TVNZ. It did not accept that TVNZ could justify its initial decision to run the promo as a "lapse of judgment" and argued, moreover, that TVNZ's staff should have explicit instructions to ensure that such an item would not be broadcast again.

