

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 5/93

Dated the 4th day of February 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

A.G. GEORGESON

of Auckland

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

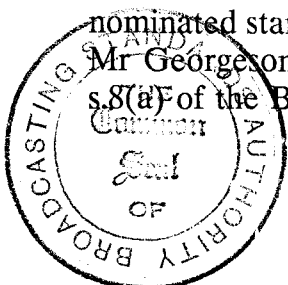
DECISION

Introduction

"Australia's Naughtiest Home Videos" was the title of a series launched in Australia but, midway through the first programme, was ordered off the air by station owner and media billionaire Kerry Packer. The furore about the series was dealt with in an item on the *Holmes* programme broadcast between 6.30 - 7.00pm on TV1 on 4 September 1992. The item showed extracts from some of the videos shown by the Australian broadcaster.

Mr Georgeson complained to Television New Zealand Ltd, as the broadcaster, that the item breached the standards requiring good taste and decency, the protection of children, the presentation of appropriate warnings and protection of the privacy of the individual.

Explaining that the item was newsworthy because of Kerry Packer's actions over a programme which he did not like, TVNZ said that the sequences broadcast contained the most innocuous of the material available. Pointing out that broadcasting a warning was a matter of practice, not broadcasting standards, TVNZ said that none of the nominated standards had been breached. As he was dissatisfied with TVNZ's response, Mr Georgeson referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the item 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.

Extracts from a short-lived Australian programme, "Australia's Naughtiest Home Videos", were broadcast on TV1's *Holmes* programme between 6.30 - 7.00pm on 4 September 1992. The Australian programme was broadcast for only a short period as it was ordered off the air by Kerry Packer, the station owner.

Mr Georgeson complained to TVNZ that, as the programme had been terminated in Australia for being sordid and smutty, its broadcast in New Zealand was not in good taste. He was also concerned that children, as viewers in the early evening, could well have seen the broadcast, that the broadcast should have been accompanied by a warning and that it had invaded his privacy as a viewer.

Pointing out the privacy provision applied to the people involved in broadcasts, not to viewers, TVNZ declined to uphold that aspect of the complaint. TVNZ also explained that the broadcast of warnings was a matter of policy, not standards, and, consequently, had not considered that matter as an aspect of the formal complaint.

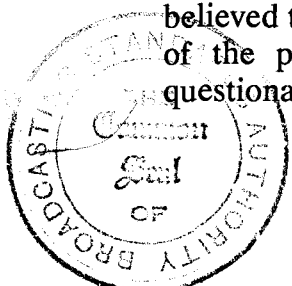
The other concerns were considered under standards 2 and 18 of the Television Code of Broadcasting Practice which require broadcasters:

2. To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.
18. To be mindful of the effect any programme may have on children during their generally accepted viewing periods.

TVNZ stated that Kerry Packer's action was a legitimate news story and, to illustrate his concerns, it had broadcast what it described as innocuous excerpts. Moreover, an indication of the forthcoming item's contents had been given twice to allow concerned parents to switch off and, TVNZ argued, the standards had not been breached.

When he referred his complaint to the Authority, Mr Georgeson said he had not heard the advance warnings but that was irrelevant as the item should not have been broadcast before 8.30pm. In response, TVNZ emphasised that the more offensive material had deliberately not been broadcast in view of the hour of the programme. It stressed that the item did not explicitly portray sexual intercourse.

The videotape of the item supplied to the Authority apparently included what TVNZ described as one of the warnings for parents about the item's contents. The Authority believed that to describe the introduction as a "warning" was to stretch the interpretation of the presenter's comment as it did not forewarn that some of the item was questionable.



Although some of the extracts shown were of questionable taste, the Authority accepted that they did not breach the requirement for broadcasters to bear in mind the currently accepted behavioural norms. Accordingly, it declined to uphold the alleged breach of standard 2.

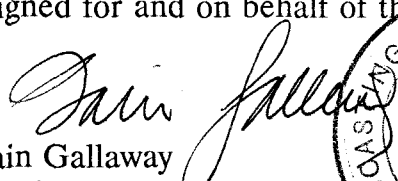
The Authority's consideration as to whether or not the standard 18 requirement relating to the protection of children was breached involved a more extensive examination of the arguments about the broadcast. While not questioning TVNZ's point that Kerry Packer's action was newsworthy, as Mr Georgeson himself accepted, the Authority considered that Mr Georgeson's point about the material's sordid nature had substantial validity when he argued that it should not have been broadcast before 8.30pm.

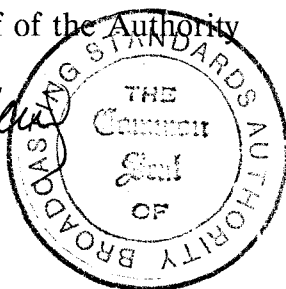
Some of the material which was broadcast was undoubtedly coarse and the Authority examined carefully the aspect of the broadcast containing a visual of a couple who were said to be "copulating". The visual itself was very brief, taken from a distance and unfocused and, the Authority noted, the language was not smutty. Indeed, because of the technical nature of the term, the Authority was of the opinion that it would probably not have been understood by many young children.

The Authority believed that the introduction was not a satisfactory substitute for a warning for concerned parents and considered that the item would have been better placed in the late evening news. However, the Authority concluded that because of the brief and very fuzzy extracts shown of some of the questionable items, and although it was borderline for a broadcast at 6.30pm, it had not breached the standard 18 requirement for broadcasters to be mindful of the effect of a programme on children.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



4 February 1993

Appendix

Mr A.G. Georgeson's Complaint to Television New Zealand Limited

In a letter dated 8 September 1992, Mr Georgeson complained to Television New Zealand Ltd about an item on the *Holmes* programme broadcast on TV1 between 6.30 - 7.00pm on Friday 4 September.

Mr Georgeson complained that the item had breached the following standards:

1. The observance of good taste and decency.
2. The privacy of the individual viewer.
3. The protection of children.
4. The presentation of appropriate warnings concerning the content of the programme.

He stated that the item in question was a repetition of an Australian programme which had been terminated because it was sordid and smutty and, he argued, it was not in good taste to show the programme in New Zealand to the extent that it had been broadcast.

Showing the item at 6.30pm, he continued, intruded on his privacy as an individual viewer. Furthermore, the item accompanied by the verbal description of "copulation taking place" was inappropriate for young children. Finally, the broadcast was not preceded by a warning and thus viewers at that time were not forewarned of the item's contents.

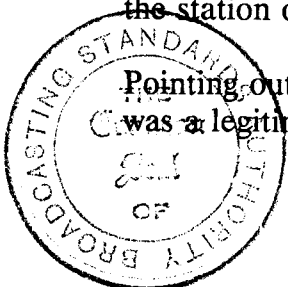
TVNZ's Response to the Formal Complaint

TVNZ advised Mr Georgeson of its Complaints Committee's decision in a letter dated 7 October 1992. It began:

You will recall that your objection was to an item about the furore in Australia when media millionaire Kerry Packer personally telephoned one of his stations and ordered them to take a new programme entitled "Australia's Naughtiest Home Videos" off the air.

The complaint had been assessed under s.4(1)(c) of the Broadcasting 1989 and standard 2 and 18 of the Television Code of Broadcasting Practice. As the broadcast of warnings was a matter of company practice, and not of standards, that aspect had not been considered as part of the formal complaint. TVNZ stated that the programme had not breached the Australian standards but had been stopped because the station owner did not like it.

Pointing out that Mr Packer's action was very unusual, TVNZ stated that the item was a legitimate news story and that it was appropriate to show some of the scenes so



that viewers could judge Mr Packer's actions for themselves. The most innocuous material had been broadcast and Mr Georgeson's verbal descriptions overstated the contents of the home videos. TVNZ said that the standard requiring good taste had not been breached.

TVNZ also considered that the standard requiring the protection of children had been complied with. It reported that an indication of the item's contents had been given twice to allow parents with concerns to switch off.

As the privacy provision referred to people involved in broadcasts - rather than to viewers - TVNZ believed that it was inapplicable. No aspect of the complaint was upheld.

Mr Georgeson's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 16 October Mr Georgeson referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Describing some of TVNZ's comments as irrelevant, Mr Georgeson maintained that it was inappropriate to show the material displayed in the item at 6.30pm. Noting that he had not seen the advance warning, he said nevertheless that it was irrelevant as "off colour" items should not be broadcast before 8.30pm.

When completing the Authority's Complaint Referral Form, Mr Georgeson said that he had complained to TVNZ as:

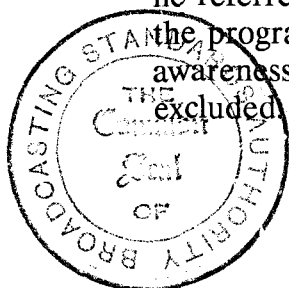
Basically, I do not want them to show smutty, rude, pornographic film when children are watching television at 6.30pm in the evening. I saw what I saw and so did my family.

TVNZ's Response to the Formal Complaint

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 27 October and TVNZ's reply, 18 November 1992.

Referring to the background of the abrupt and unusual manner in which the programme "Australia's Naughtiest Home Videos" was taken off the air, TVNZ maintained that the reasons given in its 7 October letter to Mr Georgeson justified the decision not to uphold his complaint.

TVNZ then responded to some of the specific points made by Mr Georgeson when he referred his complaint to the Authority. It began by emphasising that the parts of the programme broadcast on *Holmes* had been selected with care and with an awareness of the time of the broadcast. "Offensive material" had been deliberately excluded. TVNZ believed that it was relevant to the assessment of the complaint to



point out that the Authority's equivalent body in Australia had declined to uphold the complaint. It acknowledged that the programme was broadcast in Australia at 8.30pm, and, because of that fact, the scenes shown in New Zealand had been chosen with care. It had not included the explicit portrayal of sexual intercourse.

TVNZ cited the trailer and introduction to the item and maintained that viewers were given a clear indication of its contents. Pointing out that discretion was used as to when to broadcast warnings, TVNZ argued that one was not necessary on this occasion, especially in view of the points made in the introduction. It concluded:

The company accepts that Mr Georgeson was offended by this item and regrets that. However, it does not believe that its broadcast contravened the Codes of Broadcasting Practice.

Mr Georgeson's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 24 November Mr Georgeson referred to a remark in TVNZ's letter which, he argued, proved that the item should not have been shown at 6.30pm. He stated:

My complaint is that they should not have shown the programme at 6.30pm when my children were watching at a time when as a parent I consider that we should not have to be poised over the Television set waiting to censor such items.

Why does TVNZ not just admit that they made a mistake and they will be careful in future. Seems simple to me and it is strange that they cannot concede something so obvious. Do people not confess to making errors of judgement these days? Maybe we could respect them more if they did.

