

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 6/93

Dated the 15th day of February 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

J.B. BERTRAM

of Nelson

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

"You're a pack of arseholes" was an expression directed at the jeering crowd by one of the winners of the Bathurst 1000 car race. *One Network News* broadcast on Monday 5 October 1992 between 6.00 - 6.30pm portrayed the winner using that phrase.

Mr Bertram complained to Television New Zealand Ltd, as the broadcaster, that the broadcast of the phrase during family viewing time breached the standard requiring good taste and decency. He believed an apology was appropriate.

Pointing out that the standard required that the context had to be taken into account, TVNZ said that both the jeering and the driver's comment were most unusual. Adding that the term "arsehole" had not been broadcast gratuitously, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr Bertram 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 to which the complaint relates and have read the correspondence (summarised in the Appendix). As is its practice, the



Authority has determined the complaint without a formal hearing.

Mr Bertram complained to TVNZ that the broadcast of a winning driver's remark on *One Network News* on Monday 5 October 1992 between 6.00 - 6.30pm breached the standard requiring good taste and decency. One of the pair of winning drivers of the Australian Bathurst 1000 car race, upon being jeered by many in the crowd while being presented with the winners' trophy, said to them "You're a pack of arseholes".

TVNZ assessed the complaint under standard 2 of the Television Code of Broadcasting Practice which requires 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.

Emphasising the unusual context in which the remark had been made, TVNZ said that it qualified as news and was appropriate in context.

The Authority approached the complaint from the position that the gratuitous broadcast of the term "arsehole", particularly during "General" viewing time, would very likely involve a breach of standard 2. Having accepted that it had not been broadcast gratuitously on the occasion complained about, the Authority, as required by the standard, examined the context before deciding whether the standard had been breached on this occasion.

Some parts of the context of the word's use suggested that it was appropriate while other parts suggested otherwise. For example, on the one hand the race had been difficult and exhausting for a number of reasons and it was a most unusual situation for the winners of a motor race to be jeered while receiving the trophy. On the other hand, the word was broadcast during family viewing time, it had not been preceded by a warning, it could have been "bleeped", and the winners' attitude towards the crowd was apparent from some other comments.

After weighing the contending factors, the Authority decided that it would have been difficult to convey the extent of the ill-feeling if the word had been omitted and it agreed with TVNZ that the situation portrayed was so extraordinary and so exceptional that the broadcast of the word on this occasion did not breach the good taste and decency requirement in standard 2 of the Television Code.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
15 February 1993



Appendix

Mr Bertram's Complaint to Television New Zealand Limited

In a letter dated 10 October 1992, Mr J.B. Bertram of Nelson complained to Television New Zealand Ltd about an item in the sports section of *One Network News* broadcast between 6.00 - 6.30pm on Monday 5 October.

The item had shown the winners of the Bathurst 1000 car race receiving the trophy while being jeered by the spectators. One winner, while addressing the crowd, expressed his disgust at their attitude with the remark "You're a pack of arseholes".

Mr Bertram said that the broadcast of that phrase during family viewing time breached the standard requiring good taste and decency. He believed an apology was necessary. Mr Bertram also expressed his concern that television broadcasts generally were responsible for a decline in standards of language and behaviour in society.

TVNZ's Response to the Formal Complaint

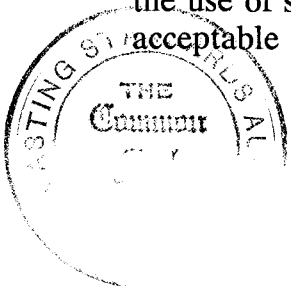
TVNZ advised Mr Bertram of its Complaints Committee's decision in a letter dated 10 November 1992. The complaint had been considered under standard 2 of the Television Code of Broadcasting Practice which requires broadcasters to maintain accepted norms of decency in language which is broadcast, bearing in mind the context in which the language is used.

TVNZ emphasised the context in which the phrase had been used on this occasion. The two drivers in the winning team had been booed and jeered at by a hostile crowd. That was most unusual and the comment from one of the winning drivers, TVNZ maintained, qualified as news and was appropriate in context. Pointing out that the word "arsehole" had not been used gratuitously, TVNZ declined to uphold the complaint.

Mr Bertram's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's decision, in a letter dated 22 November 1992 Mr Bertram referred his complaint to the Authority under s.8(a) of the Broadcasting Act 1989.

Mr Bertram observed out that the item had been broadcast during family viewing time and that it had not been preceded with a warning. He believed that the driver's other comments were sufficient to show his attitude towards the crowd and described the broadcast of the term "arseholes" as an "indulgence" by TVNZ. He argued that the use of such language on television suggested to viewers that it was generally acceptable in society.



TVNZ's Response to the Authority

As is its usual practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 1 December and TVNZ's reply, 14 December.

TVNZ stressed the context of the broadcast which showed the drivers who won a famous motor race being booed and jeered. It added that the race had been difficult because of the heavy rain and one driver had collapsed and died at the wheel of his car. In that context, the comment from an embittered and disappointed winner was newsworthy. TVNZ concluded:

It was a dramatic moment of interchange between the drivers and the normally supportive crowd of motor racing fans. The impact would be lost had the phrase been edited out.

Mr Bertram's Final Comment to the Authority

When asked for a brief comment on TVNZ's reply, in a letter dated 10 January 1993 Mr Bertram maintained that the broadcast of the phrase without a warning during family viewing time breached the good taste and decency standard. He insisted that the driver's reaction to the crowd behaviour was apparent from his other remarks and whole other sports people no doubt used coarse language following a defeat, that was not regarded as sufficient justification for broadcasting those remarks.

