

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 161/93

Dated the 25th day of November 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

BABY RELAX (NZ) LIMITED  
of Auckland

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

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

DECISION

Summary

An item which dealt with a complaint about the unsatisfactory service received by the purchaser of a baby buggy from the distributor, following some damage to the buggy, was broadcast on Channel Two's *Fair Go* between 8.00 - 8.30pm on Wednesday 23 June.

The solicitors for the buggy's distributor, Baby Relax (NZ) Ltd, complained to Television New Zealand Ltd that the item was inaccurate and unbalanced. It was inaccurate on five points including the fact that it reported the costs of repairs as \$30, not \$12, and unbalanced in that it did not disclose among other things that the buggy purchaser featured had previously received satisfactory after-sales service. Overall, the company complained that the item had left the inaccurate impression that the company dealt in sub-standard goods and offered minimal after-sales service.

Maintaining that the point of the item was the poor after-sales service received on this occasion and that the broadcast had focussed on this issue, TVNZ denied that the item was either inaccurate or unbalanced. Dissatisfied with TVNZ's response, the distributor's barrister referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

*For the reasons given below, the Authority upheld the complaint that the item was*



*unbalanced and also upheld aspects of the complaint about inaccuracy. The Authority ordered Fair Go to broadcast a summary of this decision.*

### **Decision**

The members of the Authority have viewed the item complained about (supplied by TVNZ), have read a transcript (supplied by the complainant) and have examined the correspondence (summarised in the Appendix). In view of the comprehensive nature of the material received, the Authority has declined the complainant's request for a formal hearing and has determined the complaint, as is its practice, "on the papers".

### **The Complaint**

A complaint from the purchasers of a baby buggy (Mr and Mrs Phillips) about unsatisfactory after-sales service received from the distributor was examined in an item on Channel Two's *Fair Go* broadcast on Wednesday 23 June. After the broadcast, the company responsible for distributing the buggy in New Zealand complained to TVNZ that the item contained a number of inaccuracies and that it was unbalanced on a number of points. Put succinctly, it said that the item had inaccurately reported the cost of repair as \$30, not \$12, had inaccurately described the distributor as the manufacturer, had given the inaccurate impression that the distributor rather than the retailer was legally responsible for the repairs, had inaccurately stated what the distributor had considered to be the cause of the damage, and had inaccurately given the impression that Mrs Phillips (the purchaser) had spoken to both the company's principals, Mr and Mrs Wicks, whereas she had spoken mainly to Mrs Wicks.

The following matters were raised as aspects of the lack of balance complaint:

- (a) The item did not record that the buggy had been repaired previously and the Phillips had expressed satisfaction with the service at the time.
- (b) *Fair Go* declined to visit the company's premises to examine its service records.
- (c) Company records showed only 1.1% of buggies had had problems with their rear legs and that this inevitably resulted from hanging bags on the handles contrary to the buggy's operating instructions.
- (d) The company had not been allowed to inspect the buggy in question.
- (e) Mrs Wicks had not been given a proper opportunity to appear on the programme.
- (f) An impression was given by the broadcast that the company had no idea of customer service.

(g) *Fair Go's* approach had been to seek a replacement buggy rather than to ascertain the correct facts.



(h) *Fair Go* had shown no interest in the product.

In summary, the complainant claimed that through inaccuracies and lack of balance, the company's principals' efforts to build up the company's reputation based on value for money and excellent after-sales service had been seriously maligned.

### TVNZ's Response

TVNZ assessed the complaint under standards G1 and G6 of the Television Code of Broadcasting Practice. They require broadcasters:

- G1 To be truthful and accurate on points of fact.
- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

In its response to the complaint, TVNZ emphasised from the outset that the item had been about customer relations. It had not been about the quality of the baby buggy. It dealt with the claims about factual inaccuracy by pointing out, first, that the price quoted was \$6 per leg plus \$6 for freight and, in view of the past trouble, Mrs Phillips wanted all four legs replaced which, based on the company's quote, amounted to \$30 ie \$24 plus \$6 freight. The second inaccuracy involved describing the company as a "manufacturer" and TVNZ admitted that it had twice used the term. However, the item had also said that the buggies were imported which ensured that viewers were correctly informed and that any further dispute on the point would become a matter of semantics.

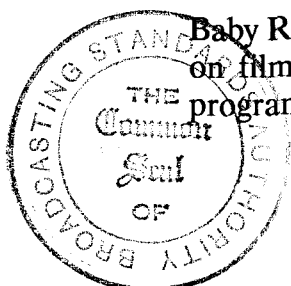
As for the alleged inaccuracy about the retailer's responsibility for the repairs, TVNZ insisted that customer service was the item's theme - not legal responsibility. Indeed, TVNZ added, the item had reported that the buggy was outside the warranty period.

With regard to Mrs Phillips' comment that she had been told by the company that it was the first complaint of its kind and that the damage was probably caused by going over kerbs, TVNZ pointed out that the item had reported her genuine recollections of what she had been told by Mrs Wicks.

The point about whether Mrs Phillips - or her husband - had spoken to Mrs Wicks was covered by Mrs Phillips' use of the term "we spoke".

TVNZ then considered Mr Randerson's (the complainant's barrister) allegations that the balance requirement in standard G6 was breached and described as "extraordinary" the comment that the *Fair Go* reporter had adopted an "over-bearing" manner and had relied on the power of television to force concessions from the company not warranted by the facts. It replied:

Baby Relax Limited was given every opportunity to put its side of the case, either on film or in the studio at Avalon. We deny there is any imbalance in this programme, but the absence of any comment from Baby Relax Limited is entirely



the fault of the company.

The offer to appear on "Fair Go" was not a one-time offer - it was left open for several days and was not taken up.

We submit that "Fair Go" acted responsibly within its brief in screening this complaint. Mrs Phillips - as is evident from the programme - is a mature and sensible person, a quiet non-threatening mother, who was voicing what was, for her, a very real concern. To describe (as Mr Randerson does) the screening of her complaint as an attempt to create "entertaining television" has no basis.

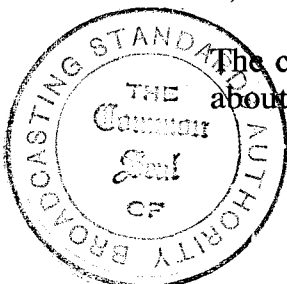
In dealing with the specific examples, TVNZ replied to points (a) - (f) and (h).

- (a) TVNZ disputed the relevance of the previous satisfactory service call. It continued:

This item was not about the previous call - it was about what happened when this particular approach was made to the company. We remind the Authority that the Phillips approached Baby Relax Limited this time because of an incident which, in their judgement, threatened the safety of their child.

- (b) TVNZ questioned the relevance of the company's service records to the particulars of the story broadcast. It acknowledged that the outside of the company's premises had been filmed by a mobile film crew but said that Mrs Wicks was not approached at the time as she previously declined an offer of an interview.
- (c) Again arguing that the item was about the company's attitude, not its service records, TVNZ said that the failure rate of the buggy historically was not relevant.
- (d) Disagreeing that Mr and Mrs Wicks were deprived of an opportunity to inspect the buggy, TVNZ said that they chose not to do so.
- (e) As for the allegation that Mrs Wicks was not given a proper opportunity to appear on camera, TVNZ included a written record of part of the conversation between Mrs Wicks and the *Fair Go* reporter which indicated that the reporter offered Mrs Wicks the choice of how she wished to respond and that she had expressly declined to be filmed. Mrs Wicks was also invited to contact the programme's editor which she had not done.
- (f) As for the alleged implication that the Wicks had no idea about company service, TVNZ said the *Fair Go*, as a consumer watchdog programme, reported Mrs Phillips' reaction to the company's responses which, she and her husband believed, had had a lapse in customer relations. TVNZ added:

The company record of service was not germane to Mrs Phillips' feelings about the way she and her husband were treated on this particular



occasion.

If Mrs Wicks felt that the Phillips' attitude was belligerent, demanding or unreasonable, the option was there for her to make this point on the programme. She chose not to do so.

- (h) In reply to the point that the item did not deal with the product, TVNZ agreed, arguing that the product was largely irrelevant as the item dealt with customer relations.

TVNZ concluded its response:

In summary, we suggest that far from being a "wholly inadequate piece of journalism", the story was in fact a useful and timely illustration of the ways in which businesses can thoughtlessly antagonise customers when a little courtesy and commonsense would have resolved the situation quite amicably.

At risk of irritating through repetition we emphasise again that this was a story about customer relations. It was not a story about baby strollers.

### **The Authority's Ruling**

#### **(i) A procedural point**

The first issue is a procedural one which arose when TVNZ received a detailed complaint from the complainant's barrister (Mr Randerson) before the date upon which the complainant understood the complaint would be considered by TVNZ's Complaints Committee. In fact the complaint had already been dealt with a week earlier. TVNZ objected to the complainant's barrister's implied criticism that, although TVNZ had not been advised that he was acting, he had not been advised of the changed hearing date. As TVNZ explained, the date was changed to allow it to respond more promptly to complaints.

However, the Authority did not agree with TVNZ when it advised the barrister that the Complaints Committee, having determined the complaint, had "no legislative authority to re-open the complaint". As it had received the barrister's letter before the complainant had referred the complaint to the Authority under s.8(1)(a) of the Act, the Authority considered that TVNZ's Complaints Committee could well have advised the complainant that it would revisit the complaint.

Despite the position adopted by TVNZ on this occasion, it has not prejudiced the complainant as the barrister's letter was used as the basis of the referral to the Authority and TVNZ, when it responded to the Authority's request for comment on the complaint, dealt fully with all the points in that letter.



**(ii) The item's theme**

The next issue for the Authority was to decide the item's theme. TVNZ was adamant that customer relations was the issue dealt with. The complainant, after initially focussing on what it alleged was the inadequate way the item had dealt with the product, also accepted that customer relations was the main issue. Whereas for TVNZ that was the item's total theme, the complainant argued that criticism about the company's customer relations reflected also on the quality of the product and, moreover, on the quality of the company.

The Authority agreed with TVNZ that customer relations was the item's focus. However, it was not prepared to concur that customer relations was the only issue canvassed. It believed that a company's customer relations could not be totally divorced from other aspects of its business, especially the product under investigation and probably the company's general image. This conclusion was taken into account when determining the other points raised by the complaint.

In considering the five aspects of alleged inaccuracy and the nine matters of alleged imbalance, the Authority proceeded from the following background:

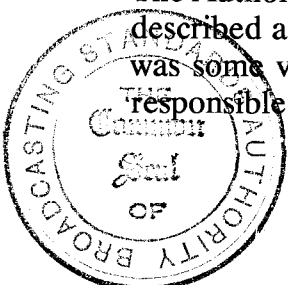
The owner of a baby buggy with a broken back leg approached the distributor outside the warranty period (given by the distributor) for repair. It was not clear how the damage occurred. The owner said the distributor stated that it was caused by going over kerbs. The distributor denied that comment and maintained that it was probably caused by carrying heavy bags on the handles contrary to the buggy's operating instructions. The buggy had been previously repaired by the distributor apparently to the owner's satisfaction.

After some exchanges which it was suggested were not always friendly between the owner and the distributor, repairs were agreed on at \$6 per leg plus \$6 freight. To the distributor that meant \$12 (one leg plus freight) while to the owner - and quoted on the item - it meant \$30 for four legs plus freight.

**(iii) The factual inaccuracies**

The first factual complaint was the item's report that the repairs would cost \$30 rather than \$12. As there was no indication presented in the programme as to how the costs were assessed for a buggy with a retail price given as \$90, the Authority concluded that as the company quoted a repair cost formula which it reasonably expected would produce a cost of \$12, the amount for repairs (\$30) which was broadcast breached the requirement for factual accuracy in standard G1. While the amounts involved in monetary terms might not be significant, the difference between \$12 and \$30 is reasonably substantial when the total price of the article was \$90.

The Authority also upheld the complaint about factual inaccuracy when the company was described as the manufacturer of the baby buggy and the Authority accepted that there was some validity in the argument that a manufacturer could be expected to be more responsible for a deficient product than a distributor. In addition to agreeing that the



difference between a distributor and a manufacturer was more than one of semantics, as TVNZ claimed, the Authority also accepted the complainant's point that the use of the description might suggest carelessness on TVNZ's part, particularly as the programme also said the buggies were imported and put together in New Zealand whereas they are imported fully assembled. On that basis, the Authority was of the opinion that it was a matter which related to the item's balance as well as to its accuracy.

The Authority did not entirely agree with the complainant's third factual point that the broadcast gave the impression that Baby Relax (NZ) Ltd was legally responsible for the repairs. *Fair Go* did mention that the product was out of warranty. However, in the Authority's view, it was apparent that *Fair Go* had decided that the company was at least morally responsible, as was evidenced by the item's conclusion that "this was Baby Relax's problem from the start". That comment was preceded with the observation:

Good on Farmers for coming to the party when they really didn't have to.

As Farmers' policy, it is understood, is to give a one-year warranty on goods such as buggies, the comment about Farmers would seem to have been inaccurate. However, that was not an aspect of the complaint. Nevertheless, the Authority considered that it was a matter to be taken into account when the item's balance was determined.

The fourth alleged factual inaccuracy was the report that the damage was caused by travelling over kerbs. The Authority accepted TVNZ's argument that the item reported Mrs Phillips' recollection and the requirement in standard G1 was thus not contravened. However, the absence of any comment on this point from Baby Relax (NZ) Ltd was another matter taken into consideration when the item's balance was determined.

The Authority did not uphold the fifth alleged inaccuracy over which individuals had taken part in the preliminary discussions over the item as it was unable to see what relevant factual inaccuracy was raised by the debate over who was involved.

**(iv) The requirement for balance - the item's overall tone**

The Authority does not intend to proceed through each of the nine specific alleged breaches of balance. Under the balance requirement the specific points are usually offered as examples and a decision about balance almost inevitably involves an assessment of an item's tone.

The Authority decided that the *Fair Go* item's overall tone assumed that Baby Relax (NZ) Ltd was morally responsible for the repair of the baby buggy. *Fair Go*, as TVNZ noted, is a customer advocacy programme, and it presented a case in which responsibility for the buggy's repairs, if not its replacement, was firmly placed on that company.

TVNZ argued that it was then the complainant company's responsibility to respond to the complaint and that *Fair Go* had fulfilled its responsibilities by making the opportunity available to do so.



**(v) The requirement for balance - the opportunity to respond**

To ensure clarity about the issues involved with this complaint, the Authority repeats that standard G6 requires broadcasters to show balance, impartiality and fairness.

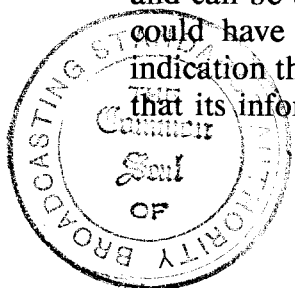
When applying this standard, the Authority occasionally refers to s.4(1)(d) of the Broadcasting Act 1989 which, as it is complementary, is read as an introduction of standard G6. Section 4(1)(d) requires broadcasters to maintain standards consistent with:

- (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

In the Authority's view, the balance issues were the crux of the complaint. TVNZ argued adamantly that its obligation to make "reasonable efforts" and to give "reasonable opportunities" to Baby Relax NZ Ltd had been met. It cited extracts from a telephone conversation between *Fair Go's* reporter and Mrs Wicks in which Mrs Wicks declined to participate in an on-camera interview and in which she was advised that, if dissatisfied with any part of the process, she could speak to the programme's editor. That invitation was not followed up. Having invited the complainant company's representatives to appear on the programme or be interviewed on-camera, TVNZ maintained that it had complied with the requirement for balance.

The complainant was adamant that TVNZ had not met its obligation to allow the company a reasonable opportunity to respond before the broadcast. In the last conversation between Mrs Wicks and the reporter, Mrs Wicks left the *Fair Go* reporter with an invitation to visit the company in Auckland before the broadcast, to examine the company's complaints record and to speak further with Mrs Wicks. Mrs Wicks believed she would at least be telephoned after *Fair Go* had finished its other enquiries and before the item was broadcast. She submitted that *Fair Go* did not follow through on its advice that it would telephone her after completing the investigation and before the broadcast. For its part, *Fair Go* maintained that Mrs Wicks had been given the transmission date of the programme when given the deadline by which to contact the editor if there were concerns she wished to raise. TVNZ did not accept the invitation to visit the company in Auckland, noting that most of the records which could be examined were irrelevant to the item's topic.

In reaching a conclusion on this dispute, the Authority considered that it was necessary to take into account the context of the broadcast and, in particular, the nature of the *Fair Go* programme. *Fair Go* understandably takes pride in its role as an advocate for the consumer. The Authority is aware that business owners, especially those with little or no media experience, can be intimidated by the prospect of an appearance on *Fair Go* and can be apprehensive about any interview on-camera. Perhaps a written statement could have been supplied by Baby Relax in place of an interview but there is no indication that this option was raised by *Fair Go*. Although *Fair Go* apparently believed that its information-gathering process was complete prior to the broadcast of the item





complained about, Mrs Wicks expected at least a telephone call and possibly a face-to-face interview (not on-camera) at which she would have the opportunity to present further her side of the dispute. On the other hand, TVNZ felt it had left the door open for Baby Relax to make some communication in its own defence if it wished to do so.

The Authority cannot comment, for it has contradictory statements only, on the allegation that *Fair Go's* reporter's attitude was "over-bearing" or that she was negative in her approach. However, the Authority believed that the facts presented to viewers built up a convincing case that the company should repair or replace the buggy free of charge and that the company's customer relations were poor. Nevertheless, the facts presented or omitted included the following points:

- \* little weight was given to the fact that the buggy was out of the complainant company's warranty period although apparently still under the retailer's warranty. Furthermore, although Farmers' standard 12 months warranty was not mentioned, the retailer was praised for the action it took in replacing the buggy while the complainant company was criticised;
- \* Mrs Phillips' recollection of the distributor's comment about the cause of the damage reflected unfavourably on that company yet was neither verified or contradicted by comments obtained directly from the distributor;
- \* the fact that the buggy had earlier been repaired free of charge to the Phillips' satisfaction was ignored although it would have shown that the company's customer relations with the Phillips had been satisfactory in the past.

The Authority believed that an inspection of the company's records was probably not warranted as that was outside of the scope of an investigation in this particular case.

In conclusion, the Authority decided that not enough effort had been made by *Fair Go* to ascertain the complete truth about the complaint it received. *Fair Go*, it appeared, accepted the Phillips' story at face value, assumed the company was in the wrong and did not make sufficient effort to determine the true situation which was that Baby Relax was not legally obliged to fix its product after the warranty had expired. As *Fair Go* can be rigorous, and vigorous, when assigning culpability, the complainant company expected that the programme would apply the same standards when investigating this story before reaching a decision about fault.

It would seem that Baby Relax contributed to its own problems by declining to appear on-camera. However, the Authority is firmly of the view that, because of its role as an advocate for the consumer, *Fair Go* must bear the concomitant responsibility of ensuring that the balance aspects of the standards are complied with thoroughly at all times. One aspect of that responsibility on this occasion meant, as the complainant company's barrister put it:

Reluctance to appear on camera should not be taken as reluctance to comment.

Accepting that comment as being particularly appropriate to the present complaint, the



Authority decided that TVNZ had not made "reasonable efforts" to allow Baby Relax (NZ) Ltd to answer the accusations presented. Accordingly, it concluded, TVNZ contravened standard G6 of the Code of Broadcasting Practice.

**For the reasons set forth above, the Authority upholds the complaint that the broadcast by Television New Zealand Ltd of an item on *Fair Go* on 23 June 1993 breached standard G6 of the Television Code of Broadcasting Practice in that TVNZ did not make reasonable efforts to present balancing material in response to the statements made by the purchasers of a buggy imported by the complainant company.**

**The Authority also upholds the complaint that the broadcast breached standard G1 of the Code in that it did not broadcast accurately the costs of the repair to the damaged buggy or the company's role as distributor rather than manufacturer.**

**The Authority declines to uphold any other aspect of the complaint.**

Having upheld a complaint, the Authority may impose an order under s.13(1) of the Act. In view of the item's lack of balance and inaccuracy, the Authority decided an order would be appropriate.

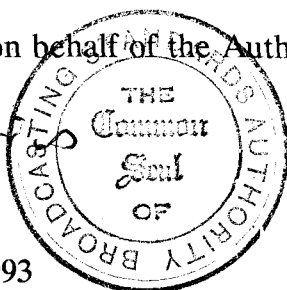
**Pursuant to s.13(1) of the Broadcasting Act 1989, the Authority orders Television New Zealand Ltd to broadcast a summary of this decision approved by the Authority about the item on *Fair Go* on 23 June 1993. The statement shall be broadcast just prior to, during or immediately after the broadcast of *Fair Go* on 1 or 8 December 1993.**

**The statement will include the point that the item did not make reasonable efforts to present balancing material. In particular it shall state little weight was given to the fact that the buggy which *Fair Go* indicated should have been fixed was out of warranty and that the item did not report the fact that the buggy had earlier been repaired free of charge to the purchasers' satisfaction.**

Signed for and on behalf of the Authority

JRM

J. R. Morris  
25 November 1993



## Appendix

### Baby Relax (NZ) Limited's Complaint to Television New Zealand Limited

In a letter dated 29 June 1993, Mrs P.M. Orr of the legal firm Paddy Orr & Co, solicitors for Baby Relax (NZ) Ltd, complained to Television New Zealand Ltd on behalf of its client about an item on *Fair Go* broadcast on Channel Two between 8.00 - 8.30pm on 23 June 1993.

Mrs Orr complained first that the item about its client was unbalanced in that it did not cover the extent to which the firm carried out after-sales services both in an outside the warranty period.

Secondly, the facts presented were inaccurate by failing to disclose the after-sales service previously received by the purchaser from the distributor. The letter added:

Our clients consider that the overall impression left by the programme was that the company manufactures (it does not manufacture) sub-standard goods and offers little or no after-sales service. Further, the directors evinced little or no interest in the complainant [purchaser's] problems.

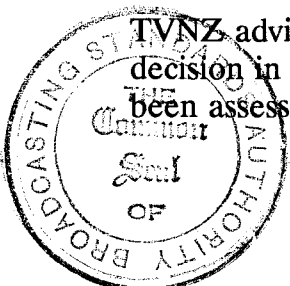
In elaborating on the complaint, the complainant [company's] solicitor recorded that the *Fair Go* team had declined to examine the company's meticulous records. Further, it had inaccurately stated that the company manufactured buggies whereas the buggies were imported fully made up and distributed by the company as a cheap lightweight baby buggy. A few complaints had been received - not none as the programme reported - damage was usually caused by carrying heavy shopping bags on the handles - not going over bumps as was stated - and the price quoted for repair was \$12 (\$6 plus \$6 for freight) - not \$30 as he reported in the broadcast.

The programme's omissions included not reporting a visit to the company by the purchaser one month after purchasing the buggy and repair without charge for damage caused by folding it incorrectly which was not covered by warranty.

Referring to the hard work done by the company's directors to build a reputation based on value for money and after-sales service, the letter of complaint expressed concern that the company's reputation was damaged by the broadcast. The letter asked *Fair Go* to broadcast an item which corrected the inaccuracies and advised viewers of the earlier excellent after-sales service received by the dissatisfied purchaser featured. An apology was also considered appropriate.

### TVNZ's Response to the Formal Complaint

TVNZ advised the complainant company's solicitors of its Complaints Committee's decision in a letter dated 22 July 1993 in which it reported that the complaint had been assessed under the standards requiring accuracy and balance (standards G1 and



G6 of the Television Code of Broadcasting Practice).

The complaint about the broadcast, TVNZ began, missed the point of the story. TVNZ explained:

It told of an unhappy customer who felt she had been very poorly treated by Baby Relax Limited - and that a point of principle was involved. The story remained sharply focused on that issue throughout, the point emphasised being that a negative attitude towards customers is an important issue for consumers.

In the context of such a finely focussed piece, it seemed to the Committee that much of the content of your letter was not strictly relevant. However, it proceeded to address what it judged to be the main points.

In the following list, the Authority has followed TVNZ's division of the complaint into seven issues and has used TVNZ's headings.

1. The overall impression left by the programme was that the company was a manufacturer rather than a distributor.

Acknowledging that Baby Relax was called a manufacturer on two occasions, TVNZ said that the item had nevertheless stated clearly that the buggies were imported and put together in Auckland. That, TVNZ added, was an accurate description and any dispute over the word "manufacturer", it added, was one of semantics.

2. The impression that the goods were substandard.

TVNZ accepted that the product was described by the complainant as not being of high quality but denied that the programme had made any judgment about quality. Furthermore, TVNZ added, service was the matter at issue and quality, an incidental matter, was only introduced to explain the purchaser's approach to the company.

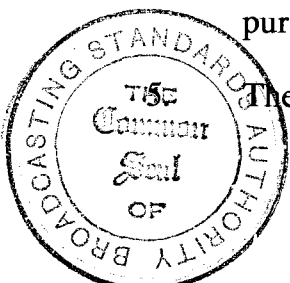
3. The impression that the directors evinced little or no interest in the complainant [purchaser's] problems.

That issue, TVNZ insisted, was the crux of the broadcast and the item showed how a customer had been shabbily treated.

4. The *Fair Go* team chose not to accept an invitation to inspect company records.

TVNZ denied that such an invitation was issued and, in addition, failed to see the relevance of an inspection as the item focussed on the treatment the purchaser received on one occasion from the company.

The programme untruthfully stated the company said this was the first



complaint received.

Denying the allegation, TVNZ stated that the purchaser passed on the comment she had received from the company.

6. The cost of repairs.

The company quoted \$6 per leg and in view of past trouble, the purchaser wanted all four legs replaced which together with freight of \$6 amounted to \$30.00.

7. Omission of earlier repair.

As the item dealt with a specific incident, TVNZ maintained that the earlier experience was not relevant. It continued:

The Committee does not share the view implied in your letter that fair treatment of a customer on one occasion can in some way be offered as mitigation for a totally separate incident in which the customer may receive a less than satisfactory hearing.

The complaint was not upheld.

**Further Correspondence**

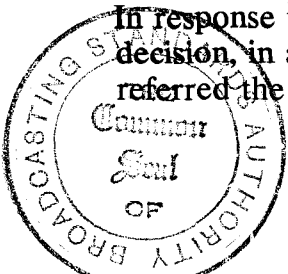
TVNZ initially advised the complainant company's solicitors that the complaint would be considered at the meeting of its Complaints Committee on 29 July 1993. However, because of the volume of complaints, it was dealt with at an earlier meeting on 20 July.

On 27 July and before he had received TVNZ's report of the Complaints Committee's decision contained in a letter dated 22 July, the barrister for Baby Relax (NZ) Ltd (AP Randerson) faxed to TVNZ a detailed complaint he had prepared on the instructions of the company's solicitors. It listed five factual inaccuracies in breach of standard G1 and nine matters dealt with in the programme which contravened the requirement for balance, impartiality and fairness in standard G6.

In response to the company's barrister's letter, TVNZ said that it had no legislative authority to re-open the complaint and the complainant's further action involved a referral to the Broadcasting Standards Authority.

**Baby Relax (NZ) Ltd's Complaint to the Broadcasting Standards Authority**

In response to TVNZ's reply and dissatisfied with the Complaints Committee's decision, in a letter dated 6 August 1993 AP Randerson, the complainant's barrister, referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the



Broadcasting Act 1989. Dissatisfaction was expressed that TVNZ had not been concerned about factual accuracy and had not allowed the company a fair opportunity to put its point of view.

The details of the referral were contained in his letter to TVNZ dated 27 July which TVNZ had declined to consider. The factual inaccuracies alleged were:

1. Reporting the costs of repair as \$30 when the company had advised the cost was \$12 - a "most significant" factual inaccuracy.
2. Reporting that the company was the manufacturer of the buggy, rather than the distributor, of which *Fair Go* would have been aware "had they bothered to investigate the matter properly".
3. Broadcasting the impression that it was the company's responsibility to repair the buggy, the letter continued, was legally incorrect. The vendor, not the distributor, bore the legal responsibility under the warranty.
4. The company did not state either that it was the first complaint received about that style of buggy or that going up kerbs was the cause of the damage.
5. The impression that the purchaser had spoken to the company's Mr Wicks was incorrect as her principal discussions had been with Mrs Wicks.

After expressing concern about the "overwhelming" manner in which a *Fair Go* staff member had spoken to Mrs Wicks, the nine aspects of the complaint which alleged a lack of balance were listed.

1. There was no mention of an earlier repair to the buggy at which time the purchasers had expressed satisfaction with the service.
2. Despite the company's invitation, *Fair Go's* staff declined to visit the company's premises to view the service records. There was ample time during which TVNZ filmed the outside of the company's premises but failed to conduct a personal interview.
3. Company records indicated that only 1.1% of the buggies sold during nearly three years have had a problem with their rear legs. Such damage inevitably followed failure to follow the operating instructions that shopping bags should not be hung from the handles. An explanation of this point was necessary to the item's balance.
4. The company had not been allowed to inspect the buggy in question. It had done so since the broadcast and other damage to it suggested that the heavy shopping bags had been hung from the handles in contravention of the operating instructions.

Mrs Wicks had not been given a proper opportunity to appear on the



programme when the *Fair Go* staff member put the matter in the following way:

You wouldn't want to appear on the programme would you?

6. Balance required that the buggy be inspected by the both the company and an independent inspector. Neither had occurred however.
7. By broadcasting the impression that the company had no idea of customer service, *Fair Go* had not given it the opportunity to report that most complaints were dealt with satisfactorily. The item which was broadcast appeared to accept uncritically the purchaser's husband's attitude which had, in fact, in parts been belligerent and unco-operative.
8. *Fair Go's* approach had been to seek a replacement buggy rather than to ascertain the correct facts.
9. *Fair Go* showed no interest in the product.

The barrister's letter continued:

Looked at overall, it is my view that this was a wholly inadequate piece of journalism which completely failed to meet the relevant programme standards and was seriously defamatory of the company and Mr and Mrs Wicks who have worked hard over a significant period to build up the company's reputation for products representing good value for money with excellent after sales service.

A broadcast correcting the factual inaccuracies, presenting the company's position and apologising to the company, along with compensation, was suggested as the appropriate remedy.

#### TVNZ Response to the Broadcasting Standards Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 13 August 1993 and TVNZ's reply, 19 August.

TVNZ dealt first with what it described as Mr Randerson's "implied criticism" that it had dealt with the formal complaint nine days before it had initially indicated that it would do so. Pointing out that the Complaints Committee's meeting had been rescheduled to deal with the volume of complaints, that three weeks had passed since the complaint had been received from the company's solicitors and that it had not been advised of the barrister's involvement, TVNZ said that it aimed to deal with complaints and to respond to the complainants' concerns "at the earliest possible opportunity". It added:

It seems to us that the letter which was received from Mr Randerson on 27



July (seven days after the complaint was determined) does not add a great deal to the original complaint. However, in the letter that follows we will respond on the basis of Mr Randerson's letter to ensure that he is satisfied that his complaint to us had been properly addressed.

From the outset, TVNZ emphasised that the item was about customer relations - not about a baby stroller - as had been evident from the item's opening words:

"A lot of letters we get at FAIR GO might never have been written if someone, somewhere, in some company had thought just a little bit about customer relations."

TVNZ disputed both the relevance of the company's records to the point made in the broadcast and the reference to filming outside the premises. It maintained that the company representatives had had every chance to inspect the buggy and that Mrs Wicks declined to appear on the programme. Noting that the points about the operating instructions or the company's record of service did not acknowledge the item's theme about customer service on this particular occasion, TVNZ said that Mrs Wicks could have expressed her concern about the purchaser's husband's attitude had she not declined to appear on the programme.

Arguing that a formal hearing involving a barrister would mean unnecessary formality, TVNZ concluded:

In summary, we suggest that far from being a "wholly inadequate piece of journalism" the story was in fact a useful and timely illustration of the ways in which business can thoughtlessly antagonise customers when a little courtesy and commonsense would have resolved the situation quite amicably.

At risk of irritating through repetition we emphasise again that this was a story about customer relations. It was not a story about baby strollers.

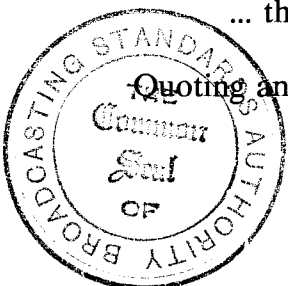
### **Baby Relax (NZ) Ltd's Final Comment to the Authority**

When asked whether he wanted to respond to TVNZ's reply, in a letter dated 1 September 1993 Mr Randerson as the complainant's barrister said he had not intended to criticise TVNZ for bringing forward the date of its Complaints Committee's meeting. It was mentioned to show that his submission had not been considered by the Committee.

In response to TVNZ's argument that "customer relations" was the item's theme, Mr Randerson said that although that might have been TVNZ's approach, it was inevitable:

... that the product itself comes under the spotlight.

Quoting an excerpt from the item's transcript, Mr Randerson stated:





It is idle to suggest that the programme was not also about the inadequacy of the stroller.

If TVNZ allowed customers to complain on national television, responsible journalism and compliance with the standards meant that the company affected had to have an adequate opportunity to respond. Whether or not it took up the opportunity to make a personal appearance, the company's side of events should have been both investigated and represented on television properly. "Reluctance to appear on camera", he added, "should not be taken as a reluctance to comment".

As another point in response to TVNZ's argument that it was the company's fault that its view was not included in the item, Mr Randerson said the *Fair Go* staff member had been invited to go to Auckland to discuss the matter with Mrs Wicks and to view the company's records but that offer was not taken up although a crew visited the premises to film the outside.

Mr Randerson described TVNZ's belief, that it was justified to broadcast an item about one isolated complaint, as unbalanced in view of the facts, first, the buggy had been repaired satisfactorily previously and the company's records showed competence in dealing with complaints. Maintaining that the buggy should have been inspected by the company and an independent expert in the interests of responsible journalism, Mr Randerson observed:

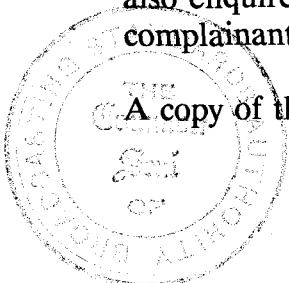
It is regrettable and in breach of the broadcasting standards for TVNZ to adopt the apparent stance of broadcasting complaints without any adequate investigation of the circumstances and then criticising the supplier because they do not immediately submit to an unjustified demand to replace the entire product free of charge. In my view, this is an abuse of the television medium.

### Further Correspondence

TVNZ responded to the complainant's final comment on two points in a letter dated 8 September 1993. The premises had been filmed, it wrote, by an Auckland based crew on other local assignments - not by a visiting *Fair Go* team. Secondly, contrary to the comment in Mr Randerson's letter, TVNZ repeated a point made earlier and it denied that *Fair Go's* actions were part of a scheme to have the purchaser's buggy replaced.

The Authority asked TVNZ for further information of one point. Noting the complainant's barrister's contention that Mrs Wicks had not been given an opportunity to appear on camera to which TVNZ in response had provided a record of the conversation between the *Fair Go* reporter and Mrs Wicks, the Authority asked what was meant by the reference in the record to "a bit of a chat on Tuesday"? It also enquired whether there was any further contact between *Fair Go* and the complainant company.

A copy of the Authority's letter to TVNZ was sent to the complainant's barrister who



pointed out, before the Authority received TVNZ's reply, that *Fair Go* had also promised to telephone Mrs Wicks after a discussion with the retailer (Farmers) but had failed to do so. The barrister argued that it added to the desirability of the Authority obtaining transcripts of all conversations between *Fair Go* and his client.

TVNZ responded to the Authority's request in a letter dated 28 September 1993. The reference to "bit of a chat" the following Tuesday, it wrote, referred to a telephone conversation on Thursday 17 June when the reporter was planning a visit to Auckland at which time she had hoped to talk with Mrs Wicks face-to-face and, furthermore, tape an interview. TVNZ added:

As you will note Ms Clarke [from *Fair Go*] did not issue an invitation for any specific time on the following Tuesday - and the response from Mrs Wicks made any further discussion pointless.

We emphasise that Mrs Wicks was repeatedly invited to appear, either in a pre-taped interview which could be done in her office in Auckland, or in the studio at Lower Hutt.

TVNZ provided the following account of its efforts and Mrs Wicks' response to them:

There was no question of Mrs Wicks being willing to appear but unavailable because of "Fair Go's" schedule. "Fair Go" made it clear that Mrs Wicks would be accommodated if she wished to appear and she was urged to do so. (Note in our response dated 19 August Ms Clarke's words "I would very much like to come and get your side of the story").

It is the reporter's recollection that in the course of the first conversation on 17 June she did indeed tell Mrs Wicks she would be getting back to her. The reporter called Mrs Wicks again that day and was told by Mrs Wicks she wanted nothing to do with either a studio or pre-taped interview. "I don't want to appear on your programme at all" she said.

As stated in our response Mrs Wicks was left with an open offer of an interview, and an invitation to contact the editor of "Fair Go" to discuss any concerns. She chose neither course.

"Fair Go" did not contact Mrs Wicks again because her rejection of an interview as quoted above appeared final and definite. The invitation she was left with to make further contact with the programme was not taken up.

In a letter on the company's behalf dated 11 October 1993, although the Wicks' were both overseas, Mr Randerson recorded the following sequence of events.

1. Mrs Wicks had two conversations with *Fair Go's* reporter on 17 June and during the first she had declined to appear on camera but had invited the reporter to Auckland to view the company's records and to answer the complaint about alleged lack of service.



2. The first conversation was interrupted by a phone call from Farmers which offered to replace the buggy. Following that advice, *Fair Go's* reporter said she intended to travel to Hamilton to record an interview and would ring Mrs Wicks after the visit to Farmers.
3. TVNZ did not ring back before the programme was broadcast. At all times, Mr Randerson wrote, the invitations to the reporter to visit Auckland in order to interview Mrs Wicks and to examine the company's records remained open. The company was not advised of the date of the broadcast.

Mr Randerson concluded:

It seems to be quite clear that TVNZ have taken Mrs Wicks' unwillingness to appear on camera as a refusal to discuss the matter at all. This was most certainly not the case according to my instructions. I reiterate my earlier comments that the fact that a person or company against whom a complaint has been made is not willing to appear on camera should not be taken as exonerating the news media from obtaining a proper account of the company's position and broadcasting any relevant opposing comments in a proper and balanced manner.

TVNZ responded to each point in a letter dated 13 October 1993.

1. As the item focussed on a single episode of customer service, the company's records were not relevant. TVNZ continued:

Mrs Wicks was interviewed on the telephone but declined to appear on camera - either in a pre-recorded or studio interview. She did not issue an invitation for any other form of interview.

2. Mrs Wicks declined to appear on the programme or contact the programme's editor.
3. Mrs Wicks was advised of transmission date when given the deadline by which to contact the editor.

TVNZ concluded:

It is quite incorrect to imply (as Mr Randerson does on Page 2 of his letter) that Mrs Wicks' refusal to appear on camera deprived her of an opportunity to put her side of the story. Mrs Wicks and Ms Clarke (the reporter) discussed the entire situation at length on the telephone and that discussion was used as the basis for a fair and accurate report.

Mr Randerson's next letter, dated 28 October 1993, reported that the Wicks, having returned to New Zealand, confirmed that *Fair Go's* reporter had not telephoned back as promised, had said she was not interested in the Wicks' side of the story, and that the Wicks were unaware of the date of broadcast until the item was actually screened.

