

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 43/93

Dated the 19th day of April 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

COLIN EDWARDS

of Whangarei

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

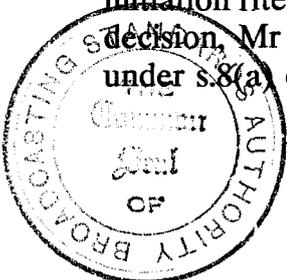
DECISION

Introduction

The violence inflicted as part of the initiation rites of some Filipino gangs in San Diego was covered in an item broadcast on *One Network News* at 6.00pm on Saturday 14 November 1992.

Mr Edwards complained to Television New Zealand Ltd that the item was of no relevance to New Zealand and that it repetitively showed the gratuitous use of violence. He described the broadcast as irresponsible.

While acknowledging that it had been inappropriate to broadcast the item at 6.00pm, TVNZ maintained that it was of public interest because gang activity was rife in New Zealand and that the violence depicted was designed to emphasise the brutality of the initiation rites. It declined to uphold Mr Edwards' complaint. Dissatisfied with TVNZ's decision, Mr Edwards 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). Mr Edwards argued that the Authority should hold a hearing to allow the parties to view the item again and to present their arguments fully and fairly. As it has viewed the item and as the issues raised in the complaint are comprehensively covered in the correspondence, the Authority has decided to follow its usual practice and to determine the complaint without a formal hearing. In following this procedure, the Authority wishes to assure Mr Edwards that his complaint, like all others, has been fully and fairly considered.

Mr Edwards complained to TVNZ about an item on *One Network News* broadcast between 6.00 - 6.30pm on Saturday 14 November 1992. Using footage which was described in a caption on the screen as amateur, the item showed the beating inflicted on an initiate by members of a Filipino gang in San Diego. Mr Edwards argued that the portrayal of the violence was repetitive and that it had been screened gratuitously for the purposes of heightened impact.

TVNZ assessed the complaint under standards 22 and 23 of the Television Code of Broadcasting Practice which read:

22. The gratuitous use of violence for the purposes of heightened impact is to be avoided.
23. Ingenious devices and unfamiliar methods of inflicting pain or injury - particularly if capable of easy imitation - should not be shown without the most careful consideration.

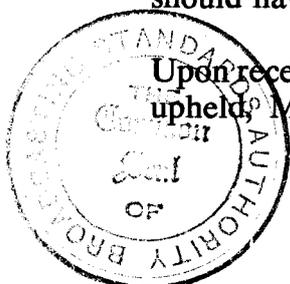
Explaining that New Zealand was part of the global village and that it was possible that gangs in New Zealand could emulate the activities of gangs in Southern California, TVNZ maintained that the broadcast was relevant to the general viewer as an indication of developments in gang behaviour overseas and did not include the gratuitous use of violence for the purposes of heightened impact. Furthermore, although the behaviour was brutal, it did not involve the use of ingenious devices in contravention of standard 23.

TVNZ added that although the issue was not raised in this complaint, it had considered another complaint about the programme made under standard 18 which requires broadcasters:

18. To be mindful of the effect any programme may have on children during their generally accepted viewing periods.

On the basis that the item did not have an immediate deadline, TVNZ accepted that it should have been screened in a late news broadcast during the week.

Upon receiving TVNZ's reply that his complaint under standards 22 and 23 had not been upheld, Mr Edwards referred his complaint to the Authority on the basis that the



broadcast contained the repetitive portrayal of violence for the purposes of heightened impact. Such depictions, he added, could well invite copy-cat behaviour.

In its report to the Authority, TVNZ acknowledged that it had upheld a complaint about the broadcast of the item from another complainant who had cited standard 18. In regard to Mr Edwards' complaint under standard 22, TVNZ maintained that the violent scenes did not repeat the same material but were part of an on-going sequence interspersed with other material to ensure that the broadcast did not contain unremitting horror. TVNZ stated that the violence was not depicted gratuitously contrary to standard 22. Mr Edwards, in his final comment to the Authority, argued that the repetitions of similar scenes amounted to a broadcast containing gratuitous violence.

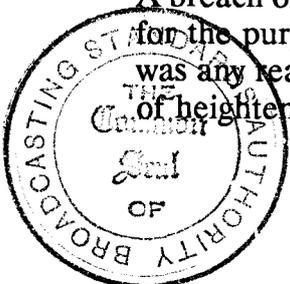
In assessing the complaint, the Authority decided that it was referred to it under standard 22 - the gratuitous use of violence for the purposes of heightened impact - and that Mr Edwards was particularly concerned about the repetitive nature of the violent incidents portrayed. He was not concerned whether the incidents were identical or merely like each other and, the Authority would add, it was a distinction which it considered irrelevant in view of the very similar nature of the violent behaviour portrayed.

The Authority also noted that the first portrayal of the violent initiation ceremony was by far the longest and that the repetitions were relatively brief. For that reason, the Authority acknowledged TVNZ's reference to the ameliorating impact of the other material presented. However, because the initial portrayal was lengthy, the Authority considered that the subsequent depictions, while brief, nevertheless had a powerful impact by reinforcing the lengthy introductory portrayal.

The Authority would also record its agreement that the broadcast of the item on the news at 6.00pm, as TVNZ accepted, breached standard 18 requiring broadcasters to be mindful of the effect of a programme on children during their usual viewing periods. Indeed, because of the unremitting nature of the violence portrayed in the item, the Authority considered that the broadcast in the early evening amounted to a blatant breach of that standard.

The Authority, however, was required to assess the complaint under standard 22 and, having dismissed as irrelevant whether or not the item involved the repetition of one beating or an on-going initiation ceremony, it considered whether the length of time during which the violence was portrayed was gratuitous. In examining this issue the Authority acknowledged TVNZ's point that the violence ("unremitting horror" to use its phrase) was continual but not continuous. Nevertheless, it did involve five repetitive sequences of a similar type of horrific beating of marginal relevance to New Zealand and, the Authority decided, it was gratuitous to return time and time again to the violence depicted.

A breach of the standard requires not only the gratuitous use of violence, but also its use for the purposes of heightened impact. The Authority was unable to accept that there was any reason for the repetitive screenings of the violence other than for the purposes of heightened impact.



For the reasons set forth above, the Authority upholds the complaint that the broadcast by Television New Zealand Ltd of an item about the initiation rites of Filipino gangs in San Diego broadcast on *One Network News* on 14 November breached standard 22 of the Television Code of Broadcasting Practice.

Having upheld a complaint, the Authority may make an order under s.13(1) of the Broadcasting Act 1989. Although consideration was given to an order requiring TVNZ to broadcast a summary of this decision on *One Network News* in view of the gratuitously violent nature of the item broadcast, the Authority noted that TVNZ news staff, after the standard 18 complaint had been upheld, had been advised that the item was broadcast at an inappropriate time. Accordingly, in these circumstances, the Authority decided not to impose an order on this occasion.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



19 April 1993

Appendix

Mr Edwards' Complaint to Television New Zealand Limited

In a letter dated 20 November 1992, Mr Colin Edwards of Whangarei complained to Television New Zealand Ltd about an item broadcast on *One Network News* at 6.00pm on Saturday 14 November.

Noting that the item dealt with the initiation ceremonies for Filipino gangs in the United States, Mr Edwards stated that the item was not "news" which was relevant to New Zealand. The item, he continued, showed repeated scenes of youths beating a member of their own gang. Arguing that there was no reason for the beating to be shown at all, Mr Edwards maintained the item showed the repetitive and gratuitous use of violence for the purpose of heightened impact.

Furthermore, he said, the scenes invited youths to copy the models portrayed and, he concluded:

I suggest that the inclusion of this item was grossly irresponsible and neither the content nor context had any redeeming features or news value.

TVNZ's Response to the Formal Complaint

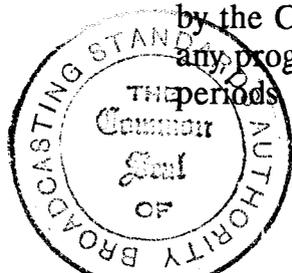
TVNZ advised Mr Edwards of its Complaints Committee's decision in a letter dated 21 December 1992. It advised him that the item had been assessed under standards 22 and 23 of the Television Code of Broadcasting Practice.

Pointing out that gang activity was rife in New Zealand and that trends spread rapidly throughout the world, TVNZ argued that New Zealanders had a right to know of developments elsewhere and that the item was screened in the public interest. Furthermore, in view of the developing "global village" concept, it was not possible to isolate New Zealanders from events, especially in places with which New Zealand had familiarity such as Southern California. Accordingly, TVNZ said, the broadcast of the violence was not gratuitous and had not been included for heightened impact.

Although the behaviour shown was brutal, TVNZ acknowledged, it had not involved ingenious devices contrary to the standard prohibiting such broadcasts. Mr Edwards' complaint was not upheld.

TVNZ added:

In fairness, I must tell you that another complainant specifically quoted Code 18 in his objection to this item and as a consequence had his complaint upheld by the Committee. Code 18 requires broadcasters to be mindful of the effect any programme may have on children during their generally accepted viewing periods. It was the Committee's view that although the item was both



newsworthy and relevant, it was timeless in nature and would find a more appropriate outlet in a late news broadcast on a weekday.

News staff have been counselled concerning that decision.

Mr Edwards' Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's decision, in a letter dated 27 January 1993, Mr Edwards referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He repeated that his initial complaint covered three points:

- 1) The item was not a relevant New Zealand news item.
- 2) The repetitive depiction of the savage beating portrayed gratuitous violence for the purpose of heightened impact.
- 3) The portrayal could invite copy-cat behaviour by youths in New Zealand.

In view of the TVNZ's explanation, he now accepted that the broadcast was a relevant news item but he insisted that the repeated portrayal of the violence breached standard 22 of the Code. A single showing of the beating, he added, would have been sufficient.

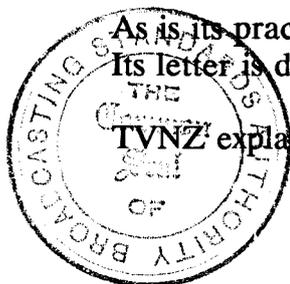
When completing the Authority's Complaint Referral Form, he advised that TVNZ had been un-co-operative and obstructive in supplying him with a tape of the item and, to ensure that his complaint received a fair hearing, he considered that a formal hearing should be held. He wrote:

My concern is that I am in a very disempowered position and that TVNZ can contest a legitimate complaint simply because they can afford to travel at no personal cost, and can deny me the chance to review the item. It therefore becomes almost impossible to complain about any matter unless the complainant has videoed the item and is prepared to spend considerable time and money. Even then it seems TVNZ can abort the whole process by appealing to the High Court, an action which they know cannot effectively be countered by the average citizen.

TVNZ'S Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 28 January 1993 and TVNZ's reply 17 February.

TVNZ explained that it had received three complaints about the broadcast of the



item about the initiation process for new members of Filipino gangs in San Diego. Two of them referred to standards 22 and 23 of the Television Code which refer to violence and one to standard 18 relating to the protection of children.

As youth life-style generally in New Zealand, and gangs specifically, reflected developments and problems overseas, TVNZ believed the item to be newsworthy. The shots of the violence inflicted, TVNZ considered, while brutal was not presented gratuitously. A contrast was drawn in the item between the youths as students by day and gang members by night and TVNZ believed that the story could not have been told adequately without the visuals of the beating. Further, as the beating, while horrifying, did not involve ingenious devices or unfamiliar methods, neither standard 22 or 23 relating to violence were breached.

In regard to the standard 18 complaint, concern for children, TVNZ did not consider that there was a pressing reason for broadcasting the item in the 6.00pm news and that it would have lost none of its topicality if broadcast in the late evening news during the week. That aspect of the complaint was upheld.

TVNZ pointed out that Mr Edwards had been advised of these matters.

In regard to the comments about being "unco-operative and obstructive", TVNZ disagreed with Mr Edwards' allegation and referred to the contractual arrangements under which it acquired material from overseas.

In reply to the comments about repetition, TVNZ said that an examination of the tape showed that the extracts shown were part of an on-going sequence and that the scenes of violence were interspersed with other material to ensure that the item did not depict unremitting horror. The violence scenes shown, it added, was directly related to the commentary.

TVNZ expressed the opinion that the complaint did not justify a formal hearing.

Mr Edwards' Final Comment to the Authority

In reply to TVNZ's report, in a letter dated 22 February Mr Edwards accepted that the scenes shown were not necessarily repetitions of the same specific scene. However, his complaint, he maintained, focused on the repetition of similar scenes. He stated:

My point is that the item could have been screened by showing only the first beating scene once, and the fact that several more scenes were shown at intervals was a quite unnecessary move which resulted in the item, AS A WHOLE, presenting gratuitous violence, and that the series of sequences did give a picture of unremitting horror.

Describing TVNZ's response to the Authority as "deceptive", he again argued that the Authority should hold a formal hearing to ensure that his complaint was heard "fully and fairly".

