

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 51/93

Dated the 26th day of April 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

GEOFF S. POWNALL

of Auckland

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

Casualties of War, a film about the war in Vietnam in which a young Vietnamese woman was kidnapped, raped and later killed by a squad of American soldiers, was broadcast on TV2 on Sunday 15 November at 8.30pm.

Mr Pownall complained to Television New Zealand Ltd, the broadcaster, that it was a breach of good taste and decency to broadcast such an unbalanced film about physical and emotional violence, including sexual molestation and rape, in prime viewing time.

Pointing out that the film was a powerful drama and dealt with the dehumanising influence of war, that it was screened after 8.30pm and was preceded with a warning about content, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's response, Mr Pownall 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 programme 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 Pownall complained to TVNZ about the film *Casualties of War* broadcast on TV2 between 8.30 - 10.35pm on Sunday 15 November 1992. At a time when violence in its various forms was a serious matter of social concern, Mr Pownall said that it was a matter of bad taste to screen a film about physical and emotional violence, including sexual molestation and rape, in prime viewing time.

While acknowledging that the sequence in which a young Vietnamese woman was captured, raped and later killed by a troop of American soldiers was horrifying, TVNZ argued that it was justified for the mass mature audience in the context of a powerful film which illustrated the dehumanising influence of war. In response, Mr Pownall argued:

I submit that the mature audience is well aware of this without having the message sensationalised in the form of a cheap movie.

Expressing his concern about the film's influence on less mature viewers, Mr Pownall wondered whether they might not get the message that violence and rape were indeed acceptable in modern society. Moreover, he wrote:

The next matter I take umbrage to is references to presenting to the mass mature audience. The whole tone of the letter leaves me thinking that TVNZ is more concerned about achieving ratings easily and cheaply, than it is about social responsibility.

He also registered his concern about the time at which the programme began. He realised that 8.30pm was the beginning of "Adults Only" ("AO") time but maintained that many children were not in bed at that time, especially during the period of daylight saving.

In view of Mr Pownall's concerns, 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.

TVNZ responded to the complaint on the basis that two issues were raised - the intrinsic worth of the film itself and the time it was broadcast - and, in regard to the first, it described it as a high class drama carrying some very powerful and important social messages. It acknowledged that it also contained scenes of extreme violence and some bad language but they were justified in the context of the film's theme. It cited an industry source which praised the film as one of the best arising from America's war in Vietnam.

As for the second issue, TVNZ pointed out that it was broadcast in "AO" time and had been preceded by a warning about its content. It added:



We submit that it would be unfortunate if television outlets were required to refrain from broadcasting good quality drama until the depths of the night. Such a situation would see the early to mid-evening audience subjected to little that might stimulate thought processes, to the detriment of society at large. We do not feel that we should feed our viewers a diet of the inconsequential at peak time.

As the parties have thoughtfully explained their respective points of view, the Authority approached the complaint by examining the two issues identified by TVNZ: first, the intrinsic worth of the film itself, and secondly, the time of its broadcast.

In regard to the first point, the Authority accepted the substance of TVNZ's argument. It acknowledged that the film could be described as unpleasant and horrific while also powerful and spell-binding. It agreed that the film forcefully conveyed the horrors of war and, because of the setting - Vietnam in the late 1960s - it was unlikely to encourage copy cat behaviour. Furthermore, as three of the four soldiers who were court martialled were sentenced to long periods of jail, the film not only displayed the very unpleasant aspects of war, but also contained a message that the illegal activities which can occur on the battlefield will not necessarily go unpunished.

The Authority also noted that Michael J Fox, the lead actor, represented the position that war did not justify abandoning all the positive aspects of behaviour. It believed that he was an actor with whom, in view of his past roles, many younger adult viewers could identify, thereby reinforcing the positive aspects of the film.

As a result, the Authority concluded that the film was one of intrinsic value and one which could justifiably be screened to a wide adult audience.

That conclusion notwithstanding, the Authority, had considerable sympathy with Mr Pownall that 8.30pm was inappropriate as the time for the film to start. The theme of violence permeated the film and the rape scene, taking commercial breaks into account, would probably have been broadcast about 9.30pm. While it could be argued that this scene should have been screened later in the evening (by starting the film later), that would have meant that the court martial scene towards the end of the film (containing some positive social messages) would have been broadcast later than 10.30pm. The Authority's jurisdiction specifically excludes programming but it observed, taking into account TVNZ's comments, that the broadcast began at 8.30pm with the intention of reaching a wide audience.

The Authority was thus faced with the dilemma of whether an extremely disturbing but very effective film about the violence of war which showed how very easily the veneer of social responsibility can be pushed aside, should have begun at 8.30pm. The capture, rape and murder of the young Vietnamese woman was shown graphically during what seemed a long period of time but it was not, the Authority believed, shown gratuitously.

It was a film which was broadcast for the mature audience. It was broadcast in Adults Only time and was preceded by a warning.

The new Code of Television Broadcasting Practice for the Portrayal of Violence provides



explicitly that aspects of programmes which are thought likely to disturb children should not be scheduled before 8.30pm and, indeed, might well be scheduled later in the evening. It is a provision which would appear to be directly relevant to this complaint. However, that Code had not been promulgated at the time *Casualties of War* was broadcast and accordingly, the Authority was required to decide whether the explicit violence complained about breached the good taste and decency in context requirement in standard 2.

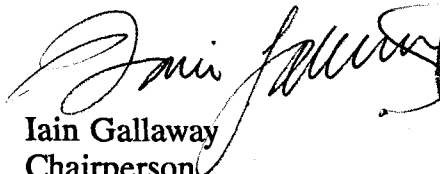
After careful consideration, a majority of the Authority concluded that, while understanding TVNZ's concern that this powerful film should be broadcast at an hour at which it was likely to attract a large audience and regardless of the warning broadcast, the explicitness of the violence in the film scheduled from 8.30pm - 10.35pm breached the requirements of standard 2 that broadcasters take into account, in context, the norms of decency and taste in language and behaviour. The majority referred explicitly to the scenes involving the kidnapping, rape and particularly the shooting and death of the young Vietnamese woman.

A minority of the Authority acknowledged that the broadcast began at 8.30pm - the start of the time which is classified as "Adults Only" under the classifications which the Authority has approved - and was preceded by a clear written and verbal warning about the contents of the film. Although the violence was explicit, it was included in a powerful drama based on a true event and which suggested that social values can, and indeed should, be reinforced during a brutal war. Accordingly, the minority concluded, the good taste and decency requirement was not, in the specific context, breached by the broadcast.

For the above reasons, a majority of the Authority upholds the complaint that the broadcast by Television New Zealand Ltd of the programme *Casualties of War* at 8.30pm on 15 November 1992 breached standard 2 of the Television Code of Broadcasting Practice.

Having upheld a complaint the Authority may impose an order under s.13(1) of the Broadcasting Act 1989. Despite the widespread public concern about the portrayal of violence on television, the Authority receives relatively few complaints about it. It acknowledges that broadcasters are also concerned not to breach the standards and will undoubtedly regard this decision as a "bench mark". They will be able to use it when deciding on the appropriate hour at which to schedule films in the future which contain violence and, in these circumstances, the Authority has decided not to impose an order.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



26 April 1993

Appendix

Mr G.S. Pownall's Complaint to Television New Zealand Limited

In a letter dated 1 December 1992, Mr Geoff S. Pownall of Auckland complained to Television New Zealand Ltd about the film *Casualties of War* broadcast on TV2 at 8.30pm on Sunday 15 November.

Mr Pownall considered that it was an absolute breach of good taste and decency to broadcast a film about violence, sexual molestation and rape in prime viewing time when these issues were controversial. He argued that the scenes involving rape and emotional terrorism would have deleterious effects on society's less stable members. During the film, he continued, viewers were subject to a considerable amount of physical and emotional violence and the comments about justice at the end of the film seemed insignificant.

He concluded by stating that the film should have been broadcast at a later hour.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Pownall of its Complaint Committee's decision in a letter dated 17 December 1992. It reported that the programme had been assessed against standard 2 of the Television Code of Broadcasting Practice which requires that broadcasters take into consideration accepted norms of decency and taste.

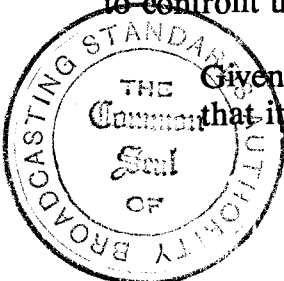
Assuming that the complaint focused on the sequence in which a young Vietnamese woman was captured, raped and later killed by a squad of American troops, TVNZ accepted that the sequence was horrifying. Nevertheless, that sequence and the entire film carried some powerful moral messages about the dehumanising influence of warfare generally and on individual soldiers. Moreover, the message in the film was reinforced when it was acknowledged that the events were based on a true story.

Citing the Broadcasting Standards Authority's introduction to the new violence code that conflict and violent behaviour on television reflected real life, TVNZ stated that high-class drama should be broadcast at a time when mass mature audiences could watch it. TVNZ continued:

[T]he making of great drama is not something confined to the past. It goes on today and there would be few better or more powerful dramas available to television this year than "Casualties of War".

Arguing that television should present high quality dramas which encouraged viewers to confront universal issues, TVNZ concluded:

Given that the programme was screened after the "Adults Only" watershed, that it was preceded by a warning about content, and that it was a particularly



fine drama with a strong social message the Committee felt unable to conclude that a breach of Code 2 had occurred.

Accordingly your complaint was not upheld.

Mr Pownall's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response which he regarded as biased, in a letter dated 12 January 1993 Mr Pownall referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Responding specifically to TVNZ's point about the film's theme, he argued that a mature audience would have been aware of the dehumanising influence of warfare without the need for the message being sensationalised in a "cheap movie". A documentary, he continued, could also have contained the message.

Mr Pownall expressed his concern about the less mature audience who might well consider that violence and rape were acceptable in society. He added that he had been involved in counselling work for over ten years and that many young people were confused and lacking in leadership.

He did not contest the point that it was a true story but questioned whether television was the appropriate medium for presenting the story.

He took umbrage at TVNZ's reference to the "mass mature audience", arguing that it suggested that TVNZ was more concerned about ratings than social responsibility. He also questioned whether 8.30pm was too early for the beginning of "AO" (Adults Only) time - especially in summer.

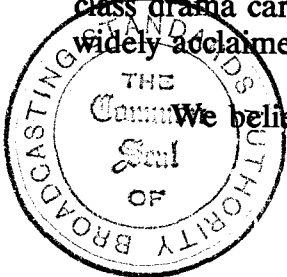
Mr Pownall concluded by asking whether the brief comments in the film about the trial and sentence of the perpetrators of the violence was sufficient to balance the horrifying sequences in the film.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. The letter is dated 21 January 1993 and TVNZ's reply, 5 February. TVNZ said that Mr Pownall's complaint contained two elements - about the intrinsic value of the film itself and about the time at which it was broadcast.

Dealing with the first aspect of the complaint, TVNZ acknowledged that the film showed or implied extreme violence and contained bad language but it was a high class drama carrying some powerful and important social messages. It had been widely acclaimed and TVNZ wrote:

We believe this film to be a serious and substantial cinematic treatment of an



aspect on the Vietnam war - made the more relevant because it was based on a true story.

In regard to the second aspect, TVNZ said that it was broadcast in "AO" time, had been preceded by a warning and stated:

We submit that it would be unfortunate if television outlets were required to refrain from broadcasting good quality drama until the depths of the night. Such a situation would see the early to mid-evening audience subjected to little that might stimulate thought processes, to the detriment of society at large. We do not feel that we should feed our viewers a diet of the inconsequential at peak time.

Referring to Mr Pownall's comment about the film's balance, TVNZ argued that the final sequence only rounded off the true story. The film's verdict - an indictment of the consequences of war - permeated the entire film.

Mr Pownall's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 12 February 1993 Mr Pownall expressed his disappointment at TVNZ's response as, he wrote, TVNZ continued to be more concerned with ratings than standards. He accepted that the film had been widely acclaimed but he distinguished between watching it by paying to go to the cinema and TVNZ's "apparent right to screen what it likes with my relatively limited rights as to what I can watch".

Having watched some other movies recently at the cinema and on television, he repeated his concern about the time at which the film was shown. He concluded:

I still feel that this film can have a strong influence on people and that this sort of film screened on TV can do more harm than good.

