

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 80/93
Dated the 1st day of July 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

DONALD S. McDONALD
of Wellington

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

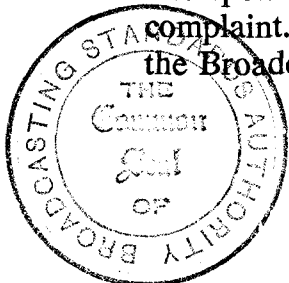
DECISION

Introduction

A forthcoming television advertisement for World Vision which could evoke images of the train transport to the Nazi death camps was discussed in an item on the *Holmes* programme between 6.30 - 7.00pm on Monday 1 February 1993.

Mr McDonald complained to Television New Zealand Ltd that the item, because it promoted show business personalities rather than informed, was not a news story and, because of the scary nature of the commercial, it should not have been broadcast at a time when children were watching.

Arguing that the controversial nature of the advertisement made it into a news story, that the item was balanced and that the possible distress to children had been minimised by interspersing extracts from the commercial with comment, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr McDonald 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 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.

Mr McDonald complained to TVNZ that it was in breach of the broadcasting standards to include a discussion about a forthcoming television advertisement in a news item on the *Holmes* programme. It was in breach, he continued, as it was irrelevant and irreverent and, furthermore, it indicated a lack of balance on TVNZ's part to broadcast an item about an advertisement when the great number of important events which could be dealt with in a news programme were taken into account. In addition, he wrote, it breached the standards as the extracts shown contained a high degree of emotional impact and, consequently, would have been frightening to children.

After some correspondence with Mr McDonald, TVNZ assessed the complaint under standards G6 and G12 of the Television Code of Broadcasting Practice. They require broadcasters:

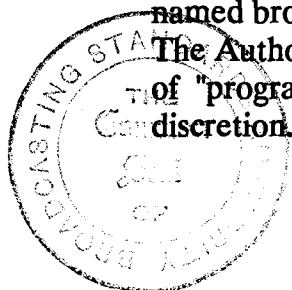
- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.
- G12 To be mindful of the effect any programme may have on children during their normally accepted viewing times.

TVNZ said that as television commercials were part of every day life, it was appropriate to deal with one as a news item when it met the requirement of newsworthiness. The controversial World Vision advertisement, it continued, which could evoke memories of Nazi death camp train transport, met that criterion. Pointing out that the scenes from the advertisement which might be frightening to children were interspersed with interviews about its purpose, TVNZ argued that it did not breach the requirement in standard G12.

When he referred his complaint to the Authority, Mr McDonald expressed particular concern that, while he accepted television advertising, the content of news was being determined by the advertising agencies. He maintained that news should focus on substantive matters rather than "kowtowing" to an advertising agency.

The Authority decided that there were two distinct aspects to the complaint: dealing with an advertisement as a news item and broadcasting material which might be frightening to young viewers.

The Authority's role is set out in the Broadcasting Act 1989 and, in regard to complaints, its function is to review complaints made initially to broadcasters which allege that a named broadcast breaches specific standards such as good taste and decency or balance. The Authority's functions do not include reviewing decisions which fall under the rubric of "programming" or "scheduling". That is a matter of the broadcaster's editorial discretion. It is not, for example, the Authority's task to deal with a complaint that a



programme should be broadcast at 5.30pm rather than 5.00pm or that a news item (provided the balance requirement is met) approaches an item from one angle rather than another.

Because it is difficult in the abstract to give clarity to the boundary between matters which the Authority is entitled to consider and those which it isn't, the Authority prefers to continue the method adopted to date of defining the line when dealing with specific complaints. While commending TVNZ for its efforts in this case in deciding which standards applied and then applying them, the Authority accepted that the decision - to deal with the forthcoming World Vision advertisement as a news item - was a matter of editorial discretion to which the standards set out in the Broadcasting Act did not apply. Accordingly, under s.11(b) of the Broadcasting Act, it declined to determine the aspect of the complaint which Mr McDonald maintained disclosed a lack of balance in contravention of standard G6.

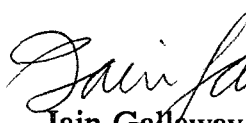
Mr McDonald also complained that the item which was broadcast included extracts from the commercial which might be frightening to children. The Authority considered that this was unquestionably a broadcasting standards matter and, accordingly, reviewed TVNZ's decision that standard G12 had not been breached.

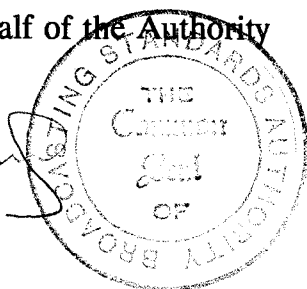
TVNZ acknowledged that the material in the advertisement could be distressing but argued that the standard had not been breached as extracts from the advertisement had been broken by interviews which focussed on the commercial's purpose. Having watched the item which was broadcast, the Authority accepted that the interviews, interspersed with excerpts from the advertisement, showed sufficient editing that the broadcast would be unlikely to cause children to be disturbed. Consequently, the Authority decided, standard G12 had not been breached.

For the reasons above, the Authority declines under s.11(b) of the Broadcasting Act 1989 to determine the complaint that the broadcast by Television New Zealand Ltd of an item on the *Holmes* programme on 1 February 1993 breached standard G6 of the Television Code of Broadcasting Practice.

The Authority declines to uphold the complaint that the same item breached standard G12 of the Code.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



1 July 1993

Appendix

Mr McDonald's Complaint to Television New Zealand Limited

In a letter dated 7 February 1993, Mr Donald McDonald of Wellington complained to Television New Zealand Ltd about an item broadcast on TV1's *Holmes* programme from 6.30 - 7.00pm on Monday 1 February.

Expressing his concern about the increasing trend for advertisements to be dealt with as news items, Mr McDonald maintained that it was irrelevant and irreverent to include an item on the *Holmes* programme about a World Vision advertisement. In response to TVNZ's request for more precise information about the grounds of the complaint, in letter dated 16 February Mr McDonald said, because of its scary nature, that it was not a suitable news item to be shown at 6.45pm and that the advertisement, because it failed to inform the public about a matter of public interest, was biased and unbalanced.

TVNZ advised Mr McDonald of the grounds on which it planned to assess his complaint to which Mr McDonald, in a letter dated 3 March, expressed his concern about the increasing number of television advertisements. Furthermore, he argued that, merely by describing the World Vision advertisement as controversial, TVNZ showed a lack of balance by featuring it as a news item. He repeated his concern that it was inappropriate to broadcast a scary advertisement between 6.30 - 7.00pm.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr McDonald of its Complaints Committee's decision in a letter dated 7 April 1993. It reported that the complaint had been assessed under standards G6 and G12 which require balance and that broadcasters be mindful of the effect any programme may have on children.

On the basis that Mr McDonald was partly concerned because an advertisement was considered to be a news item, TVNZ argued that all advertisements were part of everyday life and therefore an aspect of news and current affairs. The World Vision commercial was controversial as it could well evoke memories of train transport to the Nazi death camps. TVNZ said that the item on *Holmes* examined the reasoning behind the commercial's production and had not lacked balance, impartiality or fairness. Acknowledging that the subject of the commercial - children dying from starvation - was distressing, TVNZ explained that the item included extracts from the commercial interspersed with comment in order to reduce any distress. The complaint was not upheld.

TVNZ said some other matters raised involved editorial selection and thus fell outside the standards' parameters.



Mr McDonald's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 22 April 1993 Mr McDonald referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He reiterated his opinion that the advertisement - children acting - was not a news story. News, he continued, was being determined by advertising agencies. He argued that news items should focus on "substantial" matters instead of "kowtowing" to an advertising agency's suggestion that an advertisement might be of interest to the television industry.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 14 May 1993 and TVNZ, in its response dated 19 May, maintained that as the commercial was certain to arouse public interest, it was an appropriate matter for consideration on a current affairs programme such as *Holmes*. TVNZ added:

We reject absolutely the implication in Mr McDonald's correspondence that the item was run as some sort of "pay back" to a major advertising agency.

Mr McDonald's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 27 May 1993 Mr McDonald repeated the following points:

- 1) It was unbalanced to deal with an advertisement in a news programme as equal time was not given to proponents of less advertising;
- 2) The advertisement was a showcase for New Zealand actors but failed to inform on matters of public interest;
- 3) It was in poor taste to deal with an advertisement in news time:

I would be pleased if the broadcaster and the standards authority would restrict the introduction of adverts to the news.

- 4) It was biased as the advertisement dealt with during a news programme only promoted show business personalities.

With regard to the particular news item, Mr McDonald concluded:

It is not true, it is dramatised, it is irrelevant, irreverent and against the Public Good.

