

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 23/91
Dated the 17th day of June 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by the

FRANCES BURT
of Gisborne

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

J.B. Fish Acting Chairperson
J.L. Hardie
J.R. Morris

DECISION

Introduction

A trailer promoting a forthcoming broadcast of the movie, "Porky's II", was shown at about 8.30 pm on 16 October 1990 on TV2.

Mrs Burt's Complaint to Television New Zealand Limited

Mrs Burt wrote to TVNZ Ltd on the 16 October complaining that the broadcast of the trailer at that time breached the broadcasting standard which requires the observance of good taste and decency.

Mrs Burt was disturbed by the nudity and the behaviour shown in the trailer. The screening, she said, occurred during a PGR rated programme but the movie was rated AO. Mrs Burt complained that younger teenagers who watched a PGR broadcast were being enticed to watch a programme which was unsuitable for them.

TVNZ's Response to the Formal Complaint

TVNZ advised Mrs Burt of its Complaints Committee's ruling in a letter dated 6



December 1990. The complaint had been considered under standard 2 of the Television Code of Broadcasting Practice which requires broadcasters:

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.

The Committee noted that the movie "Porky's II" had an AO rating and that it had screened on TV2 at 9.30 pm on 16 October. The trailer was also rated AO which meant, according to the standards, it was suitable for screening at any time after 8.30 pm.

The Committee acknowledged that although the trailer screened in AO time, it was broadcast during a PGR programme. Of the 21 screenings of the trailer, it continued, the one complained about was something of an exception as the majority had been screened either after 9.30 pm or during the day in AO time.

The Committee considered the trailer "to be somewhat risqué" and in the marginal category for an 8.30 pm screening. However, although marginal, the Committee decided that the screening did not breach standard 2.

TVNZ concluded:

Nevertheless there was considerable respect for the points you made and your positive views about what you consider suitable for teen-age viewing. You may be assured that the company does take a careful and responsible attitude to what it screens when. This is why the company took the initiative to publicise in print, and on screen, the classifications for parental guidance. The 8.30 pm time has been the watershed for adult viewing for the past 15 years, a factor which you will no doubt be aware of.

Mrs Burt's Complaint to the Broadcasting Standards Authority

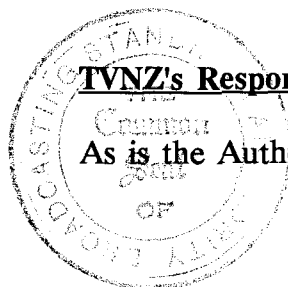
As Mrs Burt was dissatisfied with TVNZ's decision, she referred the complaint to the Broadcasting Standards Authority in a letter dated 17 December 1990 under s8(a) of the Broadcasting Act 1989.

She emphasised that her concern focused on the broadcast of a trailer for an AO programme during the screening of a PGR programme. Describing the trailer as indecent, she asked:

Isn't this what standards are established for - to protect our youth from harmful and indecent viewing?

TVNZ's Response to the Authority

As is the Authority's practice, TVNZ was asked for its comments on the referral in a



letter dated 29 January 1991. Its response is dated 24 April.

Noting the issue as one of time banding, TVNZ acknowledged that the complaint had disclosed "a potential chink" in its classification procedures. While maintaining that the trailer's brief shots of the risqué segments of the movie did not breach standard 2, TVNZ accepted that if PGR programmes were broadcast in AO time, viewers could expect advertising and trailers also to conform to the PGR rating. Further, although most commercials were suitable for placement at any time, some trailers required careful positioning.

TVNZ concluded:

Although the complaint was not upheld, note was taken of the potential for a recurring problem by the company's programmes and promotions departments and the situation has been reviewed. To try to ensure that Porky's II type material does not cause future difficulties, inter-departmental measures have been taken.

Mrs Burt's Final Comments to the Authority

In her letter to the Authority dated 30 April commenting on TVNZ's response, Mrs Burt stressed her concern about the screening of AO items during PGR programmes. She persisted with her opinion that because AO and PGR ratings were used to inform the public about the content of programmes, the standards must have been breached.

She remarked, by way of observation rather than as part of her complaint, that the 8.30 pm watershed for AO programmes was outdated. She suggested that 9.00 pm or 9.30 pm would more accurately reflect the bedtime of the majority of young teenagers.

Decision

The Authority has studied the correspondence and carefully considered the arguments put forward by Mrs Burt in support of her complaint and by TVNZ in response. All the members have viewed the item which gave rise to the complaint.

The Television Censorship Classifications are part of the approved Television Codes of Broadcasting Practice. Accordingly, under s4(1)(e) of the Broadcasting Act 1989, every broadcaster is required to comply with them.

There are three classifications:

General

"G" programmes, although not necessarily designed for child viewers, shall exclude material unsuitable for viewers under the age of 14 and may be screened at any time.



Parental Guidance Required

"PGR" programmes, although not necessarily unsuitable for child viewers with adult guidance, shall contain material more suited for adult audiences and are recommended for screening between 9 am to 4 pm on weekdays and between 7 pm and 6 am.

Adults Only

"AO" programmes, containing adult themes, are unsuitable for people under 18 years and the recommended screening times are midday to 3 pm on weekdays (excluding public and school holidays) and between 8.30 pm and 5 am.

Mrs Burt in her 30 April letter to the Authority questioned whether the starting time for AO programmes should be deferred until 9.00 or 9.30 pm. The Authority wishes to point out that it is required to apply the existing standards but that the issue she raises is one the Authority is examining in its current review of the Broadcasting Codes.

Having viewed the trailer, the Authority agreed with the complainant and with TVNZ that it was correctly given an AO classification. As its screening occurred within the hours recommended for AO programmes, the Authority decided that the broadcast did not breach the Censorship Classifications. In the Authority's view, however, that is not the end of the matter. Standard 2 of the Television Code requires broadcasters:

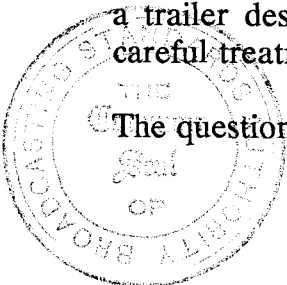
To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.

TVNZ apparently assumed that the word "context" in standard 2 refers only to the Censorship Classifications. Therefore, in its view a breach had not occurred as the broadcast occurred within the limits imposed by the Classifications.

The Authority, however, rejected TVNZ's narrow interpretation of the word "context". It considered that the trailer should also be examined, first, in the context of the programme which was showing at the time, and secondly, in the context of the scenes portrayed in the trailer itself.

With regard to the first, as both parties acknowledged, the trailer was broadcast during a PGR programme. In relation to the second, the trailer ran together shots from different parts of the film. Since many of the shots selected were risque, the overall effect of the trailer was arguably more in conflict with the norms of acceptable behaviour than when the shots were seen in the context of the total film. Thus, taking parts of the film out of context, especially the more lurid parts, may well have the effect of creating a trailer deserving a stricter classification than the film itself or deserving specially careful treatment in regard to the timing of its screenings.

The question which the Authority faced was whether an AO rated trailer, screened just



in AO time but during a PGR programme, breached standard 2.

Taking into account, first, its broad interpretation of the word "context", and secondly, that TVNZ expressed disquiet about the placement of the trailer during a PGR programme, the Authority, despite TVNZ's compliance with the existing censorship classifications, concluded that the screening breached standard 2.

For the reasons set forth above, the Authority upholds the complaint that the screening of the trailer breached standard 2 of the Television Code of Broadcasting Practice.

Classifications are assigned and publicised to assist viewers and responsible parents and care-givers. The Authority believes that it is important that the validity of the classifications be trusted by parents and, accordingly, it understands the reasons for Mrs Burt's complaint. Further, the Authority considers that the decision on this complaint reflects its obligation imposed by s21(1)(e)(i) of the Broadcasting Act 1989 to encourage broadcasters to observe codes appropriate for the protection of children.

The Authority understands that, in view of TVNZ's actions taken as a result of this complaint, the promotion of AO programmes using AO material during a PGR programme is unlikely to occur again. The Authority commends TVNZ for its action and, consequently, believes it is unnecessary to make any order in respect of this complaint.

Signed for and on behalf of the Authority


Jocelyn Fish



17 June 1991