Review of Election Programmes/Advertisements Code

The Authority is currently reviewing the Election Programmes/Advertisements Broadcasting Code, prior to the 2005 general election. The code was last reviewed in 1996.

In July 2004, we wrote to the NZ Television Broadcasters’ Council, the Radio Broadcasters Association, and Radio New Zealand, asking if there were any issues relating to the code that they wished to see considered.

They raised the following matters:
- whether party opening and closing addresses should be subject to broadcasting standards, specifically the accuracy standard, given that broadcasters cannot easily exercise editorial control
- whether complaints should be made directly to the BSA
- whether broadcasting codes should be made consistent with the Advertising Standards Authority Code of Ethics to ensure consistency across media
- whether any revised Code is easier to follow and in plainer English.

The first two matters would need legislative change. The Authority believes a select committee inquiry is currently being mooted to examine the regulation of elections. In advance of such an inquiry, the Authority has decided that a substantive review of the standards governing broadcast election programme complaints should not be undertaken.

However, the current Election Programmes/Advertisements Code is outdated in its form and layout, and improvements can be made to address the second two matters listed above. In December 2004 we wrote to broadcasters and political parties enclosing a discussion paper suggesting revisions to the Code. Responses were considered by the Authority at its February 2005 meeting, and the Code review will be completed shortly. A revised Code is likely to take effect from 1 April 2005. Further details will be placed on our website soon.

2005 Research programme

Research is an important function of the BSA. Research serves to inform members, broadcasters and the public of the issues surrounding the broadcasting environment.

Our research involves discussion and debate about various broadcasting freedoms and constraints, and gaining a thorough understanding of societal attitudes and shifts.

This year, we have commissioned ACNielsen to undertake a major public attitude survey on the good taste and decency, balance, and fairness standards.

The research will update Monitoring Community Attitudes in Changing Mediascapes published by the BSA in 2000.

Six focus groups and a face to face survey of 500 people (forming a representative sample of the New Zealand adult population) will be conducted. The findings of the research will be publicly available by early 2006.

New staff member

We are pleased to welcome Genevieve O’Donnell who has been appointed Complaints Executive, commencing 31 January. Genevieve is a full time replacement for Karen Scott-Howman who left in December to pursue an interest in television production.

Bill of Rights

The right to freedom of expression is enshrined in section 14 of the New Zealand Bill of Rights Act 1990, and provides:

Everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and opinions in any form.

This article briefly explains the Authority’s approach to the application of the New Zealand Bill of Rights Act 1990 as a result of a recent development of the jurisprudence in this area.

In VOTE case, the key focus...
Ronald van der Plaat complained through his lawyer about a TVNZ Sunday programme. It investigated Mr van der Plaat’s legal pursuit of his daughter over ownership of a painting. Mr van der Plaat is serving a 14 year jail term for the sexual abuse of this daughter.

Much of Mr van der Plaat’s complaint was an attempt to reintegrate issues that had arisen during his trial for sexual abuse. He complained that the Sunday programme made him out to be a “monster” when there was material that portrayed him in a much more favourable light. He said that no evidence was presented to contradict his daughter’s side of the story in relation to the sexual abuse.

The Authority decided to determine four of his eight grounds as attempts to reintegrate issues that had arisen during his trial. Of the complaints about the programme, none was upheld.

**Decision Ref: 2004-150**

A Holmes item discussed an alleged doctor-on-doctor assault. The presenter interviewed an “expert” (a health economist, not a doctor). They spoke about whether the medical profession’s reaction to the incident had been appropriate, and generally about the accountability of the profession.

The Authority received three complaints: one from the doctor involved, one from the New Zealand Medical Association, and one from the Association of Salaried Medical Specialists. The complainants alleged that the programme was unbalanced as the doctor’s viewpoint had not been advanced and reasonable efforts had not been made to obtain his comments. They alleged that the item was also inaccurate, unfair and discouraged discrimination against doctors.

The Authority noted that the programme was an attack on the doctor’s reputation, and did nothing to offer competing viewpoints. In this, it was unfair to the doctor, and unbalanced. The Authority also identified three inaccuracies constituting a breach of the accuracy standard. The doctor involved was awarded legal costs of $17,000, and TVNZ was ordered to pay costs to the Crown of $25,000.

**Decision Ref: 2004-135**

**Fairness**

Ibrahim Iliram complained about an episode of Eating Media Lunch that satirised the documentary film Super Size Me. The presenter purported to eat nothing but Middle-Eastern style takeaway food for an entire month while observing the effects on his reputation, and did nothing to offer competing viewpoints. In this, it was unfair to the doctor concerned, and unbalanced. The Authority also identified three inaccuracies constituting a breach of the accuracy standard.

The doctor involved was awarded legal costs of $17,000, and TVNZ was ordered to pay costs to the Crown of $25,000.

**Decision Ref: 2004-150**

**Fairness and Balance**

The Authority received six complaints from members of New Zealand’s Sri Lankan community about an item on TVNZ’s Sunday evening magazine programme about a copy of Plunket’s line telephone advice service for caregivers, with the newly-established Healthline.

The item included a comment from the Minister, as well as from an Act MP and a Plunket nurse – both of whom were critical of the Government’s actions. The item reported that Plunket had declined to comment. It gave the impression that the Minister of Health had gone back on a 1999 undertaking to support the dedicated Plunketline telephone advice service.

The Authority complained that Plunket had failed to acknowledge Plunket’s support for the new telephone service. She said that during her interview she had provided a copy of a press release from Plunket outlining that support. The Minister said that she had repeatedly explained that Plunket did not consider that adequate attempts had been made to present other significant views. In this, it was unfair to the doctor concerned, and unbalanced. The Authority also identified three inaccuracies constituting a breach of the accuracy standard.

The doctor involved was awarded legal costs of $17,000, and TVNZ was ordered to pay costs to the Crown of $25,000.

**Decision Ref: 2004-150**

**Fairness**

The Minister of Health, Hon Annette King, complained about an item on One News that discussed the replacement of Plunketline, a telephone advice service for caregivers, with the newly-established Healthline.

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The Authority released 61 decisions between October and December 2004.