

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 10/91

Dated the 18th day of April 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

LEONARD BURBRIDGE

of Wellington

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

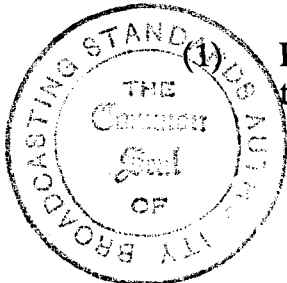
Introduction

An advertisement for Sudafed was shown at about 6.25 pm on 11 July 1990 on TV1. The advertisement linked the use of the product to the "Dam Busters" theme, that is the RAF raid on dams in Germany in May 1943.

Mr Burbridge's Complaint to Television New Zealand Ltd

Mr Burbridge wrote to TVNZ on 16 July 1990 to lay a formal complaint. He maintained that the standards breached by the advertisement were good taste and decency, and fairness and accuracy. These allegations refer to s4(1)(a) of the Broadcasting Act 1989 and standards 1 and 6 of the Codes of Broadcasting Practice for Television.

Section 4(1)(a) states:



Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -

- (a) The observance of good taste and decency;

Standard 1 of the Codes requires truth and accuracy on points of fact while standard 6 requires balance, impartiality and fairness in dealing with controversial issues.

Mr Burbridge complained that it was not in good taste to link a product promoting relief from head cold symptoms with a successful RAF raid involving many casualties. Describing the history of the raid, he remarked:

In these circumstances the trivialising manner in which the advertisement purports to portray the demeanour of this operation is beyond doubt false, grossly offensive, stupid and an insult to the men who took part in the raid and to the relatives of those air crew members who did not return.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Burbridge in a letter dated 30 August that the complaint was not upheld by its Complaints Committee. The Committee was of the view that the advertisement amounted to a play on words with pictorial reinforcement in that it portrayed an air bombardment resulting in dammed sinuses being blown away. The Committee then asked itself whether parodying a feat of wartime bravery constituted a breach of the good taste and decency requirements, and concluded:

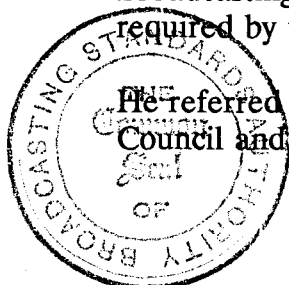
... that although the advertisement constituted something of a burlesque, no attempt had been made to belittle, ridicule, or in any way detract from the efforts of the Dambusters. The tone of the commercial was considered to be whimsical but certainly not offensive or in bad taste. Nor was the Committee able to determine that the commercial, given the context of the portrayal, was either inaccurate or unfair.

The Committee added that the advertisement which was devised in Australia, had been the subject of a complaint to the Australian Advertising Standards Council in June 1990. A copy of that Council's decision was attached. That complaint had not been upheld as the Council thought the advertisement unlikely to cause serious offence to a significant section of the community 47 years after the event on which it was based.

Mr Burbridge's Complaint to the Broadcasting Standards Authority

As Mr Burbridge was dissatisfied with TVNZ's decision, he referred the complaint to the Broadcasting Standards Authority on 28 September under section 8(a) of the Broadcasting Act 1989. He later forwarded the completed Complaint Referral Form required by the Authority.

He referred to TVNZ's letter and the decision of the Australian Advertising Standards Council and wrote:



To use terms such as "light-hearted send-up", "burlesque", "light-hearted treatment of a well-known film" over a subject which is not one for attempted humour, ridicule and trivialisation strikes me as deplorable in the extreme. One gets the uneasy feeling that the only values that TVNZ Ltd is interested in are monetary ones and, by its standards, nothing is against good taste if it yields a dollar.

By comparison, he added that the film *The Dambusters* included a record of appreciation to the members and family of the squadron which conducted the operation. He also included copies of two letters from the *Listener* which, like his complaint, deplored the trivialisation of the 617 Squadron's achievement and its casualties.

TVNZ's Response to the Authority

The Authority, on 23 October 1990, referred the complaint to TVNZ for comment. TVNZ responded in a letter dated 20 February 1991. It began:

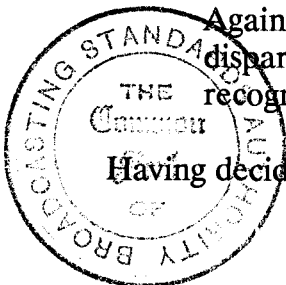
At the outset the company must admit that this complaint embodies aspects of the taste and decency equation which are extremely difficult to measure or assess on the basis of a broad spectrum community attitude to such things. There can be no question that for some older viewers sensitivities about such portrayals may be pronounced, especially among those who lived through the period of the Second World War and would have clear recollections of the event depicted in the advertisement.

TVNZ stated that it had obtained a British beer advertisement utilising levity based on the Dam Busters theme. This was made available to the Authority. Before that advertisement was screened in London on a limited basis, the 617 Squadron Association and the War Widows' Association had been consulted. The reservations recorded then appeared to be mild. However, following more general screening, many complaints were received and an analysis revealed that, while the advertisement was not a concern to the majority of viewers, it was deeply offensive to a segment representing an older age group. A solution to the concerns expressed was found by screening the advertisement late at night when younger adults were the majority of viewers.

TVNZ, noting that some standards of taste change over time and that New Zealanders with memories of the war would probably not identify as closely with the Dam Busters as do British people, pointed out that there had not been a high level of viewer resentment about the advertisement. Drawing a distinction between fundamental values and taste, TVNZ stated:

The fact that bravery and skill of the aircrew has gone down in history as an exploit of significant proportions would seem to represent "a fundamental value". Against that must be judged the purpose of the advertisement. Does it in any way disparage or belittle that feat? If anything, in its whimsical way, it gives recognition to something to be used as an example but in a medicinal way.

Having decided that the advertisement did not offend fundamental values, it proceeded



to assess the advertisement in the context of manners. The advertisement, using a bombing analogy to deal with nasal blockage, did not question fundamental values but offended the good taste of a number in the older age group. TVNZ continued that unless extensive audience research was undertaken, the Authority was unable to determine how widespread community unease might be about the advertisement and that:

... it would be unrealistic to uphold the complaint on taste and decency grounds if it should be found to be offensive, to a mere "handful" of viewers, limited to say the older age group.

Mr Burbridge's Final Comment to the Authority

At the Authority's invitation, Mr Burbridge commented on TVNZ's response in a letter dated 2 March 1991.

Including copies of correspondence he had received from the owners of the Dam Busters film and from the 617 Squadron Association, he deplored TVNZ's "complete lack of responsibility" when dealing with sensitive issues, in comparison to the efforts of the British television companies.

He repeated his disgust at the way the advertisement trivialised the "extraordinary valour of the air crews" involved in the raids on the dams on the Ruhr.

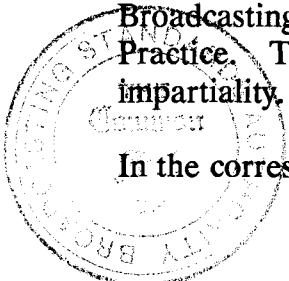
Decision

The Authority has studied the correspondence and carefully considered the arguments put forward by Mr Burbridge in support of his complaint and by TVNZ in response. All members have viewed the advertisement which gave rise to the complaint and the British beer advertisement, supplied by TVNZ, on the same theme.

The Authority acknowledges that some viewers will be offended by the Sudafed advertisement, especially those who find it distasteful that war could be a subject of humour at all or who feel the advertisement belittles one of the outstanding deeds of valour of the Second World War. Moreover, their feelings of offence may well be increased by the contrived and lugubrious nature of the advertisement. On the other hand, the advertisement is a compliment to the heroism of the 617 Squadron in that the Squadron's achievement is of such universal significance that an advertisement, based on a widely recognised event, does not require an explanation.

The complaint is based on the good taste and decency requirements of s4(1)(a) of the Broadcasting Act 1989 and standards 1 and 6 of the Television Codes of Broadcasting Practice. The standards refer respectively to truth and accuracy, and balance and impartiality.

In the correspondence, Mr Burbridge noted that his references to fairness and accuracy



"referred to the inane dialogue" of the extract from the film used for the advertisement. The Authority has not been advised whether the advertisement used an extract from the film or whether it used new material based on the film. In reaching its decision, the Authority considers that this is not a major issue. The dialogue is one aspect of the advertisement for the Authority to consider in determining where the advertisement falls on the lighthearted - flippant continuum. Upon deciding the degree of disrespect exhibited by the advertisement, the Authority will then determine whether it breaches the legislative requirement for good taste and decency.

The Authority, on previous occasions, has observed that broadcasters must present all programmes, including advertisements, in a way which conforms with the standards of good taste and decency. In its Decision No: 2/90, the Authority pointed out that the concept of good taste and decency in a given situation or context involves conformity with such standards of propriety as the Authority considers to be in accord with generally accepted attitudes, values and expectations of New Zealand society.

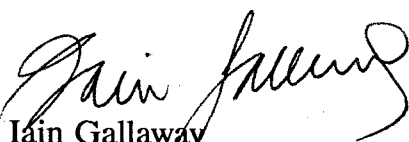
The fact of the complaint, and the letters Mr Burbridge supplied from the *Listener*, indicate that the advertisement did offend a number of New Zealanders. Furthermore, the facts that the same advertisement was referred to the Australian Advertising Standards Council and that an advertisement utilising the Dam Busters theme caused concern to the Independent Broadcasting Authority in Great Britain are further indications of the offence caused by advertisements using the Dam Busters theme. Some sections of these communities have deemed the advertisements to be flippant and insensitive.

However, the Authority must decide whether the insensitivity displayed by the Sudafed advertisement offends a broad spectrum of the community as is implied in the phrase "generally accepted attitudes, values and expectations of New Zealand society". Some of the correspondence suggested that parallels could be drawn between this advertisement and programmes which parodied the behaviour of the armed forces (of various nationalities) such as Hogan's Heroes or 'Allo 'Allo. The Authority does not accept this analogy as the Sudafed advertisement focuses on one specific event which involved singular bravery and a high number of casualties whereas the named programmes present fictional and possibly stereotyped situations.

On balance, taking into account the matters raised by both the complainant and by TVNZ, the Authority concludes that the advertisement overall, despite its dreariness, was neither unduly flippant nor did it create an insult to the memory of the dambusters. Thus, the advertisement was not inconsistent with a broadcaster's responsibility under s4(1)(a) to maintain standards consistent with the observance of good taste and decency.

For the reasons set forth above, the Authority declines to uphold the complaint.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



18 April 1991