

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 42/91

Dated the 20th day of September 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

GROUP OPPOSED TO
ADVERTISING OF LIQUOR
of Hamilton

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson
J.B. Fish
J.L. Hardie
J.R. Morris

DECISION

Introduction

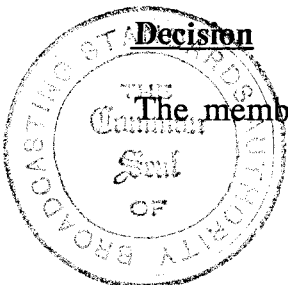
A review of an incident involving the stomping on a player's head during the rugby match between Auckland and Samoa featured on TV1's *Holmes* programme broadcast on 2 May 1991.

The secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, wrote to Television New Zealand Ltd and stated that at the beginning of the item the players were shown emerging from their dressing rooms through a curtain which carried advertising for Dominion Breweries and that during the item, a part of DB's current advertisement sponsoring the Auckland rugby team was shown. He complained that the item breached the requirement of the Television Programme Standards that news be impartial.

TVNZ's Complaints Committee rejected the complaint and it was referred by GOAL to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have studied the correspondence (summarised in the



Appendix) and have viewed the item complained about.

The facts of the item on the *Holmes* programme broadcast on TV1 on 2 May 1991 are not in dispute. It reviewed an incident involving the stomping of a player's head during a rugby match between Auckland and Samoa. At the beginning of the item, the players were shown running on to Eden Park through a curtain which carried advertising for Dominion Breweries. Part of DB's current advertisement promoting the Auckland Rugby team was shown during the item.

GOAL claimed that the item showed partiality to Dominion Breweries and thus breached standard 12 of the Television Code of Broadcasting Practice which reads:

12. News must be presented accurately, objectively and impartially.

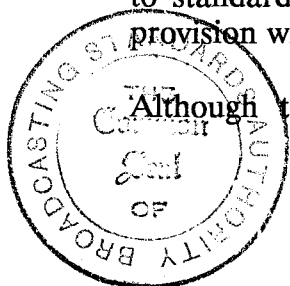
The Authority considered first the relevance of standard 12 to the item to which the complaint referred. In previous decisions (e.g. No: 26/90), the Authority has ruled that, although the standard explicitly applies to news, because of its wording it does not apply to current affairs. When this point has arisen in other complaints, the Authority has determined the issue complained about under standards 1 and 6 as they cover much the same concerns.

The Authority decided that a ruling on whether the item was news, current affairs, or something else, was not crucial to its decision on this complaint. TVNZ assessed the complaint under standard 12 and the item occurred during the *Holmes* programme which is shown in TV1's news' hour. However, in view of another (unrelated) complaint about an item on the *Holmes* programme which TVNZ declined to consider under standard 12, the Authority requested TVNZ to advise when it regarded the items on that programme to be news items. In regard to the present complaint, the Authority accepted TVNZ's decision that standard 12 was appropriate but, to avoid confusion in the future, has set in process a review of the wording of standard 12.

GOAL complained that the item on *Holmes* on 2 May showed partiality to Dominion Breweries. The Authority accepts the dictionary definition of partiality (Oxford Concise) that it means bias or favouritism. However, rather than explore further the meaning of partiality and the necessity or otherwise of requiring proof of intent to justify upholding a complaint in which partiality is alleged, the Authority examined whether standard 12 contained the appropriate criteria under which to make a complaint which made a connection between stomping, Auckland rugby, and a sports ground feature which carried a brewery advertisement. How does that sequence, the Authority asked, relate to partiality?

It was apparent to the Authority, first, that the incidental advertising of alcohol was the issue to which the complaint related, and secondly, that standard 12 was not designed to deal with the matter. However, the Authority understood why the complainant referred to standard 12 as the Television Code of Broadcasting Practice does not contain a provision which focuses on the incidental advertising of alcohol on television as such.

Although the codes are currently silent on the point, the Authority shares the



complainant's concern about the issue. At present, the Authority is reviewing, in consultation with broadcasters, the Alcohol Advertising code. The Authority records that as part of the review it has focused directly on the issue of incidental alcohol advertising. The issue will be addressed directly, either in the rewritten alcohol code or in the general broadcasting code, before the Authority approves a revised alcohol code.

Having made these preliminary points, The Authority is required, in carrying out its statutory duty to investigate the current complaint, to determine whether GOAL's complaint about the item broadcast on 2 May 1991 breached the current standard 12.

The curtain shown on the item through which the players emerged on to Eden Park advertised Dominion Breweries. The curtain, however, was not the focus of the shot. It was a background feature, similar to the billboards which surround many sporting grounds, although it would be naive of the Authority not to note that the curtain had been strategically placed to receive exposure during rugby fixtures.

Nevertheless, the item focused on the Auckland Rugby team which, in recent years, has had a very proud record. Furthermore, the record was the theme of the DB's advertisement as the sponsor of the team. In these circumstances, and putting parochial disputes about rugby to one side, the Authority accepted TVNZ's editorial decision that, as the Auckland rugby team was part of the item's focus, it was not inappropriate in an edited news item to show not only the team running on to the field *en masse* through the curtain but also to show part of the advertisement. Thus, the Authority accepted TVNZ's point that the inclusion of part of the advertisement did not display partiality by TVNZ's news staff.

Moreover, the Authority noted that the broadcast of part of the advertisement was accompanied by a caption indicating that the item was making use of a commercial. Such use of a caption is a practice for which the Authority commends TVNZ. Further, the broadcast of the commercial did not make up a large proportion of the item.

The Authority has assessed the complaint under standard 12. To ensure that the complaint did not fail on a possibly restrictive definition, it has assessed the complaint on the grounds of accuracy and balance as well as partiality and concluded that the item did not breach any of that extended range of criteria included in that standard.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



20 September 1991

Appendix

GOAL's Complaint to Television New Zealand Ltd

The secretary of the Group Opposed to Advertising of Liquor (GOAL), Mr Cliff Turner, wrote to Television New Zealand Ltd on 3 May 1991 about an item which appeared on TV1's *Holmes* programme broadcast on 2 May 1991. The item reviewed an incident involving the stomping on a player's head during the rugby match between Auckland and Samoa.

At the beginning of the item, the complainant said, the players were shown emerging from their dressing rooms through a curtain which carried advertising for Dominion Breweries and during the item part of DB's current rugby commercial was shown. GOAL complained that the item breached standard 12 of the Television Code of Broadcasting Practice which requires that news be presented accurately, objectively and impartially.

The complainant stated that Dominion Breweries had spent a large sum to broadcast on television a cricket advertisement featuring the "Young Guns". To show the Dominion Breweries sign and to use part of DB's current advertisement during a news item was "a sure sign of partiality".

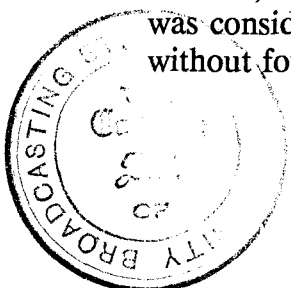
Television New Zealand's Response to the Formal Complaint

TVNZ advised Mr Turner as the secretary of GOAL of its Complaints Committee's decision in a letter dated 24 May 1991.

It explained that the item was essentially a review of an incident of apparent violence during a rugby game, that it showed the Auckland team running through a curtain bearing DB lettering and that it contained an extract from a commercial. It stated that the item had not deliberately included shots showing advertising material, but neither had it excluded them when they were relevant to the item. The DB curtain was part of the fixtures at Eden Park and the letter continued:

The Committee had difficulty in believing that you were seriously suggesting that because this fixture existed it was improper for cameras to record players running on to the field at the beginning of the match.

Pointing out that the item was talking about the whole team and its self-confident attitude, the shot of the team running on to the field and the use of the commercial was considered appropriate. The complaint under standard 12 was rejected as being without foundation.



GOAL's Complaint to the Broadcasting Standards Authority

As Goal was dissatisfied with TVNZ's response, Mr Turner on GOAL's behalf referred the complaint to the Authority on 17 June 1991 under s.8(a) of the Broadcasting Act 1989.

As the shots he complained about were from an edited story, he said that someone must have deliberately decided to show the players running onto the field and deliberately decided to use an extract from the commercial. He maintained that both the shot and the use of the commercial added nothing to the item: they were examples of partiality to Dominion Breweries.

TVNZ's Response to the Authority

TVNZ was asked for its comments on this referral on 19 June and its reply is dated 19 July. The complainant, it wrote, appeared not to understand the difference between news and advertising.

The five second segment of the Auckland team running on to the field was used to depict the whole team and some 11 members of the team could be identified. The curtain, incidentally containing disjointed lettering, was "a mere backdrop". The rugby players were "the focus of attention". The use of a 17 second segment of a commercial was "wallpaper" for reported boasts about Auckland's rugby superiority. It added that the news staff were distinct, and insisted on being so, from advertisers and sponsors.

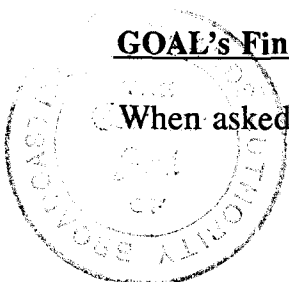
With regard to GOAL's comments about the deliberate use of advertising material, TVNZ recorded:

It is true it was not a live broadcast, it is true that it was edited material and it is true that it involved deliberate choice of a shot showing the Auckland team, along with another, running on to Eden Park. As has already been explained the curtain material was incidental, in fact without some contrived pre-arrangement for a studio-like shot, it was the only position on the ground where all the team could be compactly filmed together and at the trot.

TVNZ concluded by asserting that the complainant had inaccurately referred to a decision of the Broadcasting Tribunal (the Authority's predecessor). TVNZ maintained that the Tribunal had not ruled that a conspiracy had existed between the TVNZ Corporation (as it then was) and DB but that it had been a complex matter involving sponsorship.

GOAL's Final Comment to the Authority

When asked by the Authority for comment on TVNZ's letter, Mr Turner as secretary



of GOAL in a letter dated 19 July questioned why was it necessary to show the whole team when the alleged violence involved one player.

He referred to Broadcasting Tribunal decision 3/80 dealing with the Benson and Hedges Fashion Design Awards. This was not the decision which TVNZ noted. In decision 3/90 the Tribunal remarked:

It would be unfortunate if the Broadcasting Corporation lent itself to providing a platform for the promotion of a brand of cigarettes

Describing those words as highly relevant, he observed:

TVNZ lent itself to providing an opportunity for the promotion of a brand of beer. The advertising so obtained by Dominion Breweries could not have been obtained by advertising through normal channels.

