

Tribunal ignites another bumper advertising row

By EAN HIGGINS

THE Australian Broadcasting Tribunal has jumped further into the the controversy over tobacco promotion by alleging that several commercials and coverage of a television sports program contravened laws banning cigarette advertising on radio and television.

In a statement released yesterday the tribunal said four television commercials involving Redhead Matches (a Bryant and May product), Benson and Hedges (part of the Amatil Ltd group) and Winfield (a Rothmans brand) were advertisements for cigarettes or smoking, the tribunal said.

In addition, the tribunal stated its view that the program televised by ATN-7 of the 1982 NSW Rugby League Grand Final (the Winfield Cup) contained advertising matter for cigarettes, which could not be regarded as accidental or incidental.

The statement may have surprised some executives in the broadcasting, tobacco and advertising industries, who generally took the tribunal's stance on the tobacco promotion issue to be ambivalent following a policy statement released by the tribunal in January.

It could have large reper-

cussions on corporate sponsorship of cultural and sporting events, according to tobacco industry spokesmen, and cause concern among television stations, which have the final responsibility if an advertisement or program they broadcast does not comply with the Broadcasting and Television Act.

The tribunal was keen to explain that its statement did not represent any finding relating to the culpability of television stations

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regarding the advertisements and the program.

The chairman of the tribunal, Mr David Jones, yesterday said the tribunal was only expressing its own view, for the benefit of the television and advertising industry, on the legality of the material in question.

The tribunal pointed out in its statement that it was not in its power to fine any transgressors of the Act, which was the role of the court following a successful prosecution by the Minister for Communications.

However, it can penalise the licensees of the stations by suspending or revoking a licence, or renewing it for less than the maximum period.

The tribunal has taken no such action as yet, but is holding the spectre of its views over stations when their licences come up for renewal.

A spokesman for the Federal Minister for Communications, Mr Duffy, said that to his knowledge the Minister had not been officially informed of the tribunal's statement.

Once notification were received the Minister would consider, in conjunction with the Attorney-General's Department, whether any legal action was appropriate.

The deputy federal director of the Federation of Australian Commercial Television Stations, Mr David Morgan, said that following the tribunal's statement, FACT's Commercials Acceptance Division had withdrawn its approval of the four advertisements in question, although FACT's senior counsel had earlier expressed the view that none contravened the Act.

The advertisements

alleged to be in breach of the Act were:

● The Benson and Hedges commercial for Test cricket entitled Field of Battle, which was broadcast during the 1982-83 cricket season, which included the coat of arms of the Benson and Hedges company.

● The Australian Ballet commercial explaining its forthcoming program, which ended with a shot of the Benson and Hedges coat of arms and an acknowledgement of the company's sponsorship of the Ballet.

● Hoyts Theatres Ltd's commercial for the film *Aussie Assault*, on Australia II's America's Cup victory, which contained an inset in red and white with the words "a Winfield company sponsorship". (In these cases, the tribunal took the view that the display of the names or logos associated with the sponsors would be regarded by a reasonable

person as seeking indirectly to promote cigarettes.)

● Bryant and May's 'striking up a friendship' commercial for Redhead matches, which included a shot of a man lighting a cigarette for a woman.

The tribunal said this commercial would be regarded by a reasonable person as indirectly seeking to promote smoking.

On the 1982 Winfield Cup Rugby League match telecast in Sydney by ATN-7 (owned by the Fairfax group), the tribunal noted shots of A-frames bearing the words "Anyhow have a Winfield 25's", a dance display with a soundtrack associated with the Winfield theme and dancers dressed in red and white, and a flag in red and white bearing the words 'Winfield Cup'.

The A-frames constituted advertising for cigarettes,

the statement said, and while the tribunal would not have regarded the individual elements of the dance display as sufficient to constitute advertising matter for Winfield cigarettes in the absence of the others, taken as a whole they did, and overall the televising of the matter could not be regarded as accidental or incidental.

It said coverages of the 1983 Rugby League grand final by TEN-10 and TCN-9 were able to avoid most of the signage and cameras moved quickly off them, and this showed it was possible to avoid contraventions of the Act.

A radio commercial for the Benson and Hedges cricket World Series Cup, and a television commercial for House of Dunhill, were found not to be advertisements for cigarettes, in the latter case by a narrow vote

with the chairman casting a deciding ballot.

Spokesmen for the Benson and Hedges Company, Rothmans, the Tobacco Industry Institute and ATN-7 said they disagreed with the tribunal's findings on their respective advertisements, and maintained that their commercials complied with the Act.

Yesterday's statement from the tribunal is the latest move in a long debate since 1976 over what does or does not constitute an advertisement for cigarettes, since the Broadcasting and Television Act was amended to prohibit cigarette or smoking advertising on television or radio.

However, a clause excludes cases where promotional material associated with cigarette companies is "accidental or incidental accompaniment" to other broadcast matter.