

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 58/91

Dated the 10th day of December 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

B.F. SHEPHERD

of Whangarei

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

An item on TV1's *Holmes* programme broadcast on 29 May 1991 dealt with the return to Crete of New Zealand veterans who had fought on the Island during World War II. The reporter introduced the item by stating that many New Zealanders were "often embarrassed by the image of old soldiers".

After some preliminary correspondence, Mr Shepherd complained formally to Television New Zealand Ltd that the comment was neither truthful nor accurate, that it lacked fairness, that the item was not presented accurately, objectively and impartially, and that the comment encouraged the denigration of old soldiers. He requested the broadcast of a retraction and an apology.

TVNZ upheld the complaint, apart from the aspect that alleged that it encouraged the denigration of old soldiers. However, on the basis that any action would compound the insult already inflicted, it declined to accede to Mr Shepherd's request for an apology. As he was dissatisfied with TVNZ's decision on this point, Mr Shepherd referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act

1989.



### Decision

The members of the Authority have read the correspondence (summarised in the Appendix) and have viewed the item to which the complaint relates.

TVNZ upheld Mr Shepherd's complaint that the phrase that New Zealanders were "often embarrassed by the image of old soldiers" used on an item on the *Holmes* programme on 29 May 1991 about the visit of former service personnel to Crete breached three standards in the Television Code of Broadcasting Practice. These standards, 1, 6 and 12, are concerned with truth and accuracy, fairness, objectivity and impartiality. TVNZ did not uphold the complaint that the item encouraged the denigration of former service personnel. Although acknowledging that the broadcast breached three standards, TVNZ declined Mr Shepherd's request for a public retraction and apology. That request was made under standard 17 of the Code which reads:

17 Significant errors of fact should be corrected at the earliest opportunity.

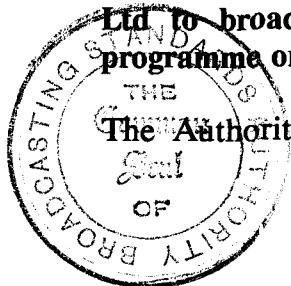
TVNZ apologised by letter to Mr Shepherd but declined to broadcast an apology, or, for example, publish an apology in the RSA journal, as it maintained that such an action would result in the republication of the insult. In reply, Mr Shepherd argued that TVNZ seemed more concerned about protecting its image than righting a wrong.

The Authority could understand Mr Shepherd's antagonism towards TVNZ in view of the brusque tone of the company's initial letter (17 June) in response to his complaint about the item. Further, the Authority agreed with him when he cast doubt on the substance of TVNZ's expressed reason for failing to broadcast an apology. Indeed, the Authority believes that the matter could well have been resolved promptly had TVNZ acted thoughtfully on receipt of the initial complaint. That might have involved broadcasting, if not an apology, then a courteous explanation that no offence was intended, while the item was relatively fresh for viewers. That might well have satisfied the complainant.

Because of the time limits allowed to parties by the Broadcasting Act 1989 and the requirements to gather their views, the Authority's decision will not be released until some six months after the broadcast complained about. That length of time is not overriding in itself but when combined with the reporter's good intentions in preparing the item, the barely audible and brief length of the offending phrase as part of the total item, and the sympathetic tenor of the item which clarified the reporter's overall attitude to "old soldiers", the Authority concludes that the broadcast of an apology now would exacerbate the item's original offence.

**For the reasons set forth above, the Authority declines to order Television New Zealand Ltd to broadcast a retraction and apology concerning the item on the *Holmes* programme on 29 May 1991.**

The Authority noted that TVNZ had informed Mr Shepherd that the reporter in



question had been advised about the need in the future to take care. The Authority trusts that TVNZ has passed on similar advice to the reporter's supervisors and other staff who were responsible for the item after its preparation and before its broadcast.

Signed for and on behalf of the Authority



Iain Gallaway  
Chairperson



10 December 1991

## Appendix

### Mr Shepherd's Complaint to Television New Zealand Limited

After some preliminary correspondence with Television New Zealand Ltd and the Broadcasting Standards Authority, in a letter dated 23 July 1991 Mr Shepherd complained formally to TVNZ Ltd about an item on the *Holmes* programme broadcast on 29 May. The presenter, he said, had made a statement to the effect that New Zealanders were frequently embarrassed by seeing old soldiers. He objected strongly to the comment and requested a retraction and an apology.

Mr Shepherd said that the item breached the following requirements on broadcasters in the Television Code for Broadcasting Practice.

1. To be truthful and accurate on points of fact.
6. To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

It also breached the standards which provide:

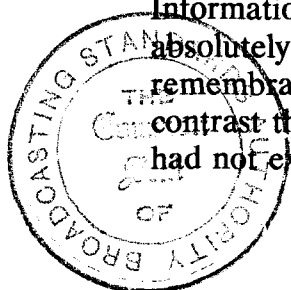
12. News must be presented accurately, objectively and impartially.
26. Except as the legitimate expression in context of satire, dramatic themes and current affairs reporting might legitimately dictate, the portrayal of persons in programmes in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or occupational status or as a consequence of legitimate expression of religious, cultural or political beliefs, may not be encouraged.

In terms of standard 17, he continued, the item should be corrected and an apology issued.

### TVNZ's Response to the Formal Complaint

TVNZ advised Mr Shepherd of its Complaints Committee's decision in a letter dated 2 September 1991. The letter noted that the item dealt with the return to Crete of New Zealand veterans who had fought on the Island during World War II. It continued:

Information was supplied to the Committee indicating that the reporter was absolutely shattered that his comments, giving perspective to a significant remembrance event, had given offence. What he was attempting to do was to contrast the honour accorded old soldiers in New Zealand (a country which had not experienced military invasion) with that lavished upon them in Crete



(which was overrun by a hostile power in the Second World War). He was saying in effect - in New Zealand they are barely noticed, but in Crete they are treated as heroes.

TVNZ observed that the reporter's good intentions, however, were destroyed by his choice of words.

TVNZ said that the broadcast comment that New Zealanders were "often embarrassed by the image of old soldiers" breached standards 1 and 12 of the Television Code of Broadcasting Practice. As the comment was unfair to old soldiers, it also breached standard 6. However, as the item, together with others from Crete broadcast at the time, showed the veterans favourably, it did not encourage ill-will and thus did not breach standard 26.

With regard to the request for an apology, the Committee concluded that it could well be counter-productive and spoil the positive image of ex-servicemen. It added that the Committee endorsed the apology the complainant had received from a TVNZ executive and the reporter had been cautioned about the need to take care.

#### Mr Shepherd's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's decision not to broadcast an apology, in a letter dated 20 September Mr Shepherd referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He described the remark that New Zealanders were "often embarrassed by the image of old soldiers" as a "gratuitous insult".

It was a clear example of unacceptably low standards of reporting, editing and supervision on a public television channel.

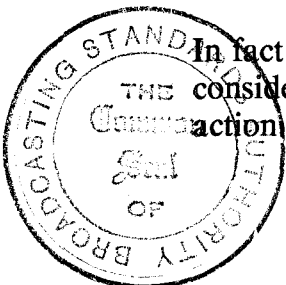
He argued that the major nature of the breach justified the broadcast of an apology.

#### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. The letter to TVNZ is dated 25 September 1991 and its reply was received on 6 November.

TVNZ explained that wording used by the reporter breached the Television Code of Broadcasting Practice. It continued:

In fact the Committee itself was embarrassed by what went to air and gave considerable thought as to what might be the most appropriate course of action in the best interests of all concerned - old soldiers being the foremost.



The Complaints Committee, after considering the possibility of a broadcast on the *Holmes* programme of an explanatory statement expressing regret, had decided that this could compound the insult. The possibility of writing an article for the Returned Services Association newspaper was discussed but again rejected as "it could spread word of the unintended and unfortunate faux pas of sorts to an even wider audience, with its attendant scope for giving even wider offence".

To avoid the possibility of another airing of a false assessment of public reaction towards former service personnel, TVNZ had not taken any public action on Mr Shepherd's request for a retraction and public apology.

### **Mr Shepherd's Final Comment to the Authority**

When TVNZ's response was referred to him, in a letter dated 12 November Mr Shepherd emphasised the point that the item, according to TVNZ itself, had breached three standards in the Television Code of Broadcasting Practice. He denied the implication in TVNZ's response to the Authority that he was being unreasonable in pursuing his request for an apology. TVNZ's error had involved a public broadcast and he considered that a private apology did not conform with the adage that "Justice must be seen to be done". TVNZ's arguments, he continued, were an attempt to protect its image and TVNZ, he wrote, "dost protest too much".

He concluded by noting that TVNZ had transgressed badly and now had a responsibility to apologise.

