

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 61/91

Dated the 10th day of December 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

AIRINI McCLURE

of Auckland

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

An American advertisement for carpet was broadcast at 6.50pm on TV1's *Holmes* programme on Monday 9 September 1991. The broadcast, described by Television New Zealand Limited as a "light interlude" between matters of greater substance, showed a baby in a baby buggy hurtling around the room and coming to stop in front of the mother's miniskirted legs. After the broadcast, Paul Holmes commented:

"Mind you those legs would stop anyone."

Referring to an item on the *Holmes* programme at 6.29pm on 9 September 1991 about a "pretty leg show", Ms McClure said that it denigrated women. In a later letter she stated that Mr Holmes was preoccupied with women's legs and his comments on each occasion demeaned women.

TVNZ had difficulty in deciding to what item or what comment the complaint precisely referred but, should it relate to the baby buggy advertisement, it declined to uphold it. The advertisement was not, TVNZ said, either pornographic or denigratory of women.

As Ms McClure was dissatisfied with TVNZ's decision, she referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority, having read the correspondence, share with TVNZ the dilemma as to precisely what broadcast the complainant refers. Ms McClure complained to TVNZ initially about a comment made by Mr Holmes on the *Holmes* programme at 6.29pm on 9 September 1991. She later corrected the time to 6.59pm. However, staff from both TVNZ and the Authority have watched the tape of TV1 from 6.00 - 7.00pm on Monday 9 September and the only possible item to which the complaint could relate was an American carpet advertisement broadcast at about 6.50pm. The advertisement included a baby stopping its buggy in front of its mother's miniskirted legs.

When referring her complaint to the Authority, Ms McClure was quite specific in complaining that Mr Holmes final comment for the evening had been "Wouldn't we all like to see legs like these". She had not, she wrote, complained about an American advertisement. She was advised by TVNZ that the words complained about had not been used on the programme on 9 September and, in view of her apparent confusion, TVNZ submitted to the Authority that it should dismiss the complaint as frivolous, vexatious or trivial.

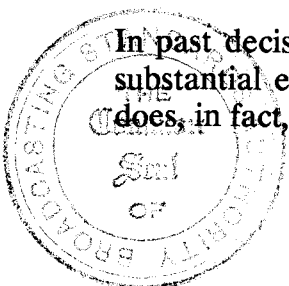
In her final comment to the Authority, while not retracting her allegation about the words used by Mr Holmes in his final comment, Ms McClure stated that the American commercial was another example of his preoccupation with women's legs and how his comments about legs demeaned women specifically and society generally.

The Authority concluded that the comment to which Ms McClure objected was not broadcast on TV1's *Holmes* programme on 9 September 1991. Further, it is required by s.6 of the Broadcasting Act 1989 to deal with complaints about specific programmes. It may not deal with, for example, a viewer's general dissatisfaction with a broadcaster's approach to a topic spread over some weeks or months. However, in view of Ms McClure's final comment, a majority of the Authority has accepted as the subject of her complaint the broadcast on 9 September of the American carpet commercial. The minority agreed with TVNZ that, in view of the complainant's apparent confusion, the complaint should be dismissed as trivial.

The broadcast of the carpet advertisement, together with Mr Holmes' subsequent comment, Ms McClure alleged, denigrated women and thus breached standard 26 of the Television Code of Broadcasting Practice. Standard 26 provides:

- 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 past decisions relating to this standard (eg No: 19/91), the Authority has required substantial evidence that a programme encourages denigration before deciding that it does, in fact, traduce a person or a group. It notes that TVNZ had advised that on this



occasion the comment about women found offensive was suggested by a woman. In response, the Authority makes the obvious point that a woman (or a member of any group) is capable of encouraging denigration of other women (or other group members).

However, on this occasion the woman's legs portrayed in the advertisement were very much part of its context. Mr Holmes' comment, while it could be argued that it contained a touch of sexism, in the Authority's view was relatively inoffensive and did not encourage denigration of women.

For the reasons set forth above, a majority of the Authority declines to uphold the complaint. The minority dismisses the complaint as trivial under section 11 of the Broadcasting Act 1989.

Signed for and on behalf of the Authority

Iain Gallaway
Iain Gallaway
Chairperson



10 December 1991

Appendix

Airini McClure's Complaint to Television New Zealand Limited

In a letter received by Television New Zealand Ltd on 12 September 1991, Ms McClure complained that an item on TV1's *Holmes* programme on 9 September breached standard 26 of the Television Code of Broadcasting Practice. Standard 26 provides:

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.

She said:

Holmes drowned himself and his observers in a two-second snatch of "safe pornography" - a pretty leg show. Once more women have been put down for a cheap laugh.

TVNZ's Response to the Formal Complaint

TVNZ advised Ms McClure of its Complaints Committee's decision in a letter dated 4 October 1991. From the sparse details in the letter of complaint, the Committee assumed that it related to an American commercial screened on the *Holmes* programme. The advertisement featured a baby in a baby buggy hurtling around the room which came to a stop in front of the baby's mother's miniskirted legs. After screening the commercial, Paul Holmes had commented:

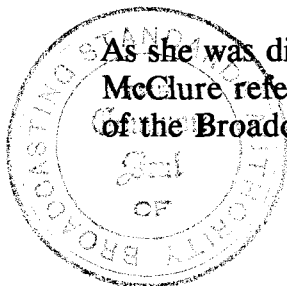
"Mind you those legs would stop anyone."

TVNZ said Mr Holmes' remark, which was provided by a female producer, was not intended to offend.

The Committee did not accept that the material justified either being regarded as pornography or denigratory of women. Accordingly, the complaint was not upheld.

Airini McClure's Complaint to the Broadcasting Standards Authority

As she was dissatisfied with TVNZ's decision, in a letter dated 9 October 1991 Ms McClure referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



TVNZ, she wrote, had assumed she was referring to an American commercial and, consequently, her complaint had been considered with regard to a programme she had neither seen, nor heard, nor complained about.

When she completed the Authority's Complaint Referral Form she added:

They [TVNZ's Complaints Committee] did not recognise the exposure of ladies (legs to hips) swift though it was - subliminally swift - was a denigration of all women. Paul's closing words were: "Wouldn't all of us like to see legs like that?"

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response. The letter to TVNZ is dated 22 October 1991 and its reply is dated 7 November.

TVNZ explained that it had been difficult to grasp the core of the complaint. The complaint had mentioned two times at which the offending words were spoken. One, said TVNZ, was during the weather forecast, while the other was during a programme trailer or an advertisement.

The complaint, TVNZ insisted, on the details supplied, could only refer to the American commercial and Mr Holmes' subsequent observation and it had nothing further to add to its comments in its letter of 4 October to Ms McClure. TVNZ concluded:

Given the circumstances the company would submit that this complaint is frivolous, has the appearance of being vexatious, and given the nature of the item it is clearly in the trivial category. Accordingly, the company would invite the Authority to consider the complaint in the context of section 11(a) of the Act.

Airini McClure's Final Comment to the Authority

When asked for comment on TVNZ's response, Ms McClure maintained that Paul Holmes was preoccupied with women's legs. She maintained that in the advertisement referred to, and in his final statement, Mr Holmes had drawn attention to "luscious legs". Every time that happened, she continued, "women are put down" and "society itself is demeaned".

