

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 2/92

Dated the 10th day of February 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

JOHN CONNELL

of Rotorua

Broadcaster

TV3 NETWORK SERVICES
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

The *Nightline* programme on 23 August 1991, broadcast at 10.30pm by TV3 Network Services Limited, included extracts from a film which showed a man picking his nose and wiping his finger on a woman's face, and lying on his back on the floor drooling while looking up between women's legs. The item also included, when presenter Ms Belinda Todd was portrayed, a man similarly picking his nose and wiping his finger on her face and, in addition, poking his tongue in her ear.

Mr Connell complained to TV3 that the item showed disrespect for the viewer and neglect of the broadcaster's responsibilities. Pointing out that the film from which the extracts were shown had a GY classification, TV3 believed neither the extracts nor the lead-up material in the item had breached the good taste and decency standard. Nevertheless, as TV3 had some sympathy for the complainant's views and as the item did not meet internal production standards, the programme's producer had been severely reprimanded.

As Mr Connell was dissatisfied with TV3's decision, he referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendix). The Authority, upon reading Mr Connell's referral, was concerned at his description of the events portrayed. The apparent breach of standards seemed to be of the kind which could well have evoked some discussion in the print media at the time. However, the Authority was not aware of any such publicity and was satisfied, after viewing the item, that it was not so crassly gruesome as the complaint suggested.

The Authority was required to determine a procedural issue before considering the complaint. The correspondence could be read to suggest that Mr Connell was satisfied with TV3's decision on his complaint but dissatisfied with TV3's subsequent action as it did not include the broadcast of an apology. However, TV3's decision specifically rejected the complaint that the item breached broadcasting standards. In view of Mr Connell's comments on the Complaint Referral Form, the Authority concluded, first, that he wanted the Authority to investigate and review the standards issue and, secondly, if the Authority upheld his complaint about the breach of standards, then to review the adequacy of the action taken by TV3.

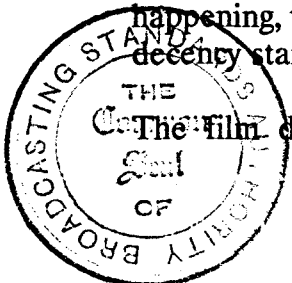
Mr Connell alleged that the item breached s.4(1)(a) of the Broadcasting Act 1989 which requires broadcasters to maintain in their programmes standards which are consistent with the observance of good taste and decency.

The item complained about included a review of the film "Drop Dead Fred" and the Authority observes that reviews of films and other artistic events are regular features on TV3's *Nightline*. TV3 argued that the film had been given a GY recommendation by the Film Censor and thus it was difficult to conclude that the review breached the good taste and decency standard.

The Authority notes, first, that the film censor's ratings do not automatically apply to television broadcasters as they are also required to comply with broadcasting standards and, secondly, that because film reviews often include extracts of the film which are broadcast out of context, while the total film may carry a GY classification, the broadcast of selected extracts may merit a more strict classification. With this complaint, those points had to be balanced by the context in which the extracts were shown. The item was broadcast late in the evening during the programme, *Nightline*, which the Authority observes is attempting to garnish its reputation as a news source with a bouquet of titillation.

In regard to the extracts from the film portrayed, the Authority accepted that it was probable that TV3 broadcast some of the more shocking segments. Nevertheless, taking into account the context in which the film review and accompanying extracts were broadcast and that their lack of continuity made it difficult to follow what was actually happening, the Authority concluded that the broadcast did not breach the good taste and decency standard.

The film dealt with imaginary friends and, as part of presenter's Belinda Todd's



introduction to the film review and the preceding items, she was joined by what was apparently her "imaginary friend". Her "friend", before the film review was broadcast, emulated some of the activities which the corresponding character in the film was later seen to perform, such as picking his nose and wiping his finger on another person's face. The film reviewer described the film as a gratuitously tasteless adult fairy tale. That would seem to be the standard which TV3 and Ms Todd set themselves that evening.

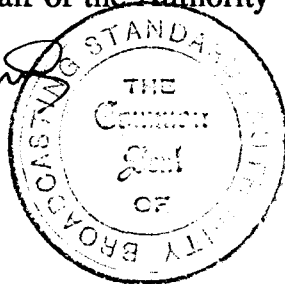
In considering whether Ms Todd and her "friend's" activities breached the broadcasting standard requiring good taste and decency, the Authority took into account the fact that their performance was a lead-up to the review of "Drop Dead Fred" and that the film extracts, when viewed, were not as horrific as their written description suggested. In addition, the performance took place on the late evening news. In a marginal decision, a majority of the Authority decided that the item did not offend society's generally accepted attitudes and values.

The Authority agreed with the reported view of TV3's Director of News and Current Affairs that the item was an attempt at comedy which failed to meet its objective. In the Authority's opinion, the attempt at comedy merely produced childish smutty humour. The Authority also agreed with TV3's action in reprimanding the programme's producer as the programme did not meet TV3's internal standards.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



10 February 1992

Appendix

Mr Connell's Complaint to TV3 Network Services Limited

In a letter dated 25 August 1991, Mr Connell complained to TV3 Network Services Ltd about the *Nightline* programme broadcast on 23 August.

The programme had included extracts from a film which showed a man picking his nose, offering the pickings to the viewer and then wiping his finger on the camera. Another extract showed a man lying on his back and drooling while looking up between women's legs.

While Ms Belinda Todd, the programme's presenter, was speaking, a man had picked his nose and wiped his finger on her face and had placed his tongue into her ear.

Mr Connell observed:

You display in all of this appalling disrespect for the sensibilities of your viewer, a total neglect of your responsibilities and a lack of civilised human standards.

TV3's Response to the Formal Complaint

TV3 advised Mr Connell of its Complaints Committee's decision in a letter dated 21 October 1991.

It said that the film from which extracts were shown had been classified GY by the Film Censor and thus TV3 believed that it had not breached the standards of good taste and decency. As the build-up material was of a similar standard, TV3 did not uphold that as part of the complaint either.

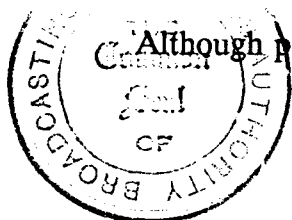
Nevertheless, as TV3 had some sympathy for the complainant and as the material did not meet TV3's internal production standards, the programme's producer had been severely reprimanded.

Mr Connell's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TV3's response, in a letter dated 1 November 1991 Mr Connell referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Mr Connell described the item as the worst example of banality and crudity he had seen on television in New Zealand or elsewhere in 30 years of viewing. The item, he continued, had been extremely insulting to viewers.

Although pleased by TV3's internal action, its sympathy for him not sufficient and he



stated that the item required TV3's public acknowledgment of its mistake and an apology to viewers.

TV3's Response to the Broadcasting Standards Authority

As is its practice, the Authority sought the broadcaster's comment on the complaint. Its request is dated 6 November and TV3 replied in a letter dated 21 November.

TV3 objected to the complainant's comment about other complaints related to the portrayal of sexual activity on *Nightline* which it described as irrelevant to the current complaint. It also objected to the complainant's allegation that TV3 was uncaring about inflicting offence upon viewers. The complainant, it continued, was presumably referring to his own complaint which, although not upheld, resulted in a reprimand for the programme's producer.

TV3 concluded:

We would like to state that while TV3's management was unhappy with the programme in question, the TV3 Complaints Committee did not believe it breached the Codes of Broadcasting Practice. The Director of News and Current Affairs expressed the view that it was an attempt at comedy which failed to meet its objective.

Mr Connell's Final Comment to the Authority

When asked for his response to TV3's reply, in a letter dated 17 January 1992 Mr Connell commented:

My complaint was quite clear, I thought. It was of the station's presentation of a programme that was taking an unacceptable direction to ugly and indecent attempts at humour. I used the nose picking episode simply as the worst example of this that I had witnessed. If TV3 took the internal action they talk of then I am pleased. However, I fail to see what bearing this has on their attitude to the public they depend upon. His action would in my opinion only help my case against them and would clearly indicate to me that a public apology should be offered by them.

He said that he was not "a stick-in-the-mud moralist", but believed that the standards of some of the material on *Nightline* presented a poor image of New Zealand.

