

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 14/92

Dated the 15th day of April 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

ROBERT WARDLAW

of Auckland

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

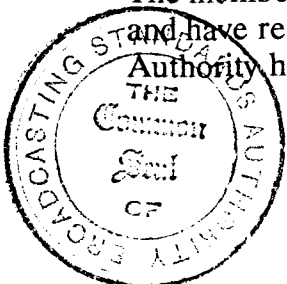
An episode of *Birds of a Feather* was broadcast by Television New Zealand Ltd on TV1 at 9.35pm on 12 November 1991. *Birds of a Feather* is a comedy series about two sisters whose husbands are in prison.

Mr Wardlaw complained to TVNZ that one of the characters used a grossly offensive expression which denigrated a divine reality. The character described a person as being "as pure as an Angel's fart" which, Mr Wardlaw said, breached three standards in the Television Code of Broadcasting Practice.

As TVNZ declined to uphold the complaint, Mr Wardlaw referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have watched a tape of the programme complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.



Mr Wardlaw complained that the use of the phrase "as pure as an Angel's fart", both in the programme *Birds of a Feather* and in a promo broadcast shortly before its broadcast, was grossly offensive and denigrated and ridiculed a divine reality. The crudeness of the phrase, he remarked, was accentuated because of its use by a female character.

He said that the expression breached standards 2, 18 and 26 of the Television Code of Broadcasting Practice. Standards 2 and 18 require broadcasters:

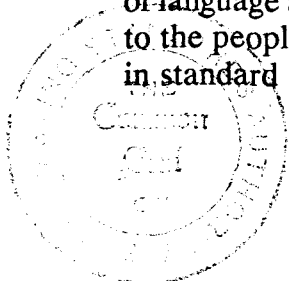
2. To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.
18. To be mindful of the effect any programme may have on children during their generally accepted viewing periods.

Standard 26 reads:

26. The portrayal of people in a way which is likely to encourage denigration of or discrimination against any section of the community on account of sex, race, age, disability, occupational status, sexual orientation or the holding of any religious, cultural or political belief shall be avoided. This requirement is not intended to prevent the broadcast of material which is:
 - i) factual, or
 - ii) the expression of genuinely-held opinion in a news or current affairs programme, or
 - iii) in the legitimate context of a humorous, satirical or dramatic work.

TVNZ declined to uphold the complaint. Acknowledging that the programme's dialogue was "rough, crude and rude", it argued that it was appropriate in the context of the lifestyle being portrayed. It also argued that the programme did not breach standard 18 as the times at which the promo and the programme were broadcast were not within the generally accepted viewing periods for children. As the item did not portray Christian believers, and as standard 26 forbids the portrayal of people in a way likely to encourage denigration, the standard was inapplicable.

The Authority considered the complaint under standard 2 of the Television Code to be the core of the complaint. That standard requires broadcasters to consider currently accepted norms of decency and taste in language, bearing in mind the context in which the language is used. The Authority agreed with Mr Wardlaw that the standards are designed to protect the viewer. In the Authority's opinion, the portrayal on television of language and behaviour which is socially unacceptable to viewers, although acceptable to the people portrayed, does not entitle the broadcaster to claim that the proscriptions in standard 2 of the Code do not apply.



In earlier decisions the Authority has referred to its benchmark of generally accepted community standards when assessing questions of good taste and decency. It was against that standard that the Authority assessed the phrase "as pure as an Angel's fart". The Authority reiterates the point made above that context is a consideration, not the overriding determinant, but taking into account that the phrase was used by a character in a prison's visiting room, it decided that although its use was questionable it did not breach standard 2.

The Authority also considered whether the use of the phrase by a female character was relevant to its decision. While acknowledging that the role of the character who uses the language or who displays the behaviour complained about may be relevant, the Authority was of the opinion that, because of the progress towards societal sexual equality, the sex of the character uttering the phrase was not a relevant issue.

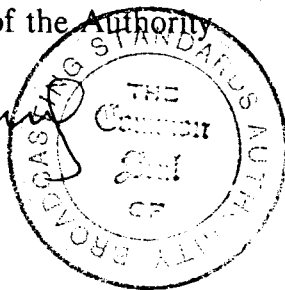
As both broadcasts took place well into adult viewing time, the Authority did not consider that the broadcasts had occurred during the generally accepted viewing periods for children. Consequently, the broadcast had not breached standard 18.

With regard to Mr Wardlaw's claim that the programme breached standard 26, the Authority agreed with TVNZ. Although Mr Wardlaw argued and the Authority does not dispute that many Christian viewers find all anti-Christian material unacceptable, a breach of standard 26 requires the portrayal of people in a way which is likely to encourage denigration of a section of the community. The phrase complained about clearly contained a derisive overtone but it was a passing remark in the programme. As the programme was a comedy which did not contain an anti-Christian or anti-religious theme beyond the comment in question, the Authority concluded that the complaint alleging a breach of standard 26 was of minimal substance.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



15 April 1992

Appendix

Mr Wardlaw's complaint to Television New Zealand Ltd

In a letter dated 14 November 1991, Mr Wardlaw complained to Television New Zealand Ltd about an expression used on the programme *Birds of a Feather* broadcast at 9.35pm by TV1 on 12 November 1991.

One of the characters described a person as being "as pure as an Angel's fart" which, Mr Wardlaw wrote, was grossly offensive and denigrated and ridiculed a divine reality. He also objected to the use of the comment on a promo for the programme broadcast 10 minutes before the programme's start, adding:

There was certainly no way that a normally selective viewer could avoid hearing and being offended by the expression.

His concern, he noted, was accentuated by the use of the phrase by a woman. He said that the use of the expression breached standards 2, 18 and 26 of the Television Code of Broadcasting Practice.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Wardlaw of its Complaints Committee's decision in a letter dated 20 December 1991.

It began by noting that the expression objected to was used by the wife of a prison inmate and was within "the context of the lifestyle being portrayed". The programme, it added, was rated PGR.

The programme's dialogue, TVNZ continued, was "rough, crude and rude". Nevertheless, given the coarseness of the society being depicted, TVNZ argued that the programme's language did not breach standard 2. In view of the time of screening, 9.35pm, TVNZ added, it did not breach standard 18 relating to children's viewing periods. In regard to standard 26, TVNZ stated that two of Mr Wardlaw's comments were irreconcilable. The complaint was not upheld.

Mr Wardlaw's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's response, in a letter received on 13 January 1992 Mr Wardlaw referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989. He addressed a number of the points made by TVNZ when it declined to uphold his complaint.

First, he described TVNZ's excuse that the phrase was acceptable because it was used by a prisoner's wife as an "insult". Moreover, he said, that comment was based on faulty reasoning as the standards were concerned to protect the viewer, rather than

being concerned with the origin of the an insult.

Secondly, he argued that it was illusory to believe that children were in bed by 8.00pm, especially in summer. Moreover, he questioned whether many parents would be able to explain competently why Christians would find the phrase complained about offensive.

Regarding TVNZ's belief that his comments were irreconcilable, Mr Wardlaw explained his arguments step-by-step and said that TVNZ's conclusion was based on its refusal to think rationally from the perspective of Christian believers.

Fourthly, he pointed to the fact that promos used the most graphic part of a programme and thus rejected TVNZ's excuse that it did not breach the standards because of the time of broadcast.

Mr Wardlaw dealt at length with his complaint that the broadcast breached standard 26. Reviewing the reason for the existence of the Broadcasting Standards Authority, the "greatly increased frequency of blasphemy, sexual innuendo and obscenity" on television, the increasing use of women to present that material, the unresearched claims about what was "now" acceptable, he concluded:

[D]irect insults are being regularly offered to divine reality by grotesque and blasphemous obscenities which are by no means an imperative or even a benefit to good programming. Such liberties are being taken by TV Channels, simply because the high percentage of "laugh now" structured shoddy comedy and equally low quality drama programmes, majoring on gratuitous violence, much of it from overseas, makes it convenient. To approve this state of affairs is to court the ultimate judgement of eternal God without a single benefit to (if one could) justify the gamble.

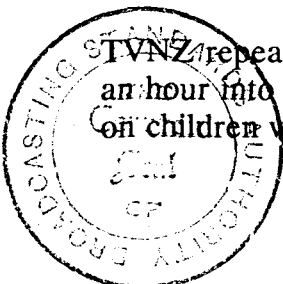
In a letter dated 31 January, Mr Wardlaw provided evidence from one evening's viewing to support the contention about the increasing incident of offensive material on television.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the referral. The letter to TVNZ is dated 13 January 1992 and its reply, 11 March.

While acknowledging Mr Wardlaw's sincerity, TVNZ questioned whether he placed undue emphasis upon a six-word phrase during a comedy which at the time was located in a prison visiting room. The discussion in such an environment, it added, would not necessarily equate with polite society.

TVNZ repeated the point that the programme, rated PGR, was screened more than an hour into AO time. Consequently, standard 18 referring to a programme's effect on children was unlikely to be in jeopardy. It continued:



We have freely admitted that the dialogue in the programme was rough, crude and rude but as we have so frequently stated when such matters arise it is the context in which the material is uttered that is important, and it is a determinant in testing brittleness with regard to codes.

In regard to Mr Wardlaw's letter of 31 January, TVNZ pointed out that, of the six programmes cited, only one was broadcast by TVNZ. As the phrase complained about in that programme was not part of the original complaint, TVNZ declined to comment further.

Mr Wardlaw's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 19 March 1992 Mr Wardlaw disputed TVNZ's claim that he was putting too much emphasis on a six word phrase. It was, he continued, carefully executed to have a major impact. As evidence for this, he noted TVNZ's use of that part of the programme in the promo.

He also drew attention to the programme's irrationality in creating a spiritual being with physical functions. He contested TVNZ's argument about the implied privacy of a prison discussion on television. Because television characters made comments publicly, it could not be claimed that they were supposed to be in private.

Referring to his own work experience with television, Mr Wardlaw stated it formed attitudes and opinions and influenced emotions much more than any other media. That influence, he continued, was apparent in actions of children.

He also rejected TVNZ's argument that the phrase was acceptable because it occurred in a comedy. He wrote:

In the series of arguments the writer has had over the past year with TVNZ and in appeals to the Authority, justification has been claimed on the grounds of changing public attitudes on morality. This argument seems to set out to establish that the term "Standards" in such issues as this is relevant only to the expedience of management or suppression of protest for political comfort and that the "sinking lid" approach has been adopted, wherein the "Standards" will automatically be allowed to descend with social misbehaviour.

He referred to a decision in which the Authority upheld a complaint about a comment in a comedy because it offended believers in God and the book which recorded His purpose and urged the Authority to be consistent.

