

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 25/92

Dated the 26th day of May 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KERRY SHARP

of Palmerston North

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

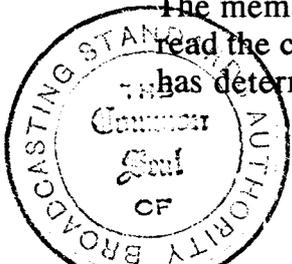
"Love and Hate" was the title of a two-part Canadian mini-series broadcast by Television New Zealand Ltd on TV2 on 15 and 16 December 1991. It was based on the true story of a Saskatchewan millionaire rancher and politician who was convicted in 1984 of murdering his former wife. The trial received extensive media coverage in Canada.

Mr Kerry Sharp complained to TVNZ about the excessive violence shown in the second episode in the scenes depicting the ex-wife's murder. Even though it was a true story, he said, the scenes of explicit violence were sickening and went beyond the limits of good taste and decency.

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

Decision

The members of the Authority have viewed 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 Sharp complained to TVNZ that the explicit violence in the second episode of "Love and Hate" broadcast on 16 December 1991, which showed a person being brutally beaten, shot and killed, was nauseating and did not comply with standards requiring good taste and decency.

TVNZ assessed the complaint under standards 2 and 21 of the Television Code of Broadcasting Practice. Standard 2 requires 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.

Standard 21 reads:

- 21 Broadcasters have a responsibility to ensure that when violence forms an integral part of drama or news coverage the context can be justified.

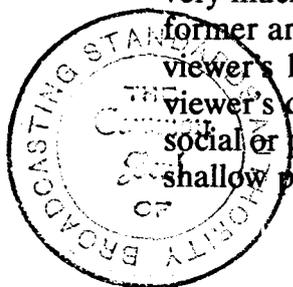
TVNZ explained that the depiction of a husband beating and killing his wife was based on true events. It acknowledged that the scene was violent but as the item had been preceded by a warning, as it screened at about 9.00pm, as the scene was an integral part of the story and as the sombre and subdued reconstruction was not dwelt upon unduly, it argued that neither standard had been breached.

The Authority acknowledges that TVNZ broadcast a warning before showing the programme but notes that this is not a licence to breach broadcasting standards. The Authority agrees with TVNZ in that the incident was violent and that the portrayal of at least some of the violence was integral to the context of the programme. It also agrees that much of the scene was portrayed in subdued light which reduced the graphic explicitness of some of the details.

However, the Authority did not agree with TVNZ when it argued that the scene was brief. TVNZ acknowledged that the entire scene, including some shots of a passer-by, lasted for about 90 seconds and the Authority observed that that was a lengthy period of time for violence to be committed, especially when accompanied by some graphic scenes and explicit and frightening sound effects.

Balanced against these concerns, the Authority also acknowledged that the murder was central to the television portrayal of a true story. However, the item involved a man killing his former wife which, being a real life situation, could well affect viewers deeply.

The Authority discussed at length the portrayal of violence on television in Decision No: 41/91. That discussion followed a National Seminar on Television Violence in July 1991, sponsored by the Authority, and the Decision included reference to a paper by Dr David Docherty, BBC's Director of Research, entitled "Entertaining Violence: Pleasure and Pain". In his paper, Dr Docherty explained that the impact of violence on television is very much related to whether the viewer sees the item as "deep" or "shallow" play. The former are the items which carry the greater influence, being realistic and reflecting the viewer's life experiences. Shallow play, on the other hand, does not impinge on the viewer's day-to-day experiences of the world. It is remote from the audience's cultural, social or political milieu. For example, most cartoons involving fantasy situations involve shallow play while modern dramas set in cultures similar to New Zealand and dealing



with familiar themes frequently involve deep play. To use this terminology, the violence in "Love and Hate" amounted to "deep" play.

Having taken these considerations into account, the Authority decided that although much of the scene took place in semi-darkness and some aspects were only portrayed by sound effects, the violence portrayed was brutal, it dealt with real people in a real situation and was unnecessarily prolonged. The Authority believed that the impact of the scene could have been portrayed equally effectively in a much shorter period of time and with less shocking brutal directness.

The Authority is aware that much of the concern about violence is expressed because many see the excessive portrayal of explicit violence as a breach of good taste and decency. Bearing in mind that the violence portrayed could have been more explicit by, for example, the use of less subdued lighting, and even more gratuitous, the Authority nevertheless decided that, given the disturbing reality of the portrayal, its lingering focus on the female victim's attempt to crawl away from her attacker and its bloody, gruesome nature, it did not comply with currently accepted societal norms of taste and decency and, accordingly, breached standard 2. The Authority also decided that as the length of the portrayal was unnecessary to the item's context, it breached standard 21 as well.

For the reasons set forth above, the Authority upholds the complaint that the broadcast of "Love and Hate" by TVNZ Ltd on 16 December 1991 breached standards 2 and 21 of the Television Code of Broadcasting Practice.

Mr Sharp did not refer to standard 22 and neither did TVNZ assess the complaint under it. It reads:

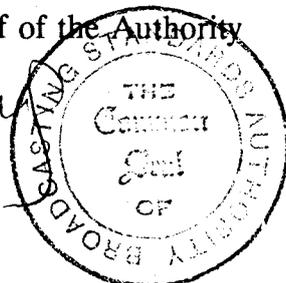
- 22 The gratuitous use of violence for the purposes of heightened impact is to be avoided.

The Authority mentions this standard as although Mr Sharp's principal concern was canvassed in the good taste and decency requirement of standard 2, there is some overlap between standards 2 and 21 under which this complaint was assessed. Indeed, the Authority upheld the complaint principally under standard 21 because of that overlap. The Authority regards standard 22 as equally if not more demanding of broadcasters than standard 21 and records that, if it had been raised by either Mr Sharp or TVNZ, it would have regarded the programme in breach of that standard as well.

Having upheld a complaint, the Authority may impose an order under s.13(1)(a) of the Broadcasting Act 1989. It does not intend to do so on this occasion as the Authority has determined relatively few violence complaints and at this stage it considers the setting of guidelines to be more important than the imposition of penalties.

Signed for and on behalf of the Authority

Iain Gallaway
Iain Gallaway
 Chairperson



26 May 1992

Appendix

Mr Sharp's Formal Complaint to Television New Zealand Limited

In a letter dated 22 December 1991, Mr Kerry Sharp complained to Television New Zealand Ltd about the explicit violence in the second episode of the mini series "Love and Hate" screened on TV2 on 16 December 1991.

Objecting to the scenes which showed the victim being brutally beaten, shot and killed, he wrote:

This was a nauseating scene! Even if a true story there is no need to show this sickening explicit violence. This goes beyond decency and good taste.

Pointing out that television was a powerful medium, he concluded:

It is time for Television New Zealand to raise its broadcasting standards to be more in line with traditional universal values and ethics as encompassed by "The Ten Commandments", "The Beatitudes" and "The Golden Rule".

TVNZ's Response to the Formal Complaint

In a letter dated 19 February 1992, TVNZ advised Mr Sharp of its Complaints Committee's decision. The complaint about the programme, it noted, had been assessed under standards 2 and 21 of the Television Code of Broadcasting Practice. The former requires broadcasters to take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context, and the latter requires broadcasters to ensure that, when violence forms an integral part of a drama, the context can be justified.

Explaining the true events on which the story was based, TVNZ pointed out the first episode had dealt with the couple's marriage, their legal disputes and the husband's attitude of being above the law. It added that the husband had previously shot his wife in the shoulder but the police had not had sufficient evidence to prosecute.

Episode 2 had been preceded by the warning:

This is an Adults Only programme containing scenes some viewers may find disturbing.

The murder scene, based on a reconstruction of the actual event, had been screened at about 9.00pm. TVNZ said:

It was agreed that the scene was somewhat gruesome, but, as it was true reconstruction it was believed to be justified. The scene, as you will recall, was filmed in the half-dark and alternated from the garage to the outside of the house where a neighbour was passing by. The entire scene took up approximately one and a half minutes.

TVNZ acknowledged that the scene was violent. However, as the violence was not dwelt upon unduly, as it was an integral part of the story line and, bearing in mind the sombre tone of the reconstruction, TVNZ believed that the standards had not been breached.

Mr Sharp's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's response, in a letter dated 22 February 1992 Mr Sharp referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He repeated his point that the programme, by showing explicit violence, was "nauseating". Descriptive words, he added, would have adequately conveyed the truth of the horrific scene. Because a programme was broadcast in another country, he observed in response to a point made by TVNZ, that was not a reason why it should be shown in New Zealand.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. TVNZ replied in a letter dated 13 March 1992 to the Authority's request dated 2 March. Noting that there was little more it wanted to say in addition to its earlier letter, TVNZ wrote:

In this submission we would simply reemphasise four aspects and these concern the subdued light or darkness which considerably reduces the detail of what was a ghastly murder, the context and brevity of the incident when the length of the programme is taken into account, the factual basis of the portrayal and the fact that the programme was preceded with a warning.

TVNZ maintained its argument that the standards had not been breached. It urged the Authority to watch both episodes in order to gain a comprehensive understanding of the programme's context.

Mr Sharp's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 18 March 1992 Mr Sharp expressed his disagreement with TVNZ. Explicit violence, he said, was not acceptable on television and was offensive and in bad taste.

