

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 72/92

Dated the 1st day of October 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MINISTER OF HEALTH
HON. SIMON UPTON

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson
J.R. Morris
R.A. Barraclough
L.M. Dawson

DECISION

Introduction

Government policy about prescription charges was dealt with in an item on TV1's *Holmes* programme on 15 April 1992. The item stated that the Minister of Health declined to appear to discuss the policy, it broadcast extracts from one of the Minister's news releases on the topic and suggested that the release was incomprehensible.

The Minister of Health, Hon. Simon Upton, through his press secretary, complained to Television New Zealand Ltd, as the broadcaster, that the item was inaccurate and that the contents of the press release were presented in a distorted way. He had not refused to appear, he continued, but had not responded to TVNZ's request as his office was not able to contact him until after the broadcast began. Acknowledging that some of the items in the press release might not be understood by average viewers, he complained that the item did not explain that the press release came from a speech to the New Zealand Medical Association earlier in the day and stated that other media outlets had not found it incomprehensible.

TVNZ said that the *Holmes* programme had included on the 16 April programme a correction about the reasons for the Minister's non-appearance the previous evening. It maintained that all press releases should be understandable by the general public and the news release referred to on the item was incomprehensible although staff from the



Holmes programme had spoken to the Minister's staff for thirty minutes in an effort to try to understand it. TVNZ declined to uphold the complaint. As the Minister was dissatisfied with TVNZ's response, 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 both the item complained about on the *Holmes* programme on 15 April 1992 and the correction broadcast the following evening. They have also read the correspondence (summarised in the Appendix) which includes transcripts of both items and a copy of the press release to which the complaint refers. As is its practice, the Authority has determined the complaint without a formal hearing.

The Minister of Health (Hon. Simon Upton) through his Press Secretary complained to TVNZ about an item on the *Holmes* programme on 15 April. The item dealt with the policy for prescription charges and included a comment to the effect that the Minister had declined to appear to discuss the policy. Extracts from one of the Minister's press releases were broadcast and the item suggested that the release was incomprehensible.

Following the complaint, the *Holmes* programme on 16 April broadcast a correction in which it said that the Minister had not refused to appear but that his office had been unable to contact him to advise him of the programme's request. TVNZ declined to uphold the other aspects of the complaint.

The Minister referred to the Authority his complaint that the broadcast had deliberately set out to convey the impression that the press release was incomprehensible and, consequently, that the Minister was out-of-touch with his audience. The broadcast, the Minister continued, breached standards 12 and 15 of the Television Code of Broadcasting Practice. They read:

- 12 News must be presented accurately, objectively and impartially.
- 15 Care must be taken in editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or overall views expressed.

The Minister said that the item breached the standards by not acknowledging that the press release included comments prepared for an informed audience - the New Zealand Medical Association - which were familiar with the technical terms used. He also recorded that if the *Holmes* programme had not understood the press release then it need not have broadcast the item and continued:

But the [*Holmes*] show is not entitled to cast unwarranted and unsupportable slurs on others in the name of news.

The item, the Minister concluded, misrepresented the contents of the press release and lacked accuracy, objectivity and impartiality.



TVNZ advised the Authority that the audience to whom a speech was directed was not relevant as a press release should be understandable in itself. It objected to the Minister's complaint that the item had been designed to make him look foolish and said:

There is a considerable difference between offering ridicule and quite properly pointing out the apparent failure of a ministerial office to explain simply and clearly the reasoning behind policy that is very much in the public interest.

Referring to the technical nature of the terms contained in the press release, TVNZ expressed the belief that the community was becoming frustrated by the use of jargon. Moreover, a *Holmes* staff member had spent thirty minutes on the telephone to the Minister's office trying to make sense of the release. Consequently, TVNZ concluded, it maintained that the Minister had not been treated unfairly.

The Authority approached the complaint by asking first, whether the broadcast should have referred to the informed nature of the audience to whom the speech had been delivered, and secondly, whether the press release contained technical terms which were not readily understandable to a lay audience.

On the first point, the Authority agreed with TVNZ. The press release had been released to the media for publication, not just to the NZMA, and consequently the Authority believed that it was not incumbent upon a broadcaster, although sometimes it might be of relevance, to report its origin. The Authority also agreed with TVNZ that the press release contained jargon which was not readily understandable. However, it concurred with the Minister that the release contained explanations about the terms used which, although some effort was involved, allowed the reader to understand the points being made.

The Authority believes that the media are entitled to criticise press releases which are distributed to them and which contain technicalities or jargon without explanations. TVNZ reported that a staff member spent half an hour on the telephone to the Minister's office seeking clarification of the release. Having read the press release, the Authority was surprised that after half an hour a staff member was still unable to understand the points in the release.

Whereas most of the item on the *Holmes* programme about the prescription charge policy complied with broadcasting standards, the Authority believed that the difficulty the staff of the *Holmes* programme had in understanding the press release coloured the item's closing comments. As noted above, the Authority considered that the *Holmes* programme was justified in referring critically to the jargon in the release. However, the Authority's task was to decide whether the criticism of the release was accurate, objective and impartial: in other words whether it complied with standards 12 and 15 of the Television Code.

The broadcast concluded with the presenter saying:

Mr Upton finishes his press release today by saying " ... this will be a useful step towards the global stop-loss ... ", whatever that is. Something like, perhaps, the



glottal stop-loss which would mean that we're speechless.

That statement was incorrect as the Minister did not finish his press release with a reference to a "global stop-loss". He added the words - "an annual maximum paid by a family for all health care". That phrase was clearly there to provide an explanation for the term "global stop-loss". Then followed two sentences:

It will also help in the battle to slow the growth in New Zealand's drug bill. This year that bill is expected to be more than \$500 million" Mr Upton said.

The Authority decided that the explanation of "global stop-loss" contained in the release appeared to have been deliberately omitted to enable the words "whatever that is" to be added. That provided a gratuitous slur which went beyond criticising the style of the release.

The Authority concluded, therefore, that the item justifiably criticised the style of the press release, but the statement quoting the Minister's 'final words' as "this will be a useful step towards the global stop-loss", which provided the introduction to the final "throw away" lines, was both unfair and inaccurate and in contravention of standard 12 of the Television Code of Broadcasting Practice which requires news to be presented accurately, objectively and impartially.

Drawing on one of the Authority's earlier decisions (No: 8/92) when standard 15 was applied to the editing practice of broadcasting a question and an answer when, in fact, the answer to the screened question was not broadcast and the answer shown was in fact given to an unscreened question, on balance the Authority decided that the item did not breach standard 15 as the press release was presented reasonably fully, albeit with its technical terms.

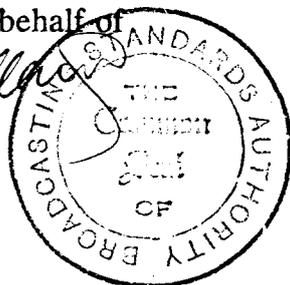
For the reasons set forth above, the Authority upholds the complaint that the broadcast by Television New Zealand Ltd of an item on the *Holmes* programme on 15 April breached standard 12 of the Television Code of Broadcasting Practice.

The Authority declines to uphold any other aspect of the complaint.

Having upheld a complaint, the Authority may make an order under s.13(1) of the Act. However, the Authority is of the opinion that while the *Holmes* programme did overstep the mark with its ridicule of the jargon employed in the press release, there is also room for the view that to some extent the Minister's office was the author of its own misfortunes. Accordingly, the Authority decided that it was inappropriate to impose an order in this instance.

Signed for and on behalf of


Iain Gallaway
Chairperson
1 October 1992



AppendixThe Minister of Health's Complaint to Television New Zealand Ltd

In a letter dated 16 April 1992, the Minister of Health's press secretary complained to Television New Zealand Ltd about an item on the TV1's *Holmes* programme the previous evening - 15 April. The complaint alleged breaches of standards 12, 15 and 17 of the Television Code of Broadcasting Practice which require, respectively, that news be presented accurately, objectively and impartially, that editing does not result in factual distortion and that correction of facts be broadcast at the earliest opportunity.

The complaint, the letter continued, focused on the comments in the item that the Minister had refused to appear and that he had issued an incomprehensible press statement.

With reference to the Minister's non-appearance, the complaint recorded that the programme was aware that because the Minister was out of contact, the programme's request had not been put to him. As the broadcast was inaccurate on this point, a correction that evening was suggested.

The complaint that the programme deliberately suggested that the press statement was incomprehensible was regarded by the Minister as serious. The item on *Holmes* had not explained that the release reported a speech to the New Zealand Medical Association whose members would have been familiar with the terms used. By not reporting that fact, the complaint added, the impression was given that the Minister was "out-of-touch with his audience".

Despite the way the programme had referred to the statement, the complaint continued, a TVNZ news crew in Christchurch and other media had understood it and the Minister's office had spent half an hour on the telephone with a member of the *Holmes* programme explaining it. The letter remarked:

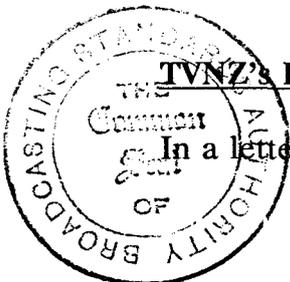
It is difficult to reach any conclusion other than the programme was more interested in making the Minister's statement look foolish than it was in illuminating an issue of interest to most New Zealanders.

The complaint concluded:

We look forward to TVNZ correcting its erroneous statement that the Minister had said 'no' to an appearance and will await your reaction to the other matters dealt with in this complaint.

TVNZ's Response to the Formal Complaint

In a letter dated 11 May, TVNZ advised the Minister of Health's press secretary of



its Complaints Committee's decision. It noted that the complaint had been assessed under the standards cited.

Dealing first with the complaint that the item had been inaccurate when it said that the Minister refused to appear, TVNZ stated that the error had been acknowledged in the *Holmes* programme on 16 April, the first available opportunity, in compliance with standard 17.

With regard to the point in the complaint that there was no reference in the item to the fact that the remarks were made to an informed Medical Association audience, TVNZ said that as a news release purported to provide comprehensible information to the public at large, the composition of the original audience was irrelevant. As for the next issue, that the item suggested the press release was incomprehensible, TVNZ maintained the news release, as it included quotes from the speech, was not readily understandable. It presented as an example of incomprehensibility the phrase "global stop loss". That term, TVNZ added, was accompanied by a definition which also made little sense. It reported that a researcher had spent over half an hour on the telephone with staff from the Minister's office seeking clarification. TVNZ recorded:

Given these circumstances it was agreed that it was a reflection of the programme team's frustration at not being able to get to the bottom of it that caused Paul Holmes to observe "whatever that means".

The complaint was not upheld.

The Minister of Health's Complaint to the Broadcasting Standards Authority

As the Minister of Health was dissatisfied with TVNZ's response to his complaint about the manner in which the programme had dealt with his news release, in a letter dated 22 May he referred those aspects of his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

The press release, he reported, covered the announcement of proposed changes to the pharmaceutical charging system made in a speech to the New Zealand Medical Association. By not mentioning the origin of the press release, the Minister wrote, the item left the impression he was avoiding answering questions raised by the *Holmes* programme.

This is a failure to reflect context and a distortion of the event and the views expressed.

Further, the Minister continued, he did not accept that the press release was incomprehensible and added that it contained explanations of the two technical terms used. He objected particularly to the following comment from Mr Holmes:

Mr Upton finishes his press release today by saying "This will be a useful step towards the global stop-loss ... ". Whatever that is. Something like perhaps,



the glottal stop-loss which would mean we are speechless."

Mr Upton continued:

I do not object to my press releases being reworked in a story or being delved into more deeply.

However I do object to being misrepresented. If the Holmes Show was not able to understand the issue from the press release or the explanations given by my office, there are many other sources as the quoted text points out.

If the Holmes Show did not believe it was news, they were free not to run the story.

But the show is not entitled to cast unwarranted and unsupportable slurs on others in the name of news.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter enclosing the papers received from the Minister is dated 29 June and TVNZ's reply, 15 July.

TVNZ repeated that a correction was broadcast on 16 April giving the correct reasons for Mr Upton's not appearing. The correction, it added, was broadcast at the first available opportunity as required by standard 17.

In regard to the press release, TVNZ maintained that the composition of the audience to which the speech was made was irrelevant. The press release, it said, should have been in language which lay people could understand. The item on *Holmes*, it continued, was not designed to ridicule the Minister but to show that the Minister's office failed to explain simply the reasons for a policy.

Pointing to a community dissatisfaction with the increasing use of jargon and to the efforts of the *Holmes* staff in trying to make sense of the press release, TVNZ considered that Mr Upton had not been treated unfairly.

The Minister's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 22 July Mr Upton noted that no new matters of substance had been raised. He repeated that the press release contained explanations of technical terms. TVNZ's failure to take the explanations into account, he wrote, resulted in an inaccurate and unfair report.

