

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 78/92

Dated the 15th day of October 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MARK TOOMER

of Christchurch

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

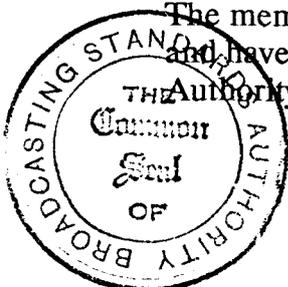
The first episode of the series *Shortland Street* was broadcast by Television New Zealand Ltd on TV2 at 7.00pm of 25 May 1992. One scene showed a couple kissing and apparently participating in sexual intercourse.

Mr Toomer complained to TVNZ that the shots of the couple breached the broadcasting standard requiring good taste and decency, as did the scene's implicit message which promoted adultery while denigrating marriage.

Describing the scene as brief and arguing that the programme reflected all aspects of relationships, TVNZ declined to uphold the complaint. As Mr Toomer was dissatisfied with that decision, he referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have viewed 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.



In his complaint to TVNZ, Mr Toomer wrote that "glimpses of the act of sexual intercourse in Shortland Street" on the first episode on 25 May failed to maintain standards of good taste and decency. Further, he stated that the programme had been inappropriately classified as "PGR" and, because the scene complained about promoted "adulterous sex" and denigrated marriage, it should have been classified as "AO" and screened after 8.30pm.

TVNZ assessed the complaint under standards 2 and 8 of the Television Code of Broadcasting Practice. They 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.
- 8 To abide by the classification codes and their appropriate time bands as outlined in the agreed criteria for programme classifications.

The Television Classifications referred to read:

#### Parental Guidance Recommended

Programmes containing material more suited to adult audiences but not necessarily unsuitable for child viewers when subject to the guidance of a parent or adult.

"PGR" programmes are recommended for screening between 9am and 4pm on weekdays and after 7pm until 6am.

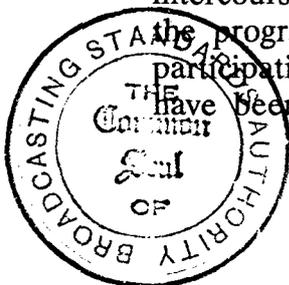
#### Adults Only

Programmes containing adult themes or those which, because of the way the material is handled, would be unsuitable for persons under 18 years.

"AO" programmes are recommended for screening between midday and 3pm on weekdays (except during school and public holidays) and after 8.30pm until 5am.

Describing the sexual intercourse scene as lasting for barely four seconds and showing only head and shoulders, TVNZ believed the "PGR" classification was appropriate. As the portrayal of adultery reflected real life, TVNZ disagreed that marriage was denigrated. It declined to uphold the complaint.

In assessing the complaint, the Authority questioned whether the complainant's allegation was correct when he said that the programme showed "glimpses" of the act of sexual intercourse. The Authority decided that it would have been more accurate to state that the programme showed brief shots of two actors who, it could be assumed, were participating in sexual intercourse. Without the prior brief verbal exchange, it would have been difficult to know exactly what the couple were doing. In other words,



"glimpses of the act of sexual intercourse", was hardly an accurate description of the scenes which were broadcast of the total encounter which, as TVNZ explained, lasted barely four minutes and, during the apparent act of sexual intercourse, showed only head and shoulders.

In regard to the complaint that the portrayal of adulterous sexual intercourse denigrated marriage, the Authority noted that programmes such as *Shortland Street* did not take it on themselves to promote moral standards for better or worse and could not be expected to do so. Nevertheless, such programmes must comply with the good taste and decency requirement in standard 2 and, to be broadcast at 7.00pm, it must comply with either the "G" or "PGR" classification. With minimal hesitation, the Authority concluded that the first episode of *Shortland Street* broadcast on 25 May 1992 complied with standards 2 and 8 of the Television Code.

**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 October 1992

## Appendix

### Mr Toomer's Complaint to Television New Zealand Limited

In a letter dated 4 June 1992, Mr Mark Toomer of Christchurch complained to Television New Zealand Ltd about the first episode of the series *Shortland Street* broadcast at 7.00pm on 25 May on TV2.

The programme, he said, failed to maintain standards of good taste and decency as it showed glimpses of two actors participating in sexual intercourse and the scene contained an implicit message which promoted adultery while denigrating marriage. Such a programme, he argued, was unsuitable for children and should be classified as "AO", not "PGR", and broadcast after 8.30pm.

### TVNZ's Response to the Formal Complaint

TVNZ advised Mr Toomer of its Complaints Committee's decision in a letter dated 15 July. It said that the programme had been considered under standards 2 and 8 of the Television Code of Broadcasting Practice which require broadcasters, respectively, to take into account accepted norms of decency and taste in language and behaviour bearing the context in mind, and to abide by the classification codes.

Describing the scene complained about as only showing head and shoulders and lasting barely four seconds, TVNZ expressed the opinion that it had not breached the good taste and decency standard and that it was correctly classified. It had not promoted adultery, TVNZ added, but the programme

reflected real life and covered all aspects of relationships.

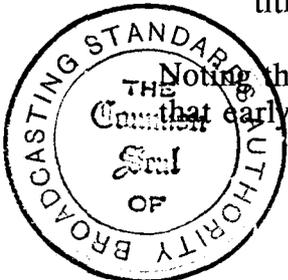
### Mr Toomer's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's decision, in a letter received on 7 August, Mr Toomer referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Mr Toomer expressed his concern that sexual intercourse was depicted at an hour when children were watching television and he was particularly concerned that adultery was screened in family viewing time. He wrote:

From the little I have seen of *Shortland Street* it is melodramatic and sensational, and a sizzling and ongoing extramarital affair is only there to titillate viewers with a sense of voyeurism.

Noting that many children were watching television between 7 - 7.30pm, he argued that early evening viewing time should be suitable for general viewing.



### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 7 August and TVNZ's reply, 18 August.

TVNZ said that the only material which would be described as a "glimpse of the act of intercourse" consisted of a head and shoulders shot lasting less than three seconds. It stated:

We submit that this very brief image complied with the requirement to maintain taste and decency, while providing the necessary storyline information about the extent of the affair.

TVNZ said that the intention of the genre into which the programme fell was to reflect life "as it is". It continued:

A soap about New Zealand which depicted a community in which every citizen was upright and living according to rigid moral codes would lack something in realism. It is a fact of life that adulterous affairs take place - and workplace scandals are part of the fabric of life in this part of the twentieth century.

Arguing that the subject was appropriate for the PGR viewing period and that it did not offend the requirements for taste and decency, TVNZ said that the programme breached neither standard 2 nor 8.

### Mr Toomer's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 12 September Mr Toomer acknowledged that the scene he objected to was brief. However, three seconds could be a long time on television and the build up had been spread over some minutes. He also acknowledged that the scene consisted only of heads and shoulders but, he argued, that was still inappropriate for early evening viewing.

Mr Toomer objected to TVNZ's reason that the programme, by showing adultery, was merely reflecting life. Did that justify the portrayal at that time, he asked, of child physical or sexual abuse. He maintained that titillation was TVNZ's motive for showing the segment. Finally, in view of television's influence on children, he believed that it should be in keeping with "what are universally acknowledged as good standards".

