

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 81/92

Dated the 22nd day of October 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

JACKIE WOOLERTON

of Wellington

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

An advertisement for "Chit Chat" biscuits showing a talkative cavalry soldier questioning a silent Native North American man whose answers were shown in subtitles was broadcast by Television New Zealand Ltd on Sunday evening the 7th June 1992.

Ms Woolerton complained to TVNZ that the negative portrayal of the Native American was racist and encouraged denigration of and discrimination against Native American people.

Describing the advertisement as humorous and more derisive of the soldier than the Native American portrayed, TVNZ declined to uphold the complaint.

Decision

The members of the Authority have viewed the advertisement 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 her complaint to TVNZ, Ms Woolerton said that the "Chit Chat" advertisement



breached the standards in the Television Code of Broadcasting Practice and the Advertising Code which prohibited the broadcast of programmes which encouraged denigration or discrimination. The advertisement, she continued, was racist in that it portrayed a Native American and implied that he was stupid and easily bribed. He was contrasted with a cavalry soldier who was represented both verbally and visibly in a positive way.

TVNZ assessed the advertisement under standard 26 of the Television code. It 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, occupation 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.

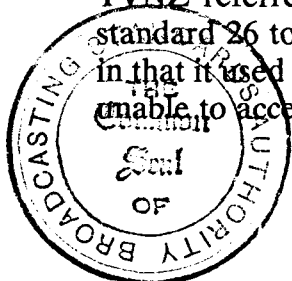
TVNZ said that it also kept in mind standards 1 and 6 of the Code for People in Advertising. They read:

- 1 Advertising should not portray individuals or groups within society in a manner which is likely to expose them to violence, exploitation, hatred, contempt, abuse, denigration or ridicule from other members of the community.
- 6 Humour and satire are natural and accepted features of the relationship between individuals and groups within the community. Humorous and satirical treatment of people and groups of people is equally natural and acceptable in advertising, provided the portrayal does not encourage intolerance, prejudice or bigotry.

In view of the similarity of the requirements in the standards as they apply to this complaint, the Authority decided that a review of the complaint under standard 26 would suffice.

In her complaint to TVNZ, Ms Woolerton wrote that because of the sensitivity of the issue of acquiring land from indigenous people, the exception in standard 26 for legitimately humorous items was inapplicable.

TVNZ referred to both that exception and the one which excuses the application of standard 26 to satirical works. It described the advertisement's approach as humorous in that it used "ludicrously exaggerated" stereotypes of the two persons portrayed. It was unable to accept the inferences drawn by Ms Woolerton and, arguing that nobody could



take the stereotypes seriously, it declined to uphold the complaint for the reason that the advertisement was both humorous and satirical. Further, TVNZ wrote, if anyone had been lampooned it was the cavalry man.


Rather than assess whether the commercial fell within the exceptions for legitimate humorous or satirical works, the Authority approached the complaint by asking whether it encouraged denigration of or discrimination against a section of the community on account of race. In past decisions the Authority has defined denigration as a "blackening" of a reputation of a group and has ruled that a high level of deprecation is necessary for a programme to encourage denigration. It has defined discrimination to mean any practice that makes distinctions between individuals or groups so as to disadvantage some and to advantage others. To find out whether one person has discriminated against another person involves a comparison between how the other person is treated and how a real or a hypothetical person of a different status (such as sex or race) is treated.

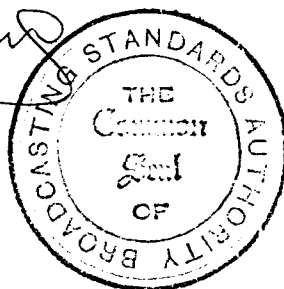
Examining the "Chit Chat" advertisement against standard 26, the Authority acknowledged that the advertisement used racial stereotypes but considered that they were, at the most, only mildly offensive. After studying the portrayal of the Native American, the Authority decided that he had not been shown in a negative light. Further, it accepted the broadcaster's point that the cavalry soldier was to a large extent the butt of the advertisement's humour. The Authority was also of the view that the advertisement could not seriously be regarded as making a significant comment about a racial group within the community. This conclusion was supported by the fact that the advertisement's scenario was removed in time and place from New Zealand society and by what might be described as the questionable impact of the advertisement.

The Authority concluded that the advertisement did not denigrate either of the characters portrayed nor encourage discrimination against Native Americans.

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

Signed for and on behalf of the Authority


Iain Galloway
Chairperson



22 October 1992

Appendix

Ms Woolerton's Complaint to Television New Zealand Ltd

In a letter dated 19 June 1992, Ms Jackie Woolerton of Wellington complained to Television New Zealand Ltd about an advertisement for "Chit Chat" biscuits shown on TV2 on 7 June.

As the advertisement portrayed Native American people in a way which was likely to encourage denigration and discrimination, she said, it breached both the Television Code of Broadcasting Practice and the Advertising Standards. It breached the standards as it was racist. She argued that the advertisement did not fall into the exemption for humour as the issue of land acquisition from indigenous people was a sensitive issue and not a legitimate one for humour.

TVNZ's Response to the Formal Complaint

TVNZ advised Ms Woolerton of its Complaints Committee's decision in a letter dated 7 August 1992 in which it reported that the complaint had been considered under standard 26 of the Television Code of Broadcasting Practice. The Committee had also borne in mind standard 1 of the Code for People in Advertising which reads:

- 1 Advertising should not portray individuals or groups within society in a manner which is likely to expose them to violence, exploitation, hatred, contempt, abuse, denigration or ridicule from other members of the community.

In addition, TVNZ referred to standard 6 of that Code which states:

- 6 Humour and satire are natural and accepted features of the relationship between individuals and groups within the community. Humorous and satirical treatment of people and groups of people is equally natural and acceptable in advertising, provided the portrayal does not encourage intolerance, prejudice or bigotry.

TVNZ recorded:

The Committee noted that the advertisement took a humorous approach in drawing attention to the product by depicting a one-sided "chit-chat" between a ludicrously exaggerated stereotype of a Wild West cavalry officer, and an equally ludicrously exaggerated stereotype of an Indian, of the same period.

So exaggerated were the characters that the Committee believed nobody could have taken them seriously.

Describing the advertisement as "a journey into fairyland" and not drawing the



inferences made by Ms Woolerton, TVNZ declined to uphold the complaint under either standard.

Ms Woolerton's Complaint to the Broadcasting Standards Authority

As she was dissatisfied with TVNZ's response, in a letter dated 11 August 1992 Ms Woolerton referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

She elaborated on why she believed the advertisement breached standard 26.

It does this by portraying the Native American in a negative light and making him appear simple.

- the Native American does not vocally speak in his native language or any other, the subtitled speech is very simple, he has a glazed expression, and shows no emotion.

- the Englishman, or soldier, is portrayed in an active way. He is speaking and using body gestures.

- the Englishman has open body language whereas the Native American's is closed with his arms and legs crossed.

- the Englishman is standing above the Native American putting him in a position of power.

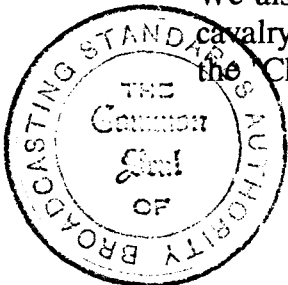
She acknowledged that the Englishman was made to look a fool but that did not mean that the portrayal of the native American as "powerless, stupid and easily bribed" was funny. As the humour was not legitimate, she concluded, it was not a defence to the complaint.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter enclosing all the papers is dated 19 August and TVNZ's reply, 7 September.

Maintaining its opinion that the characters depicted were ludicrously exaggerated, TVNZ said that the advertisement fell into the exception allowed for satire in standard 26. TVNZ concluded:

We also reiterate that of the two characters, we believe it is the Wild West cavalryman, rather than the North American Indian, who is made to look like the "Charlie".



Ms Woolerton's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 14 September 1992 Ms Woolerton maintained that the advertisement breached the standards noted and, in addition, breached standard 2 of the Television Code as it was against "currently accepted norms of decency and taste in language and behaviour".

