

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 82/92

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  
TV3 NETWORK SERVICES  
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 TV3 Network Services Ltd on Sunday evening the 7th June 1992.

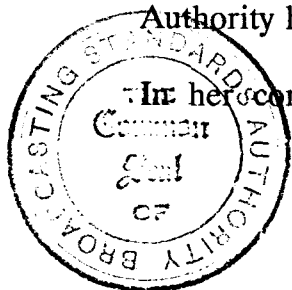
Ms Woolerton complained to TV3 that the negative portrayal of the Native American was racist and encouraged denigration of and discrimination against Native American people.

Describing the advertisement as humorous and more derisive of the colonial soldier than the Native American, TV3 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 TV3, 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.

Without referring specifically to the standard in question, it is apparent that TV3 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.

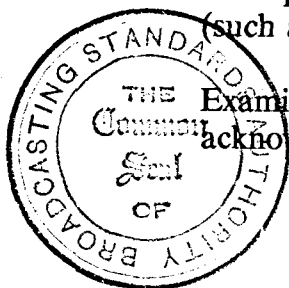
In her complaint to TV3, Ms Woolerton wrote that because of the sensitivity of the issue of acquiring land from indigenous people, the exception in standard 26 for legitimately humorous items was inapplicable.

TV3 described the advertisement as humorous but argued, in addition, that it did not discriminate against Native Americans. Expressing the belief that the advertisement was more derisive of the cavalry soldier than the Native American, TV3 declined to uphold the complaint as it did not denigrate or discriminate.

The Authority also approached the complaint by asking whether it encouraged denigration of or discrimination against a section of the community. In the decision on an identical complaint against TVNZ for the broadcast of the "Chit Chat" advertisement, the Authority recorded (Decision No: 81/92):

In past decisions the Authority has defined denigration as a "blackening" of a reputation 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 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 consider that

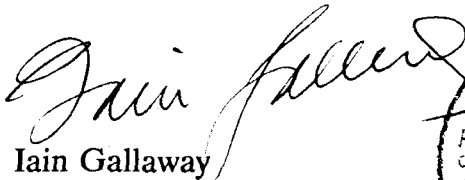


they were, at the most, only mildly offensive. After studying the portrayal of the Native American, the Authority decided that he had not been shown in a negative light. Further, it accepted the broadcaster's point that the cavalry soldier was to a large extent the butt of the advertisement's humour. 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.

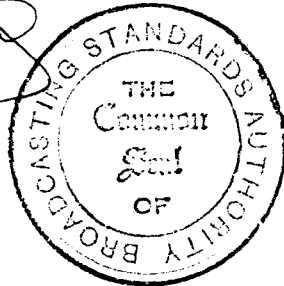
The Authority concluded that the advertisement did not denigrate either of the characters portrayed nor encourage discrimination against Native Americans.

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

Signed for and on behalf of the Authority



Iain Gallaway  
Chairperson



22 October 1992

## Appendix

### Ms Woolerton's Complaint to TV3 Network Services Limited

In a letter dated 19 June 1992, Ms Jackie Woolerton of Wellington complained to TV3 Network Services Ltd about an advertisement for "Chit Chat" biscuits shown 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 land acquisition from indigenous people was a sensitive issue and not a legitimate one for humour.

### TV3's Response to the Formal Complaint

TV3 advised Ms Woolerton of its Complaints Committee's decision in a letter dated 23 July.

Taking into account the standard in the Television Code of Broadcasting Practice which Ms Woolerton alleged was breached by the advertisement, TV3 expressed the belief that the advertisement was humorous and did not discriminate against Native Americans. Indeed:

We are of the view that it is tongue in cheek towards both characters in the commercial, and that in fact it is more derisive of the English man (or colonial American soldier, as you put it) than the native American who seems to have the better of the other.

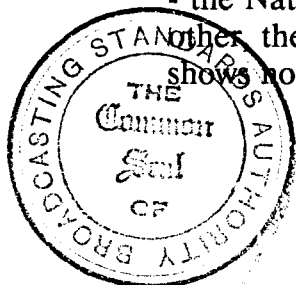
### Ms Woolerton's Complaint to the Broadcasting Standards Authority

As she was dissatisfied with TV3'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.

### TV3's Response to the Authority

As is its practice, the Authority, sought the broadcaster's response to the complaint. Its letter enclosing the papers is dated 19 August and TV3, in its response dated 2 September, enclosed a copy of its 23 July letter to Ms Woolerton and declined to comment further.

### Ms Woolerton's Final Comment to the Authority

When asked for a final comment, in a letter dated 14 September 1992 Ms Woolerton maintained that the advertisement breached the standard 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".

