

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 86/92

Dated the 5th day of November 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

ELIZABETH AND GRANT PATON-
SIMPSON
of Auckland

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

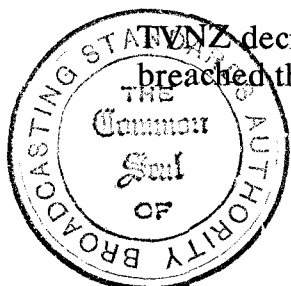
DECISION

Introduction

Bikini Jam: Uncovering the Cover Girl was the title of a programme broadcast by Television New Zealand Ltd on TV2 at 8.30pm on Wednesday 20 May 1992. The programme focused on three contestants in a major North American beauty competition who were required to parade in a bikini. A trailer or promotion material (promo) for the programme showing women wearing bikinis was broadcast on a number of occasions including one at 10.30pm on Monday 18 May at the conclusion of a programme called *Men, Sex and Rape*.

The Paton-Simpsons complained to TVNZ that, as the programme denigrated women, it breached the broadcasting standard which prohibits the denigration of a section of the community on account of their sex. It denigrated women, they said, by focusing in a voyeuristic manner on women's bodies, especially on cleavages and bare buttocks. They complained that the promo also breached the same standard, adding that they felt that their case against the promo was stronger as viewers were given minimal opportunity to control the promos which they watched.

TVNZ decided that the broadcast of the promo at the conclusion of *Men, Sex and Rape* breached the standard requiring good taste and decency and advised that its Director of



Programming had publicly acknowledged the mistake. Internal systems had been put in place to prevent a repetition. Pointing out that the programme depicted highly motivated women attempting to achieve their ambitions, TVNZ said that those women obviously did not consider that they were denigrated. Moreover, audience research showed that many women chose to watch the programme. While respecting the complainants' opposition to beauty contests, TVNZ said that such contests were a legitimate subject for a documentary and the complaint was not upheld.

As they were dissatisfied with TVNZ's decision that neither the promo nor the programme breached the standard prohibiting denigration, the Paton-Simpsons referred their 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 promo for *Bikini Jam: Uncovering the Cover Girl* and the programme itself and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

The Paton-Simpsons complained that the programme *Bikini Jam: Uncovering the Cover Girl* broadcast on TV2 on 20 May, and its promo broadcast twice during the evening of 18 May, breached standard 26 of the Television Code of Broadcasting Practice. The broadcasts breached that standard, they continued, as they focused in a voyeuristic manner on scantily-clad women's bodies with a particular emphasis on cleavages and bare buttocks. They said that such treatment of women was inherently demeaning, it encouraged men to denigrate women, and it encouraged attitudes which produced sexual harassment.

Standard 26 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 their complaint to TVNZ, the Paton-Simpsons also referred to the Code for the Portrayal of People in Advertising, a television advertising standard, but were told by



TVNZ that as the promo did not qualify as an advertisement under the rules, it was not relevant.

Apparently TVNZ received another complaint that the broadcast of the promo at the conclusion of a programme entitled *Men, Sex and Rape* on 18 May breached the requirement on broadcasters to maintain standards consistent with the observance of good taste and decency. That complaint was upheld and TVNZ's Director of Programmes publicly acknowledged the mistake in screening the promo in association with that particular programme.

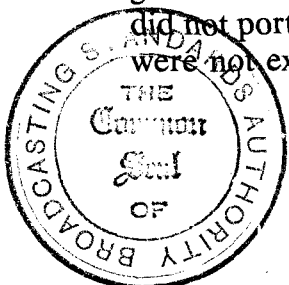
In regard to the complaint under standard 26, TVNZ pointed to the aspirations and the determination of the contestants upon whom the programme focused and said that they chose to participate in the contest. Although appreciating the complainants' distaste for beauty contests, TVNZ said that they were of interest to many viewers and it denied that the programme was voyeuristic in nature. In a later letter to the Authority, TVNZ acknowledged that the contestants were exhibitionists but maintained that the programme did not involve the "grubby, key-hole peeping connotations" usually associated with voyeurism. It also explained that audience research showed that the programme was popular among women aged between 25 - 54.

In response, the Paton-Simpsons raised the issue whether voyeurism was not the corollary of exhibitionism and maintained that, although some women might not feel demeaned while watching the programme, that was not their point as they argued that it demeaned women and was likely to encourage the denigration of and discrimination against women.

The Authority makes one point before determining the substance of the complaint. The attitude of the participants in a programme might possibly be relevant as one of the many considerations to be taken into account, but as the Authority's task is to decide whether programmes which viewers complain about breach the standards, it is a consideration which is given a very low priority.

In examining the programme, the Authority agreed with TVNZ's observation that beauty contests are a legitimate activity in which highly motivated women participate. Although part of the programme's title *Uncovering the Cover Girl* might have been interpreted to suggest greater exposure of flesh than occurred, the Authority believed that the programme made an honest attempt to uncover and discuss the issues of why some women entered such contests and why they displayed such fervour. In this instance the programme set forth the reasons for the contestants' efforts in a relatively low-key way.

The Authority noted that, because of the programme's purpose, it inevitably showed women who displayed much of their body in public. The complainants described the programme as an exercise in voyeurism. In view of the seriousness of that allegation, the Authority did not regard TVNZ's use of a dictionary definition as inappropriate. A "voyeur" is described in the Concise Oxford (eighth edn) as "a person who obtains sexual gratification from observing others' sexual actions or organs". The programme certainly did not portray sexual actions and, although the women were scantily clad, sexual organs were not explicitly portrayed.




The complainants and the broadcaster have approached the complaint on the basis of whether or not it encouraged denigration of or discrimination against women. 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. However, when taking into account the full provisions of standard 26, the Authority has decided that it is not necessary to determine the denigration and discrimination issues traversed by the parties as it is provided in paragraph (i) of standard 26 that the requirements in that standard are not intended to prevent the broadcast of factual material.

In the Authority's opinion, that exception applies only when a programme unequivocally advances fact rather than the attitudes of the programme makers. Taking into account, first, that the programme complained about was a factual record of the activities and the motives of a group of highly ambitious women who entered the contest, and secondly, that the programme makers themselves neither advanced an opinion on the contest nor portrayed it salaciously for example by focusing on cleavages, but rather let the actions of the women speak for themselves, the Authority concluded that the programme and its promo complied with the exception envisaged by standard 26(i).

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



5 November 1992

Appendix

The Paton-Simpsons' Complaint to Television New Zealand Limited

In a letter dated 2 June 1992, Elizabeth and Grant Paton-Simpson complained to Television New Zealand Ltd about the programme *Bikini Jam: Uncovering the Cover Girl* broadcast on TV2 at 8.30pm on Wednesday 20 May.

Referring to standard 26 of the Television Code of Broadcasting Practice which prohibits the broadcast of programmes which encourage the denigration of a group in the community on account of their sex, the Paton-Simpsons maintained that *Bikini Jam* denigrated women and was likely to encourage attitudes which resulted in sexual harassment. The programme, they said, focused:

in a voyeuristic manner on women's bodies often very scantily clad, with a particular emphasis on cleavage and virtually bare buttocks.

The programme's style and title, they continued, was consistent with the style used in pornographic magazines and it was an approach which encouraged sexual harassment.

In addition the Paton-Simpsons complained that a trailer or promotional item (promo) for the programme also breached standard 26 or, if it was classified as an advertisement, a number of the standards in the Code for the Portrayal of People in Advertising. They argued that, as viewers had little choice about whether they watched promos, their case against it was even stronger than the complaint against the full programme. They remarked:

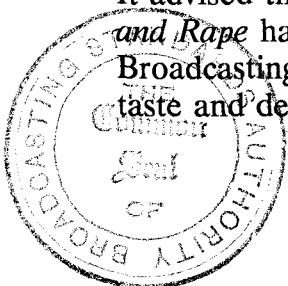
People watching "LA Law" [during which a promo was broadcast] were certainly not consenting to being confronted with a sleazy advertisement using women's buttocks and breasts to sell an equally sleazy programme.

They also noted that they were particularly concerned about the broadcast of a promo at 10.30pm on Monday 18 May at the conclusion of a programme called *Men, Sex and Rape*. It was both insensitive and grimly ironic to show the promo at the conclusion of a programme which considered how the male culture fostered rape.

TVNZ's Response to the Formal Complaint

TVNZ advised the Paton-Simpsons of its Complaints Committee's decision in a letter dated 16 July. It noted that promos were subject to the Television Code as they were not advertisements under the purposes of the Advertising Codes.

It advised that the point of the timing of the broadcast of the promo after *Men, Sex and Rape* had been considered under standard 2 of the Television Code of Broadcasting Practice which requires broadcasters to take currently accepted norms of taste and decency into account. Although the promo itself did not breach standard 2,



TVNZ advised that its screening after *Men, Sex and Rape* breached the standard. Having upheld that aspect of the complaint, TVNZ reported that its Director of Programming had publicly acknowledged the mistake and new systems had been installed to prevent a repetition.

The full programme had been assessed under standard 26. TVNZ pointed out that the item had concentrated on three women who had entered a major popular beauty contest. The women, shown to be highly motivated, chose to enter the competition and did not consider that they were denigrated. Referring to the dictionary definition of voyeur as one who obtains sexual gratification from looking at the sexual actions and organs of others, TVNZ said it would take a greatly distorted imagination to describe the programme as "voyeuristic".

Believing that the complainants could well be opposed to the sort of beauty contest depicted, TVNZ expressed its respect for that approach but argued that beauty contests were enjoyed by both participants and viewers and were the legitimate subjects for documentaries.

The Paton-Simpsons' Complaint to the Broadcasting Standards Authority

As they were dissatisfied with TVNZ's decision that neither the programme nor its promo breached standard 26 of the Television Code, in a letter dated 10 August the Paton-Simpsons referred their complaint to the Authority under s.8(a) of the Broadcasting Act 1989.

Describing TVNZ's use of a dictionary definition of voyeurism as a quibble, they referred to their original complaint and argued that TVNZ was dishonest about the real purpose and appeal of the programme and its promo. The broadcaster had not, they maintained, seriously considered the wording and intent of standard 26.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaints. Its letter is dated 12 August and TVNZ's reply, 21 August.

It began by explaining that the promo had been broadcast twice on Monday 18 May and it had upheld the complaint that the second broadcast at the conclusion of the programme *Men, Sex and Race* breached the Television Code.

TVNZ persisted with its view that "voyeurism" was an inappropriate term to be applied to the programme. While acknowledging that the ambitious women portrayed were exhibitionists, TVNZ maintained that the programme did not contain the sleazy connotations raised by the word "voyeurism". Further, the programme was about a group of aspiring models pursuing a legal and respectable career and it did not encourage the denigration of women.



In response to the possible suggestion that programmes such as *Bikini Jam* were made solely for the benefit of "ogle-eyed" males, TVNZ reported that audience research showed a high proportion of women between the ages of 25 - 54 years chose to watch the programme. It continued:

With the greatest respect to Elizabeth and Grant Paton-Simpson, is there not just a hint of paternalism in their complaint?

TVNZ concluded by acknowledging that the complainants may have found the programme offensive but there was no evidence that most of women viewers felt either demeaned or exploited.

The Paton-Simpsons' Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 28 August the complainants wondered why, if TVNZ accepted that the women portrayed were exhibitionists, it denied the corollary that viewers were put in a position of voyeur.

Referring to the wording in standard 26 and despite the reaction of some home viewers, they argued that such programmes are likely to encourage the denigration of, or discrimination against, women particularly by the way of sexual harassment.

They concluded by referring to the close-ups of women's breasts and buttocks and noting the programme's title as illustrations of the programme's denigratory theme.

