

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 1/93

Dated the 21st day of January 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KERRY SHARP
of Palmerston North

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

In Bed with Madonna was the title of the film shown on TV2 at 9.30pm on 25 September 1992. The film included extracts from Madonna's public performances interspersed with aspects of her off-stage life.

Mr Sharp complained to Television New Zealand Ltd, as the broadcaster, that the film was offensive and denigrated women. He described Madonna's sexually suggestive actions, including simulated masturbation and orgasm, as lewd and obscene. Furthermore, he complained that homosexuality was promoted as an acceptable life-style and much of the language was coarse and sexually explicit.

TVNZ described the sequence complained about as virtually a dance sequence linked to music, and maintained that homosexuality was not promoted in the film. Pointing out moreover that it had been broadcast at 9.30pm, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr Sharp 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 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.

Mr Sharp complained to TVNZ that the broadcast of the film *In Bed with Madonna* on TV2 at 9.30pm on 25 September breached standard 2 of the Television Code of Broadcasting Practice. It requires 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.

The standard was breached, Mr Sharp argued, because the film was offensive and objectionable and denigrated women. It was offensive because the film portrayed simulated masturbation and orgasm, because it promoted homosexuality as an acceptable alternative life-style, and because much of the language was coarse and sexually explicit.

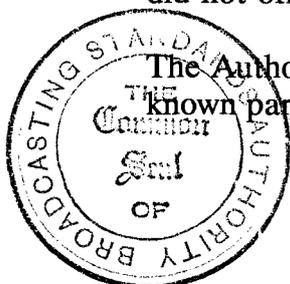
TVNZ declined to uphold the complaint. It pointed out that the film had an internal rating which prohibited its broadcast before 9.30pm and maintained that homosexuality, while accepted in the film, was not promoted. It added that the dance sequence to which Mr Sharp objected was well-known as part of Madonna's act and the language, while coarse, was not inappropriate after 9.30pm when portraying in a documentary style the life of Madonna, her on-stage supporters and her off-stage crew.

The Authority approached the complaint by noting first that the broadcast of the film, because of TVNZ's internal classification, did not begin until an hour after the Adults Only period (AO) was under way and, because of its length, was unlikely to finish before midnight.

In regard to the allegation that the film promoted homosexuality as an alternative life-style, the Authority observed that, although some of the dancers who appeared on stage in Madonna's stage performances were homosexual and that although the dialogue included some bantering between the homosexual and the heterosexual performers and there was one shot of two men kissing, the film neither adopted a moral perspective about homosexuality nor promoted such behaviour. The Authority agreed with TVNZ when it said that homosexuality, while accepted, was not promoted.

When considering the coarse and sexually explicit language used, the Authority observed that the soundtrack was often rather indistinct. Moreover, the questionable language had not been used with an intention to shock or tantalize nor had its use seemed particularly unusual in the environment portrayed. Taking the context of the programme into account, together with the hour of the broadcast, the Authority decided that the language did not offend currently accepted societal norms.

The Authority acknowledged that Madonna's simulated masturbation routine is a well-known part of her act and, indeed, to have omitted it would have substantially affected



the film's validity. However, that aspect of the act is also controversial and part of the film showed discussions with the police in Toronto about whether it should be performed on stage. Accordingly, although the scene might be an essential element of Madonna's act as the film explained, its broadcast by TVNZ must comply with the good taste and decency requirement in the broadcasting standards.

Taking viewers' expectations about standards into account, the Authority decided that the scene portraying simulated masturbation and orgasm was presented as part of a total singing and dancing performance rather than just as a sexual performance. Although on the borderline between what was and was not acceptable under standard 2, the Authority decided that, on this occasion, because of the context in which the behaviour was portrayed, it did not breach the requirements of standard 2.

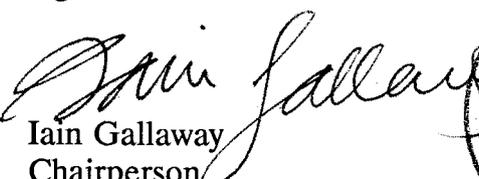
Before ruling whether the entire film was offensive and objectionable to the extent that it breached the requirements of standard 2, the Authority considered some other points raised by Mr Sharp.

It noted that Madonna is an international performer with a high profile but that it is unrealistic to expect her to act as a role-model for young people. The film was presented as a documentary in which aspects of Madonna's private personality would be disclosed. That occurred in a way which showed parts of her off-stage life frankly but not voyeuristically. Rather than denigrating women, the Authority was of the view that the film portrayed a successful woman artist who challenged some of the restraints on women.

Emphasising the hour at which the film was broadcast and that many of the controversial aspects came towards the end of the film (after 11.00pm) and acknowledging that some parts of the film might well ^{be} unacceptable if broadcast as stand-alone items, the Authority decided nevertheless that those aspects seemed completely appropriate in context. Consequently, the Authority concluded that the broadcast of the film did not breach standard 2 of the Television Code of Broadcasting Practice.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



21 January 1993

Appendix

Mr Sharp's Complaint to Television New Zealand Limited

In a letter dated 27 September 1992, Mr Kerry Sharp of Palmerston North complained to Television New Zealand Ltd about the film *In Bed with Madonna* broadcast on TV2 at 9.30pm on Friday 25 September. He alleged that the programme was offensive and objectionable, that it denigrated women and, consequently, breached standard 2 of the Television Code of Broadcasting Practice. Standard 2 requires broadcasters to take into consideration accepted norms of decency and taste in language and behaviour bearing the context in mind.

He described Madonna's sexually suggestive actions, including simulated masturbation and orgasm, as lewd and suggestive. Furthermore, homosexuality was promoted as an acceptable alternative life-style and much of the language was coarse and sexually explicit.

Quoting poll results which disclosed that a majority of New Zealanders considered depictions of sexual intercourse, masturbation, oral sex and sodomy in films, videos and magazines to be objectionable, Mr Sharp argued that TVNZ, by screening the film *In Bed with Madonna*, was aiding and abetting the destruction of New Zealand society.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Sharp of its Complaints Committee's decision in a letter dated 10 November 1992. It pointed out that film had an S2130 rating which meant that it could not be screened before 9.30pm.

Noting that Madonna was a superstar adored by many of the young, TVNZ said that the sequence complained about would not have come as a surprise to anyone who knew of her career and described it as a dance sequence linked to music. TVNZ contested Mr Sharp's allegation that the film "promoted" homosexuality, arguing that it accepted homosexuality as a social reality.

TVNZ declined to uphold the complaint, stating:

Looking at the film overall, the Committee considered that it provided an interesting insight into the life and views of a modern day idol, and revealed a fascinating contrast between the outgoing public persona and the private person that lurks behind it.



Mr Sharp's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 14 November 1992 Mr Sharp referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Repeating the allegations contained in his complaint to TVNZ, Mr Sharp argued that Madonna's role as a "superstar" did not make the broadcast of her performances acceptable. "In fact", he continued, "many countries found her performances quite unacceptable and she was banned from public performance".

Saying that only a "warped" imagination could describe the simulated masturbation sequence as a dance, Mr Sharp described the film as "outright pornography". The programme, he contended, endorsed homosexuality which was neither natural nor normal, adding that the practice was responsible for the spread of AIDS. He referred at length to the Bible to provide evidence to support his view of homosexuality.

The programme, he concluded, was offensive, objectionable, denigrated women and breached standard 2 of the Television Code of Broadcasting Practice.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 17 November and TVNZ's reply, 20 November.

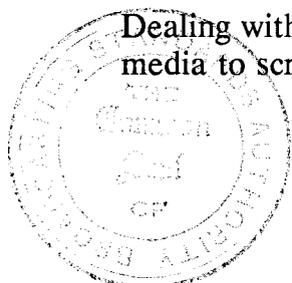
Describing the film as a mixture of Madonna's public and private persona, TVNZ stated that it stood by its comments in its letter to Mr Sharp that the programme did not breach standard 2 of the Television Code.

TVNZ acknowledged that some of the on-stage action depicted simulated masturbation but argued that it was presented in a highly stylised and well-known routine. It continued:

For a film starting well after the watershed, and of prime interest to a particular constituency among the viewers who would already be familiar with Madonna's provocative and controversial reputation, the Company believes the programme did not breach any taste or decency standards.

With reference to the complaint that the film promoted homosexuality, TVNZ emphasised that the film "accepted" homosexuality but at no point did it make any judgment about it. Acknowledging that some of the language was "coarse and sexually explicit", TVNZ said that this depicted the reality of the "roadies" portrayed and was not inappropriate in the context of the film which was broadcast at 9.30pm.

Dealing with Madonna's role as a "superstar", TVNZ said it was appropriate for the media to scrutinise closely such a personality and added:



We agree that not everything a superstar does may be acceptable, but we think it is up to the public to judge that. Clearly Mr Sharp has concluded that some of the stage performances are "lewd and obscene". He is entitled to that view and we wholeheartedly endorse his right to hold it. But against that you can note the enthusiasm of the large crowds watching (and, we guess, a large part of our viewing audience) who clearly have come to a quite different conclusion. We endorse their right to hold that view as well.

TVNZ noted that Mr Sharp's complaint was the only one received and thus it argued that the film had been well received. It concluded by describing the biblical references as irrelevant to the complaint.

Mr Sharp's Final Comment to the Authority

When asked to comment on TVNZ's, in a letter dated 24 November Mr Sharp said it was usual for many people not to complain even when they shared the opinions of those who did complain. Part of the reason for that, he added, was that many people were not aware of the formal complaint process.

Recording the many hours he spent watching "toxic" programmes and the time spent in complaining outside his normal work hours, Mr Sharp wrote:

Enough is enough! TVNZ has gone too far! It is overdue for decency, good taste and wholesomeness to be brought back into New Zealand television.

