

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 100/93

Dated the 19th day of August 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MINISTER OF WOMEN'S AFFAIRS,
HON JENNY SHIPLEY

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

Parts of a recording of a television presenter's telephone conversation with two armed men trapped by the police in a farm house in New South Wales was played on *One Network News* and *Holmes* between 6.00 - 7.00pm on 30 March 1993. During the conversation, the men admitted to committing four murders. They held as hostages two children aged 9 and 11 years who also spoke briefly during the broadcast.

The Minister of Women's Affairs (Hon Jenny Shipley) complained to Television New Zealand Ltd that the broadcasts of parts of the conversations on the news and on *Holmes* were gratuitous and breached the standard of good taste and decency. While accepting that the media should cover tragedies, the Minister stated that it was unnecessary, and indeed sensationalist, to broadcast an interview with the two murderers.

Describing the news item as a straightforward account of the siege, TVNZ said that the other item on *Holmes* involved a broadcast of less than a quarter of the original Australian interview and was included to deal with the question of the murderers' motivations. It denied that the item was sensational or that the standards were breached. Dissatisfied with TVNZ's decision, the Minister referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the item 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.

On 30 March 1933, *One Network News* and *Holmes* featured a siege in New South Wales involving two armed men who had killed four people and who were trapped by the police in a farm house. While under siege, the two men had spoken by telephone to a television presenter in Australia. The item on the news provided a background to the slayings and included brief extracts from the conversation between the killers and the presenter. The item on *Holmes* contained a longer extract from the same conversation and included brief comments from the two children who were being held as hostages at the time. The items on the news and *Holmes* reported that the two child hostages had since been released.

The Hon. Jenny Shipley, Minister of Social Welfare and Women's Affairs, complained to TVNZ about the broadcast of the extracts of the conversation with the killers which she described as gratuitous and in breach of the standard of good taste and decency. The interview with the two gunmen, she continued, had allowed them to justify their actions and gave rise to the possibility of copy-cat crimes, while the interviews with the children, apparently on the grounds of establishing that they were safe, normalised the fact that they had been abducted and were probably witnesses to murder. She also objected to the programme's coverage of the dismissive way in which one of the murderer's dealt with the relationship and murder of the pregnant 14-year-old.

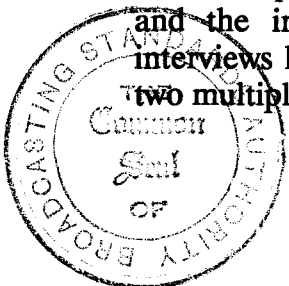
Mrs Shipley argued:

I accept these types of tragedies need to be covered by the news media. However, there must always be a responsible editorial approach taken. In my view the coverage on this issue, particularly that on "Holmes", can only be described as sensationalism. The interview with the two killers was totally unnecessary in presenting the facts of these horrendous crimes.

TVNZ assessed Mrs Shipley's complaint against standards G2 and G9 of the Television Code of Broadcasting Practice. They require broadcasters:

- G2 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.
- G9 To take care in depicting items which explain the technique of crime in a manner which invites imitation.

TVNZ responded by reporting that revulsion was the widespread reaction to the murders and the interviews, although unpleasant, nevertheless warranted reporting. The interviews had provided an opportunity, TVNZ added, of asking the "why" question of two multiple murderers although the answers from both men had been unsatisfactory in



resolving that perplexing conundrum.

TVNZ maintained that the murderers had been shown in an unfavourable light as they had been described, among other terms, as "remorseless killers". In response to Mrs Shipley's concern that the broadcast had occurred against the wishes of the police in New South Wales, TVNZ reported that the broadcast in Australia had been "live" and the broadcast in New Zealand was unlikely to influence a police operation in New South Wales. TVNZ summarised:

The interviews were worth running, the [Complaints] Committee believed, because of the chilling insight they gave into the psychology of "cold-blooded killers".

TVNZ maintained that the coverage did not breach the requirements of standards G2 and G9, concluding:

The [Complaints] Committee was genuinely sorry that the broadcast of the item on *One Network News* and its expansion on *Holmes* had caused you offence and concern but it believed both items were in the public interest, and had been handled responsibly in keeping with the codes.

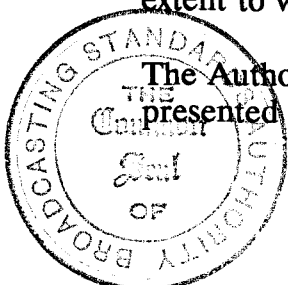
When she made her final comment to the Authority, Mrs Shipley argued that the broadcasts were not only in breach of standards G2 and G9 but also G14 and G15. She also questioned whether the items should have been broadcast in children's normal viewing time. This assertion, although not specifically identified as a broadcasting standards matter, is alleging a breach of standard G12.

As the Authority's role under the Broadcasting Act is to investigate and review the broadcaster's decision, and not to initiate a fresh inquiry, it has confined itself to examining the complaint and TVNZ's response under standards G2 and G9 referring respectively to good taste and decency and explaining techniques of crime which invite imitation.

Dealing first with the complaint under standard G9, the Authority accepted that the broadcast evoked revulsion towards the killers rather than sympathy and gave minimal attention to the techniques used. Furthermore, the criminal technique used - shooting - was not unusual. Combining these three matters, the Authority concluded that the broadcasts did not breach standard G9.

The complaint under G2 required a more careful and thorough consideration. It involved balancing the public's right to know with the requirement that the details of an event which are broadcast should not move beyond the good taste and decency requirement in context. In other words, while the details should not be sanitised to the extent that they become artificial, broadcasters must exercise responsibility as to the extent to which vivid, if not lurid, details are included.

The Authority next considered whether the material was either gratuitous or had been presented sensationally.



The interview excerpt shown on *One Network News* was comparatively brief. It included Australian television presenter Mike Willesee asking one of the trapped men, Robert Steele:

Have you enjoyed the killings so far?

Steele replied:

Don't psychopaths usually enjoy killing?

Willesee:

I don't know - do they?

Steele:

Of course they do.

This interchange also formed part of a longer excerpt shown on *Holmes* which included talk between Willesee, Steele and the other cornered man, Leonard Leabeater. Presenter Paul Holmes warned viewers that some of the conversation they would hear was "chilling and graphic". Viewers heard Leabeater say "my religion forbids killing children under 12 years of age". Willesee then spoke briefly with the two kidnapped children and moved on to speak to Robert Steele.

The ensuing conversation was indeed "chilling and graphic", including a comment from Steele on how he felt about killing three miners whose car they had stolen. Steele said, "I reckon the turds deserved it. We needed a car". And when discussing how he felt about killing his pregnant girlfriend and, therefore, his own baby, he said, "Well, it was only a couple of weeks old, if that. It wouldn't even have been a baby - just an egg".

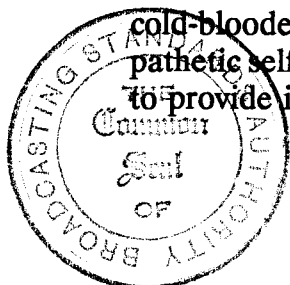
The Authority paid particular attention to this latter part of the telephone conversation. Willesee opened the subject by asking Steele:

Did you enjoy shooting the 14-year-old girl from Mackay? Do you have any remorse about killing her?

Steele:

Oh, a little bit, a little bit. Not much. I try not to think about it. The only thought I've got of her now is blood spurting out of her head. That's all.

The Authority agreed with TVNZ that the killers came across as cold-blooded and remorseless. It is not, however, in agreement with TVNZ's opinion that the interviews were worth broadcasting "because of the chilling insight that gave into the psychology of cold-blooded killers". The Authority was of the view that the killers' muddled and pathetic self-justifications were more likely to puzzle and dismay the average viewer than to provide insight into the minds of mass murderers.



The Authority decided that the broadcast of the questions and answers about enjoying killing, quoted above, was gratuitous and although related to a news story, they were unacceptable when measured against society's accepted norms of decency and taste. Because of the inclusion of those remarks, the Authority concluded that the broadcast on *Holmes* breached standards G2 of the Television Code of Broadcasting Practice.

A majority of the Authority also upheld that aspect of the complaint relating to the *One Network News* item as one of the items about enjoying killing was also included there. A minority, acknowledging the importance of the news story and recognising that the news item was brief and focussed on providing information about the events rather than emphasising the interview, declined to uphold the complaint as it related to *One Network News*.

There were a number of other points raised by Mrs Shipley addressed by the Authority. First, while it did not accept that the specific events would necessarily lead to copy-cat criminal activities, the Authority trusts the media will treat with caution any efforts by dangerous criminals to get publicity which might give them undeserved attention and possibly affect the authorities' efforts to maintain law and order. The Authority accepted the adage that terrorists and criminals should seldom be given "the oxygen of publicity".

However, the Authority also accepted, as did the complainant, the importance of the principle encapsulated by the phrase "The public's right to know". The news media has to cover such events as occurred in New South Wales and it was undoubtedly the day's "big story". Although a majority upheld the extract included on *One Network News*, it was the extended coverage on *Holmes* - the presentation of such chilling information for "infotainment" - that the Authority unanimously decided pushed part of the broadcast over the good taste and decency boundary.

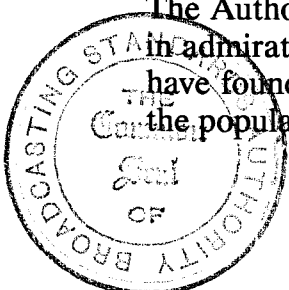
On another point, the Authority agreed with TVNZ that the broadcast in New Zealand of an account of these events would be unlikely to influence a police operation in Australia.

The Authority rarely registers what a decision would be on a standard not cited by a complainant. However, although the matter was raised by the complainant belatedly and only in her final comment, the Authority records that if a complaint had been made under G12, it would have been upheld. That standard requires broadcasters:

G12 To be mindful of the effect any programme may have on children during their normally accepted viewing times.

The Authority believed that many children would have been alarmed by the idea of killers holding children in real life and at hearing the interview in which murder including that of a 14-year-old girl was discussed so coldly.

The Authority does not share the complainant's concern that the broadcast could result in admiration for the killers. Indeed, it decided that the vast majority of viewers would have found their actions repugnant. While it accepted that a tiny anti-social section of the population might admire the killers for their actions, it considered that although that



must be taken into account, it could not be a dominating factor when determining news coverage.

In summary, the Authority recognises that some aspects of news will inevitably be unpleasant. Whereas unpleasantness alone may not be sufficient to breach the standards, items which involve gratuitous bad taste are likely to do so. In the Authority's opinion the killers' comments, noted above, crossed the line between an acceptable account about cold-blooded murderers and an unacceptably sensational story in the early evening. Had these specific comments not been broadcast, the Authority might not have upheld a complaint. However, because these comments were broadcast, the Authority concluded that G2 had been breached.

For the reasons set forth above, the Authority unanimously upholds the complaint that the broadcast by Television New Zealand Ltd of parts of a telephone conversation with two trapped men on *Holmes* on 30 March 1993 breached standard G2 of the Television Code of Broadcasting Practice. The majority upholds the complaint that the broadcast on *One Network News* also breached standard G2.

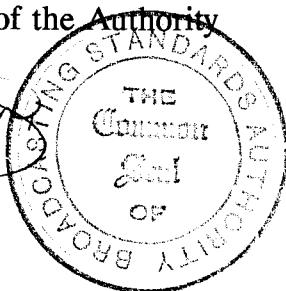
The Authority declines to uphold any other aspect of the complaint.

Having upheld a complaint, the Authority may make an order under s.13(1) of the Broadcasting Act 1989. It considered that TVNZ's decision on what parts of the telephone conversation to include was a difficult one but on this occasion it had resulted in a broadcast which was in breach of the standard requiring the observance by broadcasters of good taste and decency. On the basis that this decision should establish further guidelines and assist broadcasters to decide similar matters in the future, the Authority has decided not to impose an order on this occasion.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



19 August 1993

Appendix

The Minister of Women's Affairs' Complaint to Television New Zealand Limited

In a letter dated 1 April 1993, the Minister of Women's Affairs (Hon Jenny Shipley) complained to Television New Zealand Ltd about its coverage of some recent shootings in New South Wales on *One Network News* and *Holmes* on 30 March.

Two armed men who had been responsible for murdering four people were trapped by the police in a farm house in New South Wales. The men had with them two children aged 9 and 11 years as hostages. The two men were interviewed by a television reporter in Australia and the *One Network News* item carried a brief extract from that conversation. The item on *Holmes* carried a lengthier extract from the interview with both men and included brief comments from each of the child hostages.

The Minister complained that both broadcasts were gratuitous and irresponsible and breached the standards of good taste and decency. The interviews, she continued, had provided a forum for the remorseless men and had given them an opportunity to justify themselves when there was never a legitimate reason for murder. She also said that the broadcast of the interview with the children was unnecessary as it normalised the fact that the children had been abducted and had witnessed murder. The description of the murder of the pregnant woman, she added, suggested that such behaviour was acceptable.

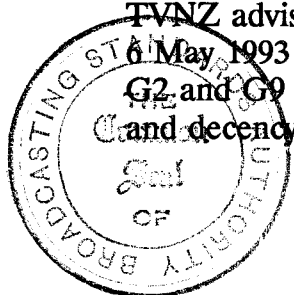
While acknowledging that the news media had to deal with tragedies, the Minister described the coverage complained about, especially on *Holmes*, as sensationalism. She asked whether TVNZ was aware that the broadcast in Australia had occurred despite a specific police request not to carry out the broadcast. Moreover, she expressed concern about the way violence was presented, noting that the Bill dealing with censorship currently before Parliament shifted the emphasis from moral paternalism towards a consideration of actual or potential harm.

She concluded:

Television editorial judgements must balance the provision of newsworthy information against the potential for harm. I appreciate this is a difficult task but I feel compelled to state that in this particular instance I believe the editorial decision was erroneous in every respect.

TVNZ's Response to the Formal Complaint

TVNZ advised the Minister of its Complaints Committee's decision in a letter dated 6 May 1993 when it reported that the complaint had been assessed under standards G2 and G9 of the Television Code of Practice. They require standards of good taste and decency in context and care when depicting techniques of crime.



TVNZ said that revulsion was the widespread reaction to the Australian murders and the interviews, although unpleasant like much of the material in all news programmes, nevertheless warranted reporting.

Dealing first with the extracts included during *One Network News*, TVNZ described the item as a "straightforward account of developments in a siege during the previous twenty four hours". The report had been succinct and had included a "brief snatch" of the telephone comment from the murderers.

As the story was a major one, TVNZ continued, more detailed information was broadcast on the *Holmes* programme. Expressing the belief that the Minister's complaint focussed on the broadcast of a telephone interview of the two men in an isolated farm house surrounded by the police, TVNZ began:

The [Complaints] Committee agreed that what was said by the two men was chilling - but it did not believe that the programme gave any sort of endorsement to the views expressed by the killers, nor did it unquestioningly provide a platform for them to justify their actions.

TVNZ believed that "why" was the major question when multiple murders occurred and the interview in this case provided the opportunity for that question to be answered. It said that the item which was broadcast was less than a quarter of the original 18 minute Australian interview and it had indicated that no rational explanations about motivation were forthcoming.

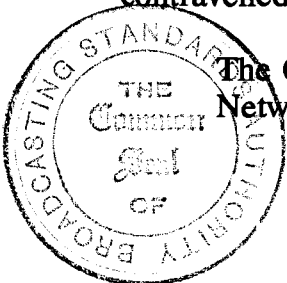
It was with a sense of despair that journalists and viewers alike grasped for some meaning for the atrocities committed - only to find that the meaning, if there is one, remains elusive and out of reach.

As for the Minister's question about the police request, TVNZ said it was broadcast "live" in Australia by a number of broadcasters and that the police request was not received by them until transmission had finished. However, regardless of the Australian situation, TVNZ's broadcast could not have influenced a police operation in New South Wales.

The murderers had not been shown in a favourable light, TVNZ maintained, as they were described in the introduction as "remorseless killers" who had "slaughtered" a 14 year-old pregnant girl and three innocent miners. Furthermore, TVNZ denied that its coverage was "sensationalism", stating that the event carried the impact, not the reporting.

As the reporting was direct, without embellishment and made a serious attempt to explore mass murderers' motivations, it had not breached the good taste standard and because the item would have filled most viewers with revulsion, standard G9 was not contravened. TVNZ concluded:

The Committee was genuinely sorry that the broadcast of the item on "One Network News" and its expansion on "Holmes" had caused you offence and



concern but it believed both items were in the public interest, and had been handled responsibly in keeping with the codes.

Your complaint was accordingly not upheld.

The Minister's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response in not upholding the complaint, in a letter dated 21 May 1993 the Minister of Women's Affairs referred the complaint to the Broadcasting Standards Authority for investigation and review under s.8(1)(a) of the Broadcasting Act 1989.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 14 June 1993 and TVNZ's reply, 17 June.

As the Minister in her complaint to the Authority had not expanded on her reasons for her dissatisfaction at its decision, TVNZ said that it had nothing to add to its letter of 6 May.

The Minister's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 5 July 1993 the Minister repeated her complaint that the interview with the two gunmen was inappropriate and that it had provided them with a forum to justify their actions, noting:

The idea that murderers are themselves "victims" in some sense and that there are justifiable reasons for their actions invites imitation.

She considered the interview had been unnecessary as a source of information, adding that it was "gratuitous and sensationalist". She did not accept that the interview with the children was justified in order to show that they were safe as they were still "held captive by ruthless killers". The way the death of the young woman was dealt with, she added, suggested that it was "somehow acceptable or explainable".

She maintained that the item breached standards G2 and G9 and had, in addition, breached G14 and G15. She concluded:

I also question the appropriateness of the viewing time for this coverage. It was well within children's normal viewing hours yet the content of the coverage was entirely unsuitable for children.

