

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 120/93

Dated the 16th day of September 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

A.J. & D.M. MOFFATT-VALLANCE
of Christchurch

Broadcaster
TV3 NETWORK SERVICES
LIMITED

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

DECISION

Introduction

The *Oprah Winfrey* show was lampooned in an item on *Issues* broadcast on TV3 on 12 May 1993 between 7.30 - 8.00pm. The lampoon was directed at the proclivity of some talk shows to sensationalise and trivialise the experiences of their guests.

Mr and Mrs Moffatt-Vallance complained to TV3 Network Services Ltd that the skit, in addition to lampooning the *Oprah Winfrey* show, lampooned claimants for compensation for sexual abuse and was deeply offensive. Adding that it was distressing to survivors of sexual abuse to be the subject of satire, they said that the item breached a number of broadcasting standards.

Maintaining that sexual abuse was a legitimate topic for *Issues* to deal with but that the item lampooned the style of some talk shows - not either the claimants for or the number of compensation claims for sexual abuse - TV3 declined to uphold the complaint. Dissatisfied with TV3's response, the complainants referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Decision

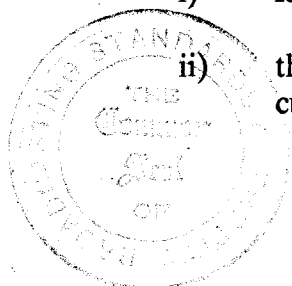
The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing. The length of time between the broadcast complained about and the Authority's decision is a matter about which the Authority continues to be concerned. It is aware of the statutory time limits and the need for care in view of the provision in the Act which allows for appeals to the High Court, and appreciates that broadcasters usually try to respond promptly to complaints. It is thus disappointing when a broadcaster takes nearly two months to reply to complainants as occurred on this occasion.

A segment of the comedy programme *Issues*, broadcast at 7.30pm on 16 May and which lampooned the *Oprah Winfrey* show, was the subject of a complaint from Mr and Mrs Moffatt-Vallance. The skit showed "Ms Winfrey" interviewing "guests" who were in some way involved in physical or sexual abuse as children.

The complainants wrote that the item, by lampooning survivors of sexual abuse, was deeply offensive. By suggesting that claims for sexual abuse to the Accident Compensation Corporation were made on whim or out of greed, they continued, the item had treated claimants unfairly and had encouraged their denigration. Further, the broadcast had involved the use of a deceptive programme practice when it implied that sexual abuse claimants were responsible for the majority of ACC expenditure when it indicated that \$20,000 (not \$10,000) was the amount of compensation available for each claimant. Because sexual abuse involved the rape of children, as the final aspect of their complaint the Moffatt-Vallances stated that the programme breached the standard which states that a warning is necessary before the broadcast of a programme dealing in detail with rape.

TV3 assessed the complaint under the standards nominated by the complainants. The first three require broadcasters:

- G4 To deal justly and fairly with any person taking part or referred to in any programme
- G7 To avoid the use of any deceptive programme practice which takes advantage of the confidence viewers have in the integrity of broadcasting.
- G13 To avoid portraying 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. 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

The other standard reads:

- V5 Programmes having rape as a theme must be treated with the utmost care. Explicit detail and prolonged focus on sexually violent contact must be avoided. Any programme dealing with rape in any detail must be preceded by a warning.

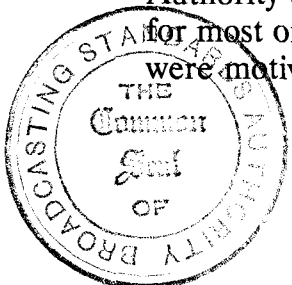
TV3 maintained that the item lampooned shows, such as *Oprah Winfrey's*, which sensationalised and trivialised the experiences of its guests. The issue of sexual abuse within families was used to indicate that such behaviour was accepted in New Zealand to "an alarmingly high degree". TV3 stated that it was public knowledge that a large number of claims had recently been lodged with the ACC for such abuse but the programme had not suggested that the claims lacked merit or were being responsible for the majority of payouts. The amount of compensation, TV3 added, was not relevant. Further, it said that the item had not dealt with the rape of children.

Pointing out that *Issues* programmes discussed controversial issues, TV3 said that the item's satire would "most certainly" not be to the public's harm. Although the complaint was not upheld, TV3 added that the complainants' concerns had been drawn to the programme producers' attention as the complainants had requested.

When they referred the complaint to the Authority, the Moffatt-Vallances explained that a large number of claims had been lodged before the legislation was changed in October 1992 which abolished lump sum payments but that fact had not been acknowledged in the item. They also maintained that the item contained the implications about the claimants' motives to which they had referred in their original complaint.

In a recent decision (No: 27/93) the Authority has decided that the reference in standard G7 to a "deceptive programme practice" refers to some explicit technique used by a broadcaster. It does not apply, as the Moffatt-Vallances complained, to a programme's suggestion that some people referred to were acting with questionable or deceptive motives. As the standard was thus inappropriate, the Authority declined to determine that aspect of the complaint. The Authority decided that standard G4 was not relevant to the complainants' concern on this occasion as it refers to a specific person. However, it considered that the matters were met by the reference in standard G13 to a "section of the community" united on the basis of disability.

The Authority believed that the choice of a topic like physical or sexual abuse of children for such a programme was questionable and shared the complainants' concern about the portrayal of victims of abuse. One of the men depicted in the skit said that he had been abused only after hearing that compensation was available. In spite of this remark, the Authority did not conclude that the skit implied that sex abuse claims were responsible for most of the ACC's spending, that the majority of claims were false or that claimants were motivated by greed, as the complainants alleged.



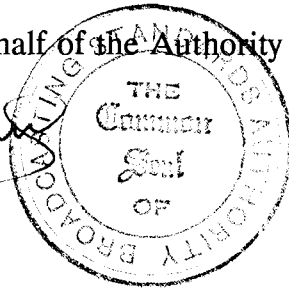
The Authority decided that the item primarily mocked the *Oprah Winfrey* show and the ACC compensation system. While sharing the complainants' concern about choosing child abuse as the topic, the Authority believed that the light-hearted and "over-the top" nature of the item meant that it would not be taken seriously by most viewers. The one questionable "victim" portrayed by the item would not cause viewers to believe that all sex abuse victims are cheats. Although the item could be criticised for being insensitive, the Authority did not believe it had breached the standards. Furthermore, as the item was part of a comedy show and as it had focussed on physical rather than sexual abuse and did not deal with rape in any detail, the Authority decided that the programme was not required by standard V5 to be preceded by a warning.

For the reasons set forth above, the Authority declines to determine the standard G7 aspect of the complaint and declines to uphold the other aspects.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



16 September 1993

Appendix

A.J. and D.M. Moffatt-Vallance's Complaint to TV3 Network Services Limited

In a letter dated 16 May 1993, Mr A.J. and Mrs D.M. Moffatt-Vallance of Christchurch complained to TV3 Network Services Ltd about an item on the programme *Issues* broadcast on TV3 between 7.30 - 8.00pm on Wednesday 12 May.

The segment lampooned the *Oprah Winfrey* show and the guests portrayed in the skit were involved with claims for compensation for sexual abuse from the Accident Compensation Corporation (ACC). Describing themselves as survivors of sexual abuse, the complainants said the item was "deeply offensive". Further, they stated that such survivors were not suitable subjects for satire.

The complainants listed the broadcasting standards which they maintained had been breached by the broadcast. The prohibition on the use of a deceptive programme practice (standard G7) was contravened when the item implied that sexual abuse claimants were responsible for the majority of ACC expenditure and when the item accepted that \$20,000 (not \$10,000) was the amount of compensation available.

By suggesting that such claims were based on whim, sexual abuse survivors had not been treated fairly (standard G4) and to suggest that claims were based on greed contravened standard G13. The item also breached standard V5 as the issue of the rape of children was dealt with without a prior warning.

The complainants asked that their complaint also be forwarded to the producers, writers and actors involved with *Issues*.

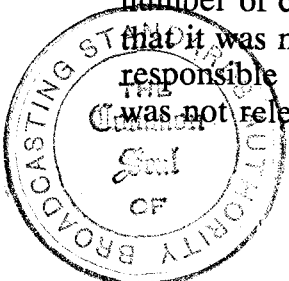
TV3's Response to the Formal Complaint

TV3 advised the complainants of its Complaints Committee's decision in a letter dated 9 July 1993 and reported that the complaint had been assessed under the nominated standards.

It began:

The sketch about which you complain set out to lampoon the proclivity of talk shows like THE OPRAH WINFREY SHOW to sensationalise and trivialise the experiences of its guests; also to indicate that in New Zealand society many accept violence in the family to an alarmingly high degree.

Acknowledging that the item, as a matter of public knowledge, referred to the large number of claims for abuse which had recently been lodged with the ACC, TV3 said that it was not suggested that the claims lacked merit or that such claims were responsible for the majority of ACC payouts. The amount of compensation, it added, was not relevant. The sketch had not, TV3 continued, at any time dealt with the



"rape of children".

TV3 pointed out that sexual abuse had been discussed widely in the media recently and as a matter of public interest it was a legitimate topic for *Issues* to discuss. Noting a number of other controversial matters with which *Issues* had dealt, TV3 argued that the broadcast would not cause any harm to those who were concerned about the matter.

Declining to uphold the complaint, TV3 said the complainants' concerns had been drawn to the attention of the programme's producers.

Mr and Mrs Moffatt-Vallance's Complaint to the Broadcasting Standards Authority

As they were dissatisfied with TV3's decision, in a letter dated 13 July 1993 the complainants referred the complaints to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1993.

They listed four specific aspects on which they were dissatisfied. The first point was the misleading aspect of the item in that it suggested that a large number of lump sum claims were lodged recently with the ACC whereas lump sum claims ceased in October 1992 - seven months before the broadcast. Because of the impending change in the legislation, a large number of lump sum claims had been lodged in 1992 but the item did not acknowledge that fact.

Secondly, while accepting that the point was not made directly, they insisted that the item carried the inference that many of the claims lacked merit. They referred to parts of the script which bore that implication and, as a result, had suggested that the claims were motivated by greed.

As the third point, the complainants said that the item was factually incorrect by not acknowledging the change to the legislation and they also maintained that sexual abuse commonly involved the "rape of children".

The character playing Oprah Winfrey had said "get in fast, the money is running out" which when combined with the programme's tone, was the basis of the complainants' fourth point that payment for sexual abuse was a major reason for the ACC's massive expenditure.

TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 28 July 1993 and TV3, in its response dated 30 July, declined to comment further.

