

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 131/93

Dated the 13th day of October 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KAY ELLMERS

of Auckland

Broadcaster

TV3 NETWORK SERVICES
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

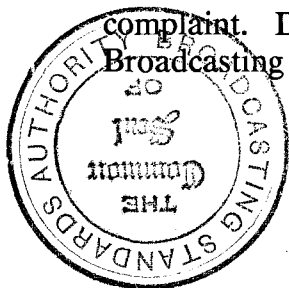
DECISION

Introduction

A news item on *3 National News* and *Nightline* on 12 May 1993 which dealt with street violence contained brief footage of a group of Polynesian men and was accompanied by a reference to those who might cause trouble on the streets.

Ms Ellmers complained to TV3 Network Services Ltd that the item displayed the journalist's own preconceptions and prejudices about which group was the cause of street violence and was in breach of the broadcasting standard which requires broadcasters to avoid encouraging denigration of people on account of race.

Responding that it did not believe that the item was capable of being understood solely in the manner suggested, TV3 explained that in a series of general shots around the mall, two of the people taped chose to make defiant or threatening gestures to the camera. It denied that the reporter was displaying his own preconceptions and prejudices, arguing that he was merely doing his job as a reporter. Accordingly, it declined to uphold the complaint. Dissatisfied with that decision, Ms Ellmers 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.

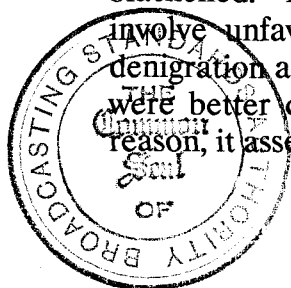
A news item concerning street violence in Wellington was dealt with on 3 *National News* and repeated in *Nightline* on 12 May 1993. Ms Ellmers complained to TV3 that the voice-over which accompanied footage showing two young Polynesian men implied that they were people who might cause trouble. She argued that the comment was denigratory and reinforced damaging stereotypes by telling viewers which members of the community were likely troublemakers. She considered it unacceptable journalistic practice for a reporter to display his preconceptions and prejudices and maintained that a more neutral shot would have been appropriate to accompany the voice-over.

TV3 considered the complaint under standard G13 of the Television Code of Broadcasting Practice, which requires broadcasters:

- G13 To avoid portraying people in away 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.

Arguing that the news item focused on the fact that in a series of general shots around the mall, two young men chose to make threatening and defiant actions towards the camera, TV3 justified its decision to include them in the ambit of the words spoken in the voiceover. It disagreed that the item exposed the reporter's prejudices, maintaining that he was merely an observer who reported on what he had seen.

The Authority began its assessment of the complaint by considering first the words of standard G13. It noted that denigration and discrimination were alternative grounds of the standard and that Ms Ellmers had focused her complaint on a claim that the item denigrated a group of people. In the past the Authority has adopted the High Court's interpretation of denigration which requires that the reputation of a group or class be blackened. The Authority has interpreted discrimination less stringently, however, to involve unfavourable treatment based on prejudice. While the complainant cited denigration as the ground for the complaint, the Authority considered that her concerns were better captured by the broader discrimination limb of standard G13. For that reason, it assessed the complaint against both the denigration and discrimination aspects




of the standard.

Looking at the section of the item complained about in the context of the item as a whole, the Authority noted that a number of different ethnic groups were represented by those interviewed and included some who had been victims of street crime and others who gave general comment on their concerns. It observed that the item was balanced by comment from the police, from the victims and from passers-by who were apprehensive about safety in the streets, particularly at night. The Authority considered it was reasonable to link the anti-social behaviour exhibited by the two young men to street crime. Moreover, it accepted TV3's argument that the film footage of the men and the accompanying voiceover focused not on their race but on their defiant and threatening behaviour. For these reasons, and also because the sequence was extremely brief, the Authority concluded that the news item neither encouraged denigration of nor discrimination against any racial group.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



13 October 1993

AppendixMs Ellmers' Complaint to TV3 Network Services Limited

In a letter dated 13 May 1993, Ms Kay Ellmers of Auckland complained to TV3 Network Services Ltd about an item broadcast on *3 National News* and repeated on *Nightline* on 12 May 1993.

The item concerned street violence in Wellington and included a voice-over along the lines of "Police are monitoring the area and keeping a close eye on *people who look like they might cause trouble*". (Ms Ellmer's emphasis) Ms Ellmers noted that the visuals for the voice-over in italics were pictures of a group of Maori men. In her view this was in breach of standard G13 of the Television Code of Broadcasting Practice because it denigrated a group of people.

She added:

It is not for television journalists to be reinforcing damaging stereotypes by telling viewers which members of our community are likely to cause trouble.

I am certainly not naive enough to believe that truly objective journalism is an achievable goal, particularly in the highly emotive world of television news reporting. However, the blatant display of a reporter's own preconceptions and prejudices is unacceptable. Perhaps pictures of police officers on the beat would have been a more neutral illustration.

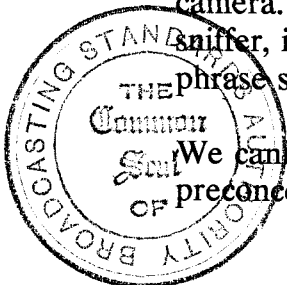
TV3's Response to the Formal Complaint

TV3 advised Ms Ellmers of its Complaint Committee's decision in a letter dated 30 July 1993. It reported that the complaint had been considered under standard G13 of the Television Code of Broadcasting Practice which requires broadcasters to avoid encouraging denigration on account of race.

TV3 explained that it did not believe the news item was capable of being understood solely in the manner Ms Ellmers suggested. It noted that one of the men was in fact a Niue Islander and pointed out that the reporter:

was focusing on the fact that in a series of general shots around the mall, two of the people taped chose to make defiant or threatening gestures towards the camera. Since one of the men was also adopting the classic pose of a glue-sniffer, it is reasonable, we would suggest, to include him in the ambit of a phrase such as was used in the reporter's voice-over.

We cannot agree with you that the reporter was blatantly displaying his own preconceptions and prejudices. He was merely doing his job as an observer



and reporting back what he had learned to the public.

Ms Ellmers' Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's response, in a letter dated 3 August 1993 Ms Ellmers referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Maintaining that the item was in breach of standard G13 of the Television Code of Broadcasting Practice, Ms Ellmers stressed that in her view it was not the place of television journalists to be telling viewers who they thought looked might cause trouble. The item, she continued, "displayed the journalist's own preconceptions and prejudices thus reinforcing damaging stereotypes."

Ms Ellmers commented that she felt unable to consider whether she was content with TV3's response since she had been unable to view the item again in light of its comments. Accordingly she referred the matter to the Authority for its consideration. She also asked for clarification on the position of a broadcaster when requested to provide a copy of a programme for the purposes of preparing a complaint.

TV3's Response to the Authority

In a letter dated 26 August 1993, TV3 wrote that it had no further comment to make.

Further Correspondence

In response to a request from the Authority for clarification about its policy regarding providing tapes to complainants, in a letter dated 27 September 1993, TV3 reported that its policy was that tapes would not be provided to complainants or any other viewers under any circumstances.

