

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 147/93

Dated the 15th day of November 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

FRANK MACSKASY

of Wellington

Broadcaster

TV3 NETWORK SERVICES
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Summary

A claim was reported that a new type of toilet seat was a potential safeguard against AIDS in a news item on 3 *National News* broadcast on 26 July 1993 between 6.00 - 7.00pm.

Mr Macskasy complained to the broadcaster, TV3 Network Services Ltd, that it was misleading and inaccurate to suggest that AIDS could be prevented by use of a particular toilet seat when it was well known that AIDS and other STDs could not be spread by such means.

In response, TV3 acknowledged that it was accepted that AIDS and other STDs could not be transmitted by toilet seats. It noted that the item explained that the toilet seat was being marketed as a potential safeguard against AIDS but added that the estimate of the remaining dangers was still considerable. Dissatisfied with TV3's decision not to uphold his complaint Mr Macskasy referred it to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

For the reasons given below, the Authority declined to uphold the complaint.



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.

It was reported on *3 National News* broadcast by TV3 Network Services Ltd on 26 July 1993 that there was a new type of toilet seat which was being marketed as a potential safeguard against AIDS. The text, which accompanied the picture of a toilet seat retracting into a cavity behind the toilet and being replaced by another seat, stated:

A French company has invented a new lavatory. The super-loo is being marketed as a potential safe-guard against Aids, but even if that's true, our estimate of the remaining dangers is considerable.

In his formal complaint to TV3, Mr Macskasy accused TV3 of making a factual error and spreading a misconception, pointing out that it was common knowledge that AIDS could not be transmitted by toilet seats. He maintained that the news item was misleading and inaccurate and would have caused unnecessary concern among viewers. He requested that an immediate retraction be broadcast.

In its response to Mr Macskasy, TV3 reported that it had assessed the complaint against standards G14 and G21 of the Television Code of Broadcasting Practice, which state:

G14 News must be presented accurately, objectively and impartially.

G21 Significant errors of fact should be corrected at the earliest opportunity.

TV3 agreed with Mr Macskasy that it was accepted knowledge that AIDS and other STDs could not be transmitted by toilet seats, pointing out that it had not said they could be so transmitted. It maintained that standard G14 was complied with and G21 was not applicable. Further, it argued that the item intimated that even if what the manufacturers said was true, it had clearly indicated that other means of communicating the disease still existed. TV3's position was that the complainant had not correctly interpreted what was said in the bulletin. In its view, the meaning was clear, and the vast majority of viewers understood what was said.

The Authority considered that the item was open to the interpretation made by the complainant in that it did leave open a possibility that there was a connection between toilet seats and AIDS. However, it noted that the report about the new invention was followed by a comment from the newsreader about its efficacy in preventing AIDS in the form of the words "even if that's true". Although the lines were delivered deadpan by the newsreader, it was apparent to the Authority that it was taking a lighthearted approach. The pictures which accompanied the script showed a toilet with a seat which was retracted into a cavity behind it and replaced by another seat. In the Authority's estimation, it was unlikely that viewers would have been misled by the suggestion that a toilet seat might prevent AIDS, especially when the claim was queried by the newsreader and the item was a lighthearted one. Further, the brevity and ambiguity of

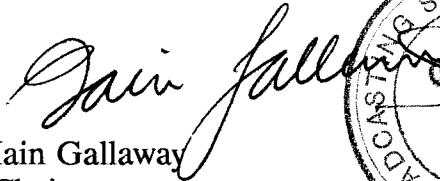


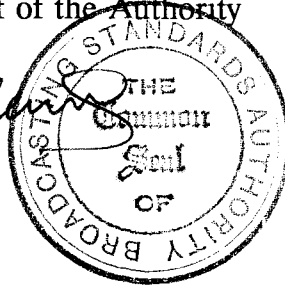
the script, in association with the absurdity of the visuals led the Authority to conclude the item was not in breach of standard G14. Having reached that conclusion, it decided that standard G21 was not relevant.

In reaching its conclusion that the item was no doubt intended to be frivolous, the Authority cautions broadcasters to be careful when dealing with serious subjects like AIDS.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
15 November 1993



Appendix

Mr Macskasy's Complaint to TV3 Network Services Ltd

In a letter dated 26 July 1993, Mr Frank Macskasy of Wellington complained to TV3 Network Services Ltd about an item on *3 National News* broadcast that evening between 6.00 - 7.00pm which reported on a new type of toilet that was billed as a way of preventing AIDS. Mr Macskasy pointed out that it was common knowledge that AIDS and other STDs could not be transmitted via a toilet seat. This popular misconception was, he noted, put to rest in the 1970s.

He accused TV3 of being irresponsible and spreading a misconception. He asked that the story be retracted and viewers be advised that it was not true that AIDS could be spread via toilet seats.

Mr Macskasy added that the ground for his complaint was that TV3 had broadcast a factual error.

TV3's Response to the Formal Complaint

TV3 advised Mr Macskasy of its Complaints Committee's decision in a letter dated 26 August 1993 when it reported that the complaint had been assessed under standards G14 and G21 of the Television Code of Broadcasting Practice.

It agreed with Mr Macskasy that it was accepted knowledge that AIDS and other forms of STDs could not be transmitted via toilet seats. It added:

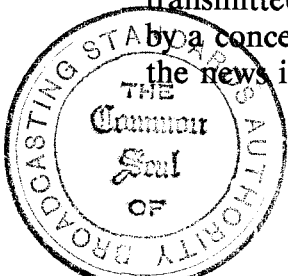
This is why we did not say they could be. What we said was: "A French company has invented a new lavatory. The super-loo is being marketed as a potential safe-guard against Aids, but even if that's true, our estimate of the remaining dangers is still considerable."

TV3 concluded that standard G14 was complied with and that standard G21 was not applicable.

Mr Macskasy's Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's decision, in a letter dated 28 August 1993, Mr Macskasy referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Mr Macskasy repeated that it was accepted knowledge that AIDS could not be transmitted by toilet seats, pointing out that this was a myth that had been laid to rest by a concerted health campaign in New Zealand and overseas. He maintained that the news item was misleading and inaccurate, and added that it would have caused



unnecessary alarm to viewers.

Noting that TV3 had failed to make a correction to its statement after he telephoned during the news programme to point out the error, Mr Macskasy maintained that it had breached standard G21 which requires broadcasters to correct significant errors of fact at the earliest opportunity. In concluding, he stated that he considered it unacceptable that a prominent media organisation should promulgate such a dangerous myth.

TV3's Response to the Broadcasting Standards Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 2 September 1993 and TV3's reply, 15 September.

TV3 noted that the transcript of the item clearly stated that the manufacturers were marketing the 'super-loo' as a potential safeguard against AIDS. It added:

TV3 did not say "Aids is spread by contact with toilet seats and that these seats will prevent the spread of Aids by that means."

The complainant is putting intent and meaning into words or is putting words into our mouths.

It maintained that the complainant's argument was based on something which was not said. It argued that no other complaints were received on the matter and that the only suggestion of panic, alarm or distress was in the mind of the complainant.

TV3 also pointed out that the complainant did not complain under standard G16 to TV3 and that had only been raised in his letter of 28 August in the referral to the Authority.

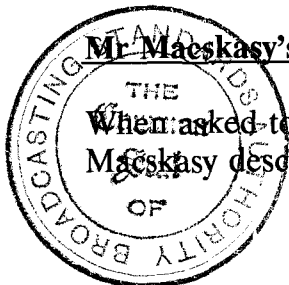
Referring to the complainant's telephone call, TV3 responded that it had no cause to correct that which was not incorrect in the first place. It continued:

It is clear that TV3 intimated that even if what the manufacturers and marketers said was true, the super-loo could not be the catalyst to cease the spread of Aids, that other means of communicating the disease still exist - as they obviously do.

Finally, it maintained that the complainant did not correctly interpret what was said in the bulletin.

Mr Macskasy's Final Comment to the Authority

When asked to comment on TV3's response, in a letter dated 17 September 1993, Mr Macskasy described it as a weak attempt at semantics. He accused TV3 of playing



with words when it attempted to differentiate between:

"marketing the super-loo as a potential safeguard against AIDS"

and,

"AIDS is spread by contact with toilet seats and that these seats will prevent the spread of AIDS..."

He argued that the toilet seat would not be marketed as a safeguard against AIDS if it was not being suggested that AIDS could be transmitted in that fashion. He pointed out that the myth that AIDS could be transmitted via toilet seats had long been discredited and accused TV3 of undoing years of good work and public money spent informing New Zealanders of that fact.

He maintained that stating that manufacturers were marketing the super-loo as a potential safeguard against AIDS suggested that AIDS had something to do with toilets. What the manufacturers said, he continued, was simply not true. STDs were not transmitted by toilet seats, so why mention the possibility?

Finally, Mr Macskasy remarked that if the item was an attempt by TV3 to discredit the invention, then it had failed, and instead left the impression in people's minds that there was a connection between AIDS and toilet seats.

