

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 166/93

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Dated the 9th day of December 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of complaints by

LANCE BARDWELL
of Dunedin

and

KRISTIAN HARANG
of Auckland

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

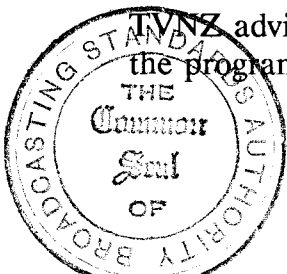
DECISION

Summary

A programme entitled *Every Widow's Dream* which was screened on TV1 on 31 August 1993 at 8.30pm followed the fortunes of a woman who spent the proceeds of her late husband's insurance policy on establishing a male strip revue.

Mr Bardwell complained to Television New Zealand Ltd, the broadcaster, that the programme breached the standard requiring good taste and decency and that although it was broadcast in adult viewing time, it was inappropriate to screen the programme during the school holidays. Mr Harang complained that, as well as being offensive, the programme was lacking in balance because it failed to emphasise family values.

TVNZ advised Mr Bardwell and Mr Harang that it upheld the complaint that parts of the programme were in breach of the good taste standard, but declined to uphold the



complaint that it breached the standard requiring broadcasters to be mindful of the effects of programmes on children and the standard requiring balance. It reported that the decision would serve as a guideline for programmers and appraisers in the future and that they would be required to be more diligent in applying the test of relevancy when dealing with good taste and decency. Dissatisfied with TVNZ's action, Mr Bardwell and Mr Harang referred the complaint 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 any aspect of the complaints.

Decision

The members of the Authority have viewed the programme complained about and have read the correspondence (summarised in the Appendices). As is its usual practice, the Authority has determined the complaints without a formal hearing.

The story of a woman who spent the proceeds of her late husband's insurance policy on establishing a male strip revue was the subject of a documentary on TV1 on 31 August at 8.30pm. The programme followed the fortunes of the woman as she endeavoured to realise her dream to run a successful business and was illustrated by scenes from the revue, both in rehearsals and in live performances.

Mr Bardwell and Mr Harang complained to TVNZ that the scenes of the male strip shows were offensive and in breach of the standard requiring observance of good taste and decency. In addition, Mr Bardwell complained that the programme was unsuitable for viewing by children, and although it was screened at 8.30pm, it was school holiday time and many children would have watched the heavily-promoted programme. The second aspect of Mr Harang's complaint was that the programme lacked balance because it failed to emphasise family values. Both complainants demanded a public apology and Mr Harang argued that a monetary penalty should be imposed by the Broadcasting Standards Authority.

TVNZ reported that it had assessed the complaints under standards G2, G6 and G12, which 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.
- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.
- G12 To be mindful of the effect any programme may have on children during their normally accepted viewing times.

TVNZ prefaced its remarks with the observation that it did not agree that there could be an absolute ban on male nudity on television, pointing out that there were occasions



when in the context it was acceptable. It maintained that in the context of *Every Widow's Dream* it was necessary to include scenes from the strip revue to illustrate and explain the story. However, TVNZ acknowledged that it was concerned at the duration and the number of sequences in which the programme focused on the strip routines, observing:

The programme seemed, at times, to come very close to crossing the line between being a documentary about a woman's experience in a difficult business area, and a piece of somewhat voyeuristic entertainment.

Accepting that some of the pictures were used gratuitously, TVNZ concluded that it overstepped the bounds of good taste and decency and upheld the complaints that the programme breached standard G2. It also upheld a number of other complaints about the programme on the same ground. It advised that its decision would be used as a future guideline for both programme makers and appraisers who would be asked to be more careful when dealing with subjects of this nature.

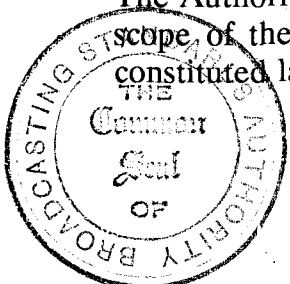
Dissatisfied with TVNZ's action, having upheld the complaint that the programme breached standard G2, both complainants referred TVNZ's action to the Authority. Both requested that TVNZ be ordered to make a public apology, and Mr Harang asked in addition that a monetary penalty also be imposed.

In taking into account whether the action taken by TVNZ was sufficient, the Authority recalled the negative publicity generated when the programme was aired and noted that TVNZ's decision to uphold the formal complaints had been made public. The Authority agreed with TVNZ that a constructive outcome of the decision to uphold the standard G2 aspect of the complaints was the broadcaster's assurance that the decision would be a precedent for programmers and appraisers to follow in the future. The Authority comments that on occasions such as this when TVNZ does uphold several formal complaints concerning the same programme, it would also be commendable if it acknowledged this in its own programmes as well as in other areas of the media.

The Authority decided that in view of the publicity about the programme's breach of standard G2, nothing further would be gained by requiring a public apology as requested by the complainants, particularly so long after the screening. It also observed that its statutory powers (under the Broadcasting Act 1989) do not include the power to impose a fine on the broadcaster for showing such material, as suggested by Mr Harang. It declined to uphold the complaints that the action taken was not sufficient.

When TVNZ considered the G6 complaint from Mr Harang, it expressed its difficulty in understanding what balancing elements should have been included in the programme. It concluded that it did not seem that the programme offered the scope for reference to traditional family values and, accordingly, declined to uphold the complaint that it was lacking in balance.

The Authority agreed with TVNZ that a discussion of family values was not within the scope of the programme and did not believe that the omission of such a discussion constituted lack of balance.

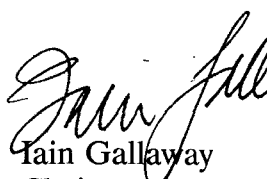


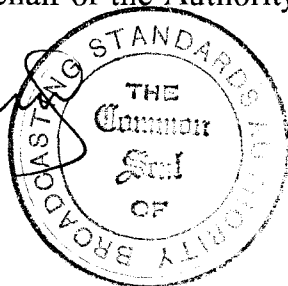
With reference to the G12 aspect of the complaint raised by Mr Bardwell, TVNZ pointed out that the programme was screened at 8.30pm, in Adults Only viewing time and was preceded by a warning (both visual and verbal) advising viewer discretion. In its view the fact that it was school holiday time was irrelevant and it declined to uphold the complaint.

The Authority observed that the period after 8.30pm is the time designated for adult viewing and broadcasters are not required to make exceptions during school holiday time. It noted that the warnings given prior to the programme clearly signalled that viewer discretion was required. It declined to uphold the complaint that the programme was in breach of standard G12.

For the reasons set forth above, the Authority declines to uphold the complaints on alleged breaches of standards G6 and G12 or the complaints regarding the action taken on the acknowledged breach of standard G2.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
9 December 1993



Appendix I

Mr Bardwell's Complaint to Television New Zealand Limited

In a letter dated 9 September 1993 Mr Lance Bardwell of Dunedin complained to Television New Zealand Ltd that the programme *Every Widow's Dream* which was broadcast on 31 August 1993 was in poor taste.

He enclosed with his letter to TVNZ press cuttings from the Otago Daily Times which supported his view that not only was it objectionable but was screened at an inappropriate time for a school holiday night.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Bardwell of its Complaint Committee's decision in a letter dated 20 September 1993. It reported that the complaint had been considered under standards G2 and G12 of the Television Code of Broadcasting Practice, which require broadcasters to observe standards of good taste and decency and to be mindful of the effect of any programme on children.

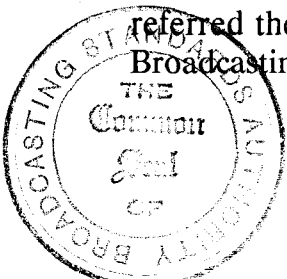
At the outset, TVNZ rejected an absolute ban on the depiction of male nudity, arguing that there were occasions when it was appropriate or even necessary. In this programme, it argued, it was necessary to illustrate the story by showing the male troupe performing. However, it acknowledged that the strip scenes were used more often than was necessary to develop the story, to the point where they became gratuitous. TVNZ concluded that the programme overstepped the bounds of taste and decency and upheld the complaint under G2.

It noted that the decision would be used as a future guideline for programme makers and appraisers.

Turning to the complaint that the programme was in breach of standard G12 (to be mindful of the effect on children), TVNZ expressed some sympathy with the complainant and acknowledged that because it was school holidays, more than the usual number of children would have been watching. However, it noted, the programme was rated AO and was preceded by a visual and verbal warning advising viewer discretion. Given the definition of AO programmes, TVNZ was unable to conclude that standard G12 had been breached.

Mr Bardwell's Referral to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 28 September 1993, Mr Bardwell referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Mr Bardwell claimed that TVNZ's assurance that it would refer the decision to those involved in programming was not good enough. He maintained that TVNZ should screen an apology on TV1 admitting that this programme had overstepped the bounds of good taste and decency.

Mr Bardwell also commented that he was:

inclined to the view that TVNZ has not been sincere in dealing with complaints about *Every Widow's Dream*.

He enclosed a copy of a letter received by another complainant from TVNZ about the same programme, pointing out the difference in substance and tone.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 30 September 1993, and TVNZ's reply, 12 October.

TVNZ repeated its view that in order to illustrate the story, a certain amount of the male strip review had to be shown. However, it accepted that the number and length of some of the sequences resulted in a breach of the standard.

Rejecting Mr Bardwell's request for a public apology, TVNZ argued that a more constructive outcome of the complaint was that it set a precedent for future programme planning.

Responding to Mr Bardwell's criticism that it had not been sincere in its dealings with complaints about the programme, TVNZ explained that the other letter to which Mr Bardwell referred was not in response to a formal complaint made in accordance with section 6 of the Broadcasting Act 1989. Further, it noted, it was written from its Wellington office at Avalon on 16 September, the same day the Complaints Committee was meeting in Auckland and would therefore have been written before its decision was notified to staff.

It concluded by noting that the Complaints Committee had considered about a dozen formal complaints concerning the programme and had upheld each one which had indicated a concern about good taste and decency.

Mr Bardwell's Final Comment to the Authority

When asked to comment briefly on TVNZ's response, in a letter dated 19 October 1993, Mr Bardwell maintained that having accepted that the programme was offensive, TVNZ should have apologised to the public. He pointed out that had he as an individual offended the public, he would have had to apologise.

He concluded that he was adamant that TVNZ make a public apology.



Appendix II

Mr Harang's Complaint to Television New Zealand Limited

In a letter dated 1 September 1993 Mr Kristian Harang of Auckland complained to Television New Zealand Ltd that its broadcast on TV1 of the programme *Every Widow's Dream* on 31 August 1993 at 8.30pm was in breach of the broadcasting standards requiring observance of good taste and decency and balance.

Mr Harang commented that there was no social or educational input or value in "such a disgusting programme". He found the many scenes of the male strip shows totally offensive and a very negative influence for teenagers and young people. The programme lacked balance, in his view, because it failed to show an alternative viewpoint of family moral values.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Harang of its Complaints Committee's decision in a letter dated 20 September 1993. It reported that the complaint had been considered under standards G2 and G6 of the Television Code of Broadcasting Practice, which require broadcasters to take into consideration currently accepted norms of decency and taste, and to show balance, impartiality and fairness.

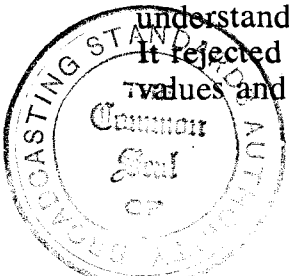
TVNZ began by noting that there could be no absolute ban on the depiction of male nudity on television, since there were occasions when it was appropriate in the context. It maintained that in this programme, it was necessary to use scenes from the strip show to illustrate the story. However, it acknowledged that the scenes were repeated more often than was necessary to the point where they became gratuitous. It wrote:

The programme seemed, at times, to come very close to crossing the line between being a documentary about a woman's experience in a difficult business area, and a piece of somewhat voyeuristic entertainment.

Because of the gratuitous use of some of the pictures, the Complaints Committee concluded that the programme overstepped the bounds of taste and decency as described in the Television Programme Standard. Your complaint was upheld as a breach of Code G2.

It noted that its decision would serve as a guideline for programme makers and appraisers in the future and thanked Mr Harang for drawing it to its attention.

With reference to the G6 complaint, TVNZ explained that it had difficulty in understanding what balancing elements should have been included in the programme. It rejected Mr Harang's suggestion that it was the forum to espouse traditional family values and declined to uphold the complaint that the programme was lacking in



balance.

Mr Harang's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter to the Broadcasting Standards Authority dated 22 September 1993, Mr Harang repeated his view that the scenes of the strip revue were unacceptable for screening on television.

He disagreed with TVNZ's view that nudity, in context, had a place on television. He asked for a public apology from TVNZ and a monetary penalty to be imposed by the Authority "for showing such filth on television". In his view, it was contrary to community standards and public decency.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 27 September, and TVNZ's reply, 12 October 1993.

At the outset, TVNZ pointed out that it had upheld Mr Harang's complaint and, referring to its earlier letter, repeated the reasons why it reached that decision. It maintained that it was necessary to include some strip show scenes in the programme, but accepted that the number and duration of those scenes was excessive and in breach of the standard requiring good taste and decency.

Responding to Mr Harang's wish to impose penalties, TVNZ explained that the decision had been put to constructive use in providing guidelines for producers and programme makers in the future. It added that the decision had been discussed within TVNZ and with representatives of the production company.

TVNZ rejected the assertion made by Mr Harang that there was no place for nudity on television and pointed to examples of programmes where nudity had been used appropriately.

Mr Harang's Final Comment to the Authority

When asked to comment briefly on TVNZ's response, in a letter dated 22 October 1993, Mr Harang persisted with his view that TVNZ should be publicly censured for allowing such filth on the television screen.

He took issue with TVNZ's view that nudity on television was acceptable, arguing that there was a link between rape and pornography.

