

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 42/93  
Dated the 15th day of April 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

JIM McNAIR  
of Auckland

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

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

DECISION

Introduction

A Spanish-made advertisement which was featured in an item on the *Holmes* programme on 20 October 1992 between 6.30 and 7.00pm portrayed two Roman Catholic nuns, a statue of an infant boy and some glue.

Mr Jim McNair of Auckland complained to Television New Zealand Ltd, the broadcaster, that the item was in bad taste and denigrated Christianity generally and Roman Catholics in particular because it was irreverent and offensive to Christians.

In declining to uphold the complaint, TVNZ maintained that sincere adherents of the church would have been unlikely to have been offended by the advertisement and emphasised that good-natured humour at the expense of Christians was not the same thing as denigration. As he was dissatisfied with TVNZ's response, Mr McNair referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting



## Decision

The members of the Authority have viewed the item to which the complaint relates and have read the correspondence (summarised in the Appendix). As is its practice the Authority determined the complaint without a formal hearing.

Mr McNair complained to TVNZ that an item on the *Holmes* programme broadcast on 20 October between 6.30 and 7.00pm which featured an award-winning Spanish advertisement denigrated Christians generally and Roman Catholics in particular because it was irreverent and insensitive to Christians.

Standard 26, which Mr McNair alleged was breached, states:

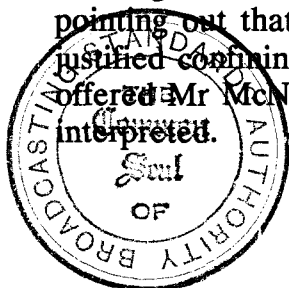
- 26 The portrayal of people in a way which is likely to encourage denigration of or discrimination against any section of the community on account of sex, race, age, disability, occupation status, sexual orientation or the holding of any religious, cultural or political belief shall be avoided. This 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.

Mr McNair believed it was dishonourable to portray the baby Jesus naked and then with an upturned penis, and that the actors denigrated nuns. He also claimed that the advertisement breached normal standards of decency. In his referral to the Authority he complained that in failing to address this aspect of his complaint, TVNZ had interpreted it too narrowly.

In its response, TVNZ reported it had assessed the complaint under standard 26, commenting that it believed it most unlikely that Catholics would have been offended by the advertisement. It wrote:

The Committee felt it important to emphasise that good-natured humour at the expense of the Christian faith is not the same thing as denigration.

It rejected Mr McNair's argument that the advertisement featured the baby Jesus, observing that the type of statue was typical of thousands found in European church buildings. It also rejected his contention that the advertisement was denigratory of nuns, pointing out that being a nun did not deprive a woman of her sense of humour. It justified continuing its discussion to the standard 26 complaint on the basis that it had offered Mr McNair the opportunity to clarify whether the grounds had been correctly interpreted.



In its assessment of the standard 26 complaint, the Authority was of the view that the humour was particularly gentle and harmless and that the advertisement in no way denigrated Catholics or others with a strong religious belief. It agreed with TVNZ that the statue did not represent the baby Jesus but was in the style of a cherub. Further, it did not believe that nuns were denigrated by their depiction as mischievous and capable of a joke. It declined to uphold that aspect of the complaint.

With respect to standard 2, the Authority was of the view that since the original formal complaint specifically referred to the item being in bad taste, TVNZ had interpreted it too narrowly. Although supportive of TVNZ's policy to invite complainants to notify it if it had not interpreted the grounds correctly, the Authority believed that not all complainants would be in a position to do so, particularly in complaints such as this where the distinction between the standards was somewhat blurred. Accordingly, it proceeded to assess the complaint under standard 2, which requires broadcasters:

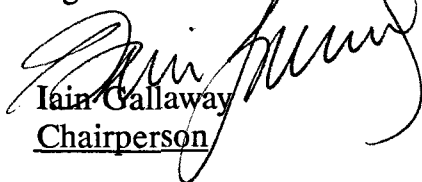
- 2 To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.

The Authority also noted that TVNZ, in its responses to both Mr McNair and the Authority, had, in effect, commented upon and rejected that aspect of the complaint.

At the outset, the Authority rejected Mr McNair's argument that the depiction of a naked cherub was analogous to depiction of the naked spouses of those who put the programme together. It noted that the camera was mostly behind the cherub and focused on the nuns' faces rather than on the cherub's genitals. It regarded the humour as inoffensive and innocent and did not believe that it breached the standard. It declined to uphold this aspect of the complaint also.

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

Signed for and on behalf of the Authority

  
Iain Callaway  
Chairperson



15 April 1993

## Appendix

### Mr Jim McNair's Complaint to Television New Zealand Limited

In a letter dated 29 October 1992, Mr Jim McNair of Auckland complained to Television New Zealand Ltd that an advertisement which had screened as part of the *Holmes* programme on 20 October 1992 between 6.30 and 7.00pm was irreverent. The item showed two nuns who, when they found the tiny penis of a statue had been broken off, took it to the Mother Superior who affixed it to the statue with the advertised product (an adhesive substance). When her back was turned, one of the nuns mischievously turned the penis up the other way.

Mr McNair claimed the advertisement was demeaning and denigratory of Christians because it did not respect the views of those who honour Christ. He criticised Paul Holmes's irreverence and lack of decency and asked whether he would contemplate having television cameras show pictures of his wife's face and body and then have the camera descend to focus on her private parts.

Although he did not see it, Mr McNair also objected to the repeat screening of the advertisement the following night and the reading of an extract from his letter of complaint by Paul Holmes. Mr McNair accused Paul Holmes of reading his letter in a derisory tone.

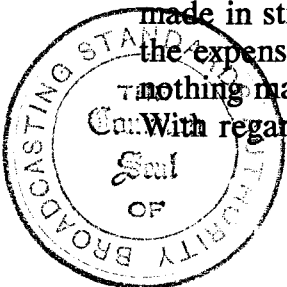
### TVNZ's Response to the Formal Complaint

TVNZ advised Mr McNair of its Complaints Committee's decision in a letter dated 17 December 1992. It recorded that the complaint was considered in the context of standard 26 of the Television Code of Broadcasting Practice which requires broadcasters to avoid portraying people in a way likely to encourage denigration on account of religious beliefs.

At the outset, TVNZ denied that the statue was supposed to represent Jesus, noting that in the cathedrals and churches of Europe, there were thousands of such cherubs. In considering whether the advertisement denigrated nuns or Catholics, it observed:

[T]he taking of vows does not imply that women suddenly cease to know the details of a child's anatomy - or that they suddenly lose their sense of humour.

Further, it continued, it believed that the nuns were treated very affectionately by the camera and enjoyed an amiable joke. TVNZ disagreed that Catholics would have been offended by the advertisement, pointing out that the advertisement had been made in strongly Catholic Spain. TVNZ emphasised that good-natured humour at the expense of the Christian faith was not the same as denigration and that there was nothing malicious about it. Accordingly, it declined to uphold the complaint. With regard to the repeat screening, TVNZ noted that it had received several



requests to screen the advertisement again and that it seemed fair to record a dissenting opinion. It was of the view that Mr McNair's letter was read without comment or any denigration of the complaint - in spite of the quite personally offensive references made about Paul Holmes's wife.

### Mr McNair's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 23 December 1992, Mr McNair referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Mr McNair argued that the identity of the statue was irrelevant, because to him and to many others, it represented the baby Jesus. As such he said that the advertisement was deeply offensive to sincere Christians and that the humour went beyond the bounds of decency.

He pursued his argument that if it was wrong and offensive to show Mr Holmes's wife's private parts on television, then it was also wrong to show the Christ child's, and he accused TVNZ of using a double standard. He also claimed that the advertisement was in breach of standard 2, and that TVNZ had considered his complaint too narrowly.

### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 12 February 1993 and TVNZ's reply, 22 February.

TVNZ commented that it had little to add to its 17 December letter to Mr McNair. It did note however, that Mr McNair claimed it had considered the complaint too narrowly and that standard 2 should have also been applied. In response, TVNZ pointed out that Mr McNair had not identified standards in his original letter of complaint and when TVNZ nominated standard 26 it asked him to notify it if he believed that did not cover his concerns. Since it did not hear from him it assumed it had correctly identified the code. TVNZ pointed out to the Authority that it had adopted the practice of telling complainants who have not nominated standards which standards their complaints would be considered under in order to avoid accusations that they have considered a complaint too narrowly.

With regard to the standard 26 aspect of the complaint, TVNZ disagreed that the item blackened the reputation of the church, arguing that it had been an affectionate joke at the expense of religion which was not out of place in modern society.

### Mr McNair's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 8 March 1993, Mr



McNair reiterated his view that the focus on the genitals of the cherub was demeaning, insensitive and offensive, particularly so when the figure represented the infant Jesus Christ. He maintained that there was nothing humorous or amusing about the item.

