

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 54/93
Dated the 3rd day of May 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KRISTIAN HARANG
of Auckland

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

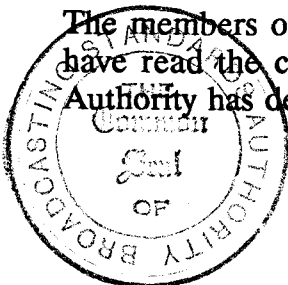
The view of a man walking away from the camera apparently wearing nothing but a pair of socks was part of an advertisement used by a manufacturer of socks shown by Television New Zealand Ltd on TV1 at about 6.15pm on 14 December 1992.

Mr Harang complained to TVNZ that it was a totally offensive advertisement to show in family viewing time and in breach of the broadcasting standards.

Describing the advertisement as light-hearted and noting that the agency had taken care to avoid offending a significant section of the public, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr Harang referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have viewed the advertisement 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.



Mr Harang complained to TVNZ about an advertisement for gold top socks which showed the back view of a man walking away from the camera wearing socks only. It was broadcast during a commercial break in *One Network News* about 6.15pm. The advertisement, Mr Harang argued, was totally offensive at that time and used sex to promote a product. He described it as a "low form of pornography".

TVNZ considered the advertisement under renumbered standards G2 and G12 of the Television Code of Broadcasting Practice which require broadcasters:

- G2 To take into account consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.
- G12 To be mindful of the effect any programme may have on children during their normally accepted viewing times.

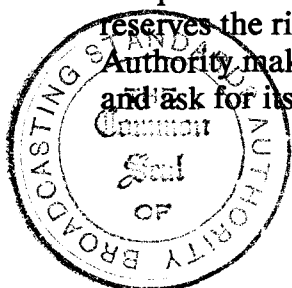
Describing the advertisement as light-hearted and one which showed a retreating bare backside, not genitals, TVNZ said it was neither offensive nor had it used sex to promote a product. Moreover, TVNZ reported, the agency which made the advertisement had, before its release, used representative panels from the community to evaluate public opinion and had ascertained that it would not offend a significant number of people. As the advertisement was screened during a programme which children would probably be watching in the company of adults, it had not contravened the requirements of standard G12. In response to the agency, the Authority would note that standard G2 does not require that a "significant number of people" be offended for a breach to occur.

The first issue the Authority considered was whether TVNZ should have also assessed the complaint against standard 4 of the Code for People in Advertising which reads in part:

- 4 Advertisements should not employ sexual appeal in a manner which is exploitive and degrading of any individual or group of people in society to promote the sale of products or services.

When Mr Harang in his complaint did not cite specific standards, TVNZ asked him to confirm that standards G2 and G12 were appropriate and, consequently, TVNZ argued that the Authority's consideration should be confined to them. In view of both the discursive nature of some complaints and the wish of some complainants to expand on the grounds of their complaint when referring the matter to the Authority, the Authority endorses TVNZ's practice of obtaining clarification from complainants about the standards allegedly breached prior to considering a complaint.

However, the Authority also appreciates that some complainants are not aware of the entire range of the standards and, if a complainant alludes to a matter in the original complaint and continues to mention it when referring the complaint, the Authority reserves the right to assess the complaint under the standard implicitly raised. When the Authority makes this decision, it might well refer the complaint back to the broadcaster and ask for its assessment before proceeding to its determination. It will not follow this



practice of referring the complaint back however, when it is clear that the broadcaster has considered the issue raised by the complainant.

Accordingly, the Authority has decided to assess this complaint also under standard 4 of the People in Advertising Code. However, it is obvious that the broadcaster has in fact assessed the complaint by that standard when it wrote:

The [Complaints] Committee was unable to find anything offensive in the depiction of the man. His retreating bare backside successfully conceals his private parts and the Committee was unable to detect any suggestion that sex was involved in promoting the product.

Consequently, the Authority does not intend to refer the matter back to the broadcaster.

For a complaint to be sustained under standard 4 of the People in Advertising Code, the use of sexual appeal must be exploitive or degrading. While it could be argued that the depiction of a man from the rear apparently wearing nothing but socks makes use of sexual appeal and, seemingly, is aimed at women who might buy socks for men, the Authority concluded that in no way could that appeal be described as either exploitive or degrading. It was, the Authority believed, novel and light-hearted. The Authority would add by way of elaboration, nevertheless, that the novelty was the depiction of the man in this way. If such depictions become commonplace, it would be different and would probably equate with the not infrequent use - for exploitive reasons - of women and their bodies.

Because of the novel and light-hearted tone of the advertisement and because the mood was one of levity not lechery, the Authority believed that it did not contravene the good taste and decency requirement in standard G2.

As for the aspect of the complaint under standard G12 that it was an inappropriate advertisement to be broadcast during the family viewing period, the Authority was of the view that most children would not have been offended by the partial nudity portrayed. Accordingly, it concluded, the standard was not contravened.

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

Signed for and on behalf of the Authority

Iain Gallaway
Iain Gallaway
 Chairperson



3 May 1993

Appendix

Mr Harang's Complaint to Television New Zealand Limited

In a letter dated 15 December 1992, Mr Kristian Harang of Auckland complained to Television New Zealand Ltd about an advertisement for gold top socks broadcast at 6.15pm on 14 December on TV1.

Pointing out that the advertisement showed the back view of a man wearing socks only, he described the advertisement as totally offensive in family viewing time, adding that it used sex to promote a product.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Harang of its Complaints Committee's decision in a letter dated 10 February 1993. It reported that the complaint had been considered under the standards, first, requiring good taste and decency in context, and, secondly, that broadcasters were to be mindful of children during their generally accepted viewing times.

Explaining that the television advertisement was part of a nationwide campaign to promote a particular brand of socks, TVNZ said it was light-hearted and used eye-catching imagery to sell a product which usually lacked such appeal. As the advertisement showed a retreating bare backside, not genitals, TVNZ said that the advertisement was neither offensive nor had it used sex to promote a product.

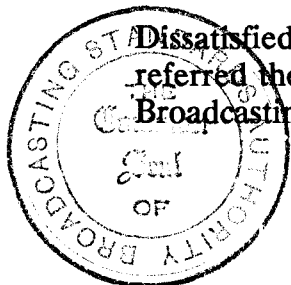
TVNZ reported that the agency which made the advertisement had, by using representative community panels to evaluate public opinion, ascertained before its release that it would not offend a significant number of people.

Noting that the standard imposing good taste and decency referred to "currently accepted" norms, TVNZ stated that the advertisement had not breached that standard. As the advertisement was not approved for screening during programmes specifically for children, it maintained that the advertisement would not have a deleterious impact on them at times when they would be expected to be watching television in the company of adults.

TVNZ declined to uphold the complaint.

Mr Harang's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 15 February 1993 Mr Harang referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Arguing that TVNZ interpreted the requirement of "generally accepted attitudes" in a liberal manner, Mr Harang pointed out that some nationwide surveys disclosed that a majority of New Zealanders were against pornography. The advertisement in question, he continued, was a "low form of pornography" and he left it for the Authority to adjudicate on the issue, adding that a monetary penalty would be appropriate.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 25 February 1993 and TVNZ's response, 10 March.

Disagreeing strongly with Mr Harang's view on what amounted to pornography, TVNZ argued that it only applied to material which was designed, in an unhealthy or sinister context, to stimulate sexual excitement. The advertisement complained about, it continued, was designed to sell socks and there was nothing remotely titillating about it. Moreover, it had not used sex to sell a product.

Mr Harang's Final Comment to the Authority

When asked for a response to TVNZ's reply, in a letter dated 15 March 1993 Mr Harang referred to a complaint he made to the Authority in 1992 about the lack of decency and taste of a stereo advertisement. That complaint had been upheld on the grounds that it used sexual appeal simply to draw attention to an unrelated product (Decision No: 68/92) and, Mr Harang continued, he would see no difference between the advertisement complained about on that occasion and the current one.

Referring to the fact that it was shown during family viewing time, Mr Harang questioned the extent of the advertiser's research about community attitudes and considered whether it included groups other than young people whose attitudes were influenced by television.

