

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 77/93

Dated the 28th day of June 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

ROSE WELLS
of Blenheim

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

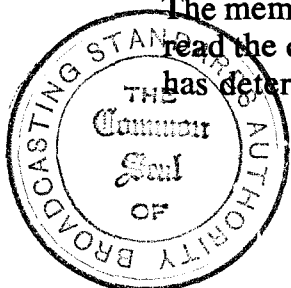
A scene of a man being killed with a sword was depicted in an episode of *The Highlander* broadcast on Channel Two at 9:30pm on Friday 19 March 1993.

Ms Wells complained to Television New Zealand Ltd that the scene breached the broadcasting standards by showing a hero perpetrating excessive violence and by portraying the gratuitous use of violence for the purposes of heightened impact.

Pointing out that the series featured a time-travelling hero from the sixteenth century equipped with a sword, TVNZ argued that the fantasy nature of the violence depicted was not inappropriate given the hour of the broadcast and declined to uphold the complaint. Dissatisfied with TVNZ's decision, Ms Wells referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have watched the programme 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.



Ms Wells complained to TVNZ about a scene in *The Highlander* broadcast on TV2 at 9.30pm on Friday 19 March. The scene involved Duncan McLeod, the Highlander and the series' leading character, impaling a man with his sword through the door while hiding in a toilet and, Ms Wells wrote, the violence was perpetrated by the programme's hero and was used gratuitously to achieve heightened impact. She added later, in reply to TVNZ's emphasis about the fantasy nature of the programme, that the violence was realistic as death by knifing was a real concern at the present time.

TVNZ considered the complaint under standards V1 and V2 of the Television Code of Broadcasting Practice which read:

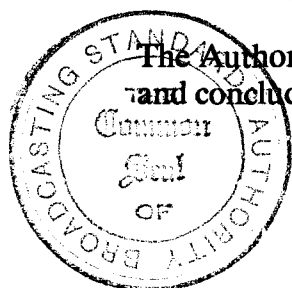
- V1 Broadcasters have a responsibility to ensure that any violence shown is justified, i.e. is essential in the context of the programme.
- V2 When obviously designed for gratuitous use to achieve heightened impact, realistic violence - as distinct from farcical violence - must be avoided.

TVNZ referred to the caption on the screen at the beginning of each episode of *The Highlander* which, it said, disclosed that the programme was a fantasy series involving a time-travelling immortal antagonist born four hundred years ago who used the sword as a weapon. Arguing that the use of the sword was the theme of the fantasy series, TVNZ declined to uphold the complaint under standard V1. It proceeded to decline to uphold the standard V2 complaint on the basis that the violence used was neither gratuitous nor designed to achieve heightened impact, commenting in addition that, because of the unrealistic or farcical nature of the violence depicted, it considered that standard V2 was inapplicable.

The Authority considered first the aspect of the complaint under standard V1 and concluded that, as the use of the sword was the theme of the programme, the broadcast did not contravene that requirement. The Authority was not required to decide under this standard whether the theme was appropriate for a television series although it noted that some restraint had been exercised in the episode to ensure that the sword's use was confined to an isolated, brief and bloodless incident.

In regard to the complaint about gratuitous use of violence to achieve heightened impact under standard V2, the Authority noted that the complaint focused on one particular incident - the Highlander killing a man who, while armed with a gun, was searching for him. He had been killed when the Highlander thrust his sword through a toilet door behind which he was hiding. As one of its arguments in declining to uphold the complaint, TVNZ said that the violence was farcical. Ms Wells disagreed, referring to the present dangers of being stabbed. The Authority noted that the programme was set in the contemporary United States and was essentially realistic with elements of fantasy. The scene of hostage taking and of the subsequent negotiations contained elements of realism while the aspect of violence, such as the use of the sword, the absence of blood and the Highlander's immortality, contained elements of fantasy.

The Authority then considered the specific scene about which Ms Wells had complained and concluded that the violence portrayed was neither particularly explicit nor gruesome.



Moreover, the Authority believed, the particular scene where the sword had to pierce the toilet door before impaling the victim bordered on the farcical.

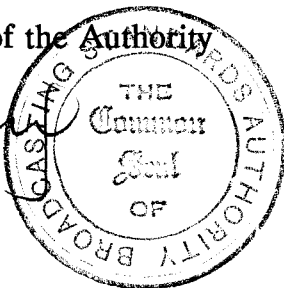
Taking into account the fact that the programme began at 9.30pm and the particular scene complained about would not have been broadcast until after 10.00pm and that the specific incident complained about, unlike others in the episode, highlighted the fantasy aspects of the programme, the Authority decided that standard V2 had not been contravened.

In reaching that decision, the Authority took particular notice of TVNZ's argument as to the fanciful nature of the programme involving an immortal hero. It does not accept that a caption at the beginning of the programme referring to it as a fantasy series has overwhelming relevance when what follows is a programme set entirely in present day surroundings and involving excessive violence with sophisticated weapons. On this occasion, only the brevity of the incident complained about resulted in the decision recorded below and outweighed the Authority's deep concern about the amount of violent content portrayed. Both the threat and depiction of violence was pervasive in *The Highlander* and had the complainant referred to another incident or to the entire programme, the Authority might well have arrived at another decision.

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

Signed for and on behalf of the Authority

Iain Gallaway
Iain Gallaway
Chairperson



28 June 1993

Appendix

Ms Wells' Complaint to Television New Zealand Limited

In a letter received by Television New Zealand Ltd on 25 March 1992, Ms Wells of Blenheim complained about an episode of *The Highlander* broadcasted on Channel Two at 9:30pm on Friday 19th March. She said that the scene when The Highlander (Duncan McLeod) injured a man with his sword was the offending part of the programme.

Referring to the Television Code for the Portrayal of Violence, she argued that the programme contravened the general requirement that heroes should not use excessive violence and the standard 2 requirement that the gratuitous use of realistic violence for the purposes of heightened impact should be avoided.

TVNZ's Response to the Formal Complaint

TVNZ advised Ms Wells of its Complaints Committee's decision in a letter dated 8 April 1993 when it reported that the complaint had been assessed under standards V1 and V2 of the Television Code of Broadcasting Practice.

The programme's tone, TVNZ stated, was set by the announcement at the beginning of each episode (accompanied by a caption) which proclaimed:

I am Duncan McLeod, born four hundred years ago in the Highlands of Scotland. I am immortal and I am not alone. For centuries we have waited for the time of the Gathering, when the stroke of a sword and the fall of a head will release the power of the Quickening. In the end there can be only one.

The introduction, TVNZ continued, indicated that the programme was a fantasy, featuring a time-travelling protagonist from the sixteenth century equipped with a sword.

Dealing with the standards, TVNZ argued that the requirement of Standard V1 was not breached as the use of the sword was an essential theme which ran through the fantasy series. As the violence was not realistic, Standard V2 was not applicable, although TVNZ added, the violence portrayed was not gratuitous anyway.

TVNZ also pointed out that the programme began at 9:30pm, an hour after the "AO" (Adults Only) programmes were permitted and it expressed the opinion that it was not inappropriate to broadcast the episode of *The Highlander* complained about at that time.



Ms Wells' Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's reply, in a letter received on 21 April 1993, Ms Wells referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Arguing that the manner in which the sword was used was her concern, not its presence, she said that the episode complained about included a graphic scene of a man being killed with a sword. She also disputed TVNZ's statement that the violence depicted was not realistic, observing:

Death by knifing is a real concern at the present time.

TVNZ's Response to the Authority

As is the practice, the Authority sought the broadcaster's comments on the complaint. Its letter is dated 7 May 1993 and TVNZ's response, 13 May.

TVNZ explained that it had declined to uphold the complaint because of the programme's context and the hour at which it was broadcast. The context, it continued, was a fanciful science fiction series in which groups of immortals travelled through time in search of "the time of Gathering" and in which the violence portrayed was "far-fetched". The programme started at 9:30pm and, TVNZ added, the scene complained about began some half an hour later.

Ms Well's Final Comment to the Authority

When asked for a brief comment on TVNZ's reply, in letter received on 25 May 1993 Ms Wells referred to the increasing public concern about violence and maintained that the scene complained about breached the standards. She added that she did not object to the use of the sword as the programme's theme but about its graphic and realistic use in the scene to which she objected.

