

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 84/93
Dated the 29th day of July 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KERRY SHARP
of Palmerston North

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

An item showing a bare-breasted woman being photographed, an item on women faking orgasm and a segment on Tantric sex were some of the features of episode 3 of the second series of *Sex* which was broadcast on Channel Two on 30 March 1993 between 9.30 - 10.30pm.

Mr Sharp complained to Television New Zealand Ltd, the broadcaster, that the first item denigrated women by treating them as sex objects and that all three items were offensive and objectionable.

Responding that the items were not offensive given their context in a programme about sex, TVNZ maintained that they were not in breach of the standard requiring good taste and decency. It also argued that the item on nude photography did not denigrate women because it merely reported on what it found. It declined to uphold any aspect of the complaint. Dissatisfied with that decision, Mr Sharp referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed 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.

Mr Kerry Sharp complained to TVNZ that the broadcast of three items in episode 3 of the second series of *Sex* on Channel Two on 30 March between 9.30 - 10.30pm were in breach of broadcasting standards. He wrote that the items on women faking orgasm and Tantric sex were objectionable and offensive, and the item which featured a bare-breasted woman being photographed, in addition to being offensive, denigrated women.

TVNZ responded that it had assessed Mr Sharp's complaints against standards G2 and G13 of the Television Code of Broadcasting Practice 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 the language or behaviour occurs.
- G13 To avoid portraying 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. 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.

TVNZ prefaced its remarks by noting that the programme had an S2130 certificate, which meant that it could not be screened until 9.30pm because it contained Adult material. It also noted that the programme was preceded by a warning advising viewer discretion, that its subject matter was unambiguously defined by the title of the programme and that the style of and subject matter covered by the series (and its predecessor) were firmly established.

First, TVNZ examined the complaint that the item on sexual arousal was in breach of standard G2. It noted that the item contained brief clips of nude or semi-nude models, but argued that the pictures were not used gratuitously and that they were appropriately used in the context of an item which dealt with what parts of the body contributed to sexual arousal. It declined to uphold the complaint that the item breached the standard requiring observance of good taste and decency.

In the Authority's view, the item could well have appeared to be an excuse to show



partly clad models. However, it accepted that that was not the only motive as it observed that the brief excerpts (which included shots from the previous series) seemed to be relevant in the context of a story about what people found erotic. In the context, it did not find that the scenes were offensive and in breach of standard G2 and it declined to uphold that aspect of the complaint.

Mr Sharp also complained that this item was in breach of standard G13 and that it denigrated women by reducing them to sexual playthings. While agreeing with Mr Sharp that pictures of nude women published in some magazines denigrated women, TVNZ argued that reporting the fact did not. It declined to uphold the complaint that the item was in breach of standard G13.

The Authority referred to an earlier decision in which it had considered the application of standard G13. In Decision No: 75/93, it wrote:

The Authority noted that in previous decisions it has interpreted denigration to mean that the activities portrayed were responsible for blackening the reputation of women as a class.

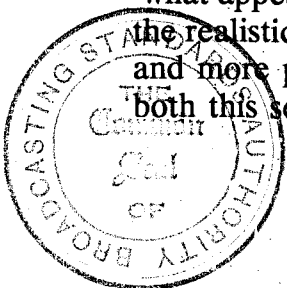
It noted that both men and women models were portrayed and that the emphasis was not so much on the nude models as on what contributed to sexual interest. The Authority was unable to conclude that the excerpts in the item in this episode were denigratory of women in general and thus in breach of standard G13.

Next, TVNZ assessed the item which dealt with faked orgasms, describing it as a relatively light-hearted examination of an important part of human relationships - that of trust between partners. The item, TVNZ explained, included three sequences:

each lasting about four seconds in which what appeared to be actors were seen apparently simulating intercourse. No genitals were shown, and the material was relevant and in context.

It declined to uphold the complaint that the item breached standard G2.

The Authority was inclined to agree with TVNZ that the subject matter was of interest in the context of the programme. It was of the view that the comedy routine which accompanied the commentary was entertaining and light hearted and that the interview with the Cambridge University academic, Dido Davies, who was the author of a book titled *Women's Pleasure or How to have an orgasm...as often as you want*, was informative. However, the majority was of the view that the scenes of sexual intimacy, although they were brief, were an unwarranted and gratuitous adjunct to the story. It considered that the inclusion of the four different sequences (including one in the introduction) was unnecessary and that the story would have been adequately illustrated by the comedy sequence alone. It was unimpressed with TVNZ's description that the couples were "what appeared to be actors ... apparently simulating intercourse", being of the view that the realistic-looking orgasms and sound effects made them appear particularly authentic and more personal and private than earlier examples of simulated intercourse during both this series and the first series of *Sex*. It noted that there was no indication that



what was being shown was only "simulated" intercourse. The majority upheld the complaint that the scenes were in breach of standard G2.

The minority disagreed, being of the view that although intercourse was shown, it apparently was simulated and was reasonably discreet, brief and the scenes were dimly-lit. The scenes in this segment, were, in its view, little different from other scenes throughout the series which had not been found to be in breach of standard G2.

The third item complained about was one which featured Tantric sex. When a similar item was screened in the concluding episode of the first series of *Sex*, the Authority wrote in Decision Nos: 10/93-24/93:

When the item was repeated in *Sex by Request*, however, a majority was of the view that because some of the explanatory dialogue was omitted, particularly the explanation that sexual intercourse would not be occurring between the couples, a person viewing it for the first time in that episode would gain little understanding of the different approach to sexual relationships in the Tantric philosophy. When taken out of context it seemed to be a gratuitous display of group sex.

The majority believed that it was possible to draw the same conclusion from the item in episode 3. It considered that a cheap and vulgar tone was set by the presenter, Pamela Stephenson, in her introductory anecdote when she said:

My first introduction to the philosophy of Tantra was via a girlfriend who told me that if her boyfriend, who practiced Tantric sex, should accidentally ejaculate early while they were having sex, that he had the ability to sort of "hoover it back up again" and continue. Well, needless to say, I couldn't wait to find a bloke who could do that.

Her comment allowed the conclusion to be drawn that the couples were having intercourse. As well, the Indian drawings accompanying the introductory remarks clearly depicted various kinds of sexual activity. The majority noted that there was no explanation prior to the opening scene that the couples were not engaged in intercourse and it was of the view that a person unfamiliar with Tantric philosophy, seeing this for the first time, would have concluded it was a display of a number of couples apparently engaged in intercourse. Although Tantric philosophy was discussed later in the item, the initial impression would not have been dispelled. The majority upheld the complaint that the item was in breach of standard G2.

The minority considered that an adequate explanation was given of the philosophy of Tantra and that it did not unnecessarily focus on the naked couples. In some of the scenes the couples were fully clothed, and there was also considerable footage of an interview with the British psychologist Alan Lowen, a proponent and teacher of the philosophy. It acknowledged that it would have been difficult for TVNZ to have edited the tape to explain at the outset that the couples were not having sex.

For the reasons set forth above, a majority of the Authority upholds the complaint that

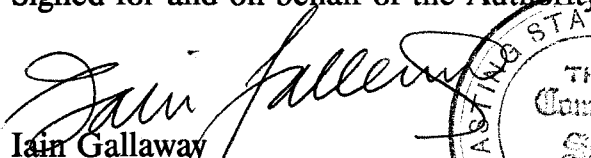


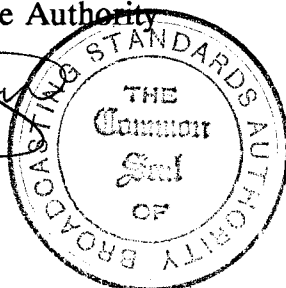
the items on faking orgasm and Tantric sex in Episode 3 of the second series *Sex* broadcast by Television New Zealand Ltd on 30 March 1993 were in breach of standard G2 of the Television Code of Broadcasting Practice.

The Authority declines to uphold any other aspect of the complaint.

Having upheld a complaint, the Authority may make an order under s.13(1) of the Broadcasting Act 1989. It does not intend to do so on this occasion as the breaches were not considered to be major ones.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
29 July 1993



Appendix

Mr Sharp's Complaint to Television New Zealand Limited

In a letter dated 1 April 1993, Mr Kerry Sharp of Palmerston North complained to TVNZ Ltd that episode 3 of the series *Sex* broadcast on Channel Two on 30 March 1993 between 9.30 - 10.30pm was offensive and objectionable and denigrated women by treating them as sex objects.

There were three items which he claimed were in breach of broadcasting standards. The first dealt with sexual arousal and included bare-breasted women being photographed. Mr Sharp described the item as objectionable and accused TVNZ of gratuitously using a woman's naked body with no valid educational purpose. He also claimed the item denigrated women because it treated them as sex objects. The second item which dealt with orgasm contained scenes of a couple having intercourse. Mr Sharp described the repeated scenes of intercourse and orgasm as objectionable and claimed it amounted to pornography. The third item was concerned with Tantric sex and, according to Mr Sharp, showed explicit scenes of group sexual activity. He wrote that this was:

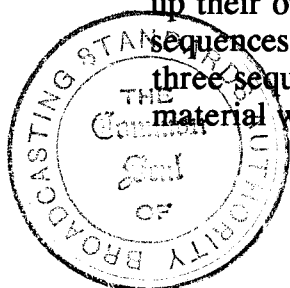
objectionable and offensive and not acceptable on national television.

Mr Sharp cited the results of a recent American opinion poll which showed that the majority of Americans wanted less sexual content in films. He considered that those results had relevance for New Zealanders and the content of television programmes.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Sharp of its Complaints Committee's decision in a letter dated 10 May 1993. It reported that the complaint had been considered under standards G2 and G13 of the Television Code of Broadcasting Practice which require broadcasters to take into consideration currently accepted norms of decency and taste and to avoid portraying people in a way which is likely to encourage denigration on account of sex.

TVNZ prefaced its response by pointing out that the subject matter of the programme was clearly established by its title, that it was aimed at a mature audience and was preceded by a warning advising viewer discretion. It noted that in the item dealing with sexual arousal the nude or semi-nude models "were included briefly". It maintained that the pictures were not used gratuitously and were appropriate in the item. While it accepted that pictures of nude women in magazines denigrated women, TVNZ denied that the reporting of the fact that such pictures were printed and distributed also denigrated women. It contended that viewers were left to make up their own minds. With reference to the item on orgasm, TVNZ noted that the sequences to which Mr Sharp objected were of simulated intercourse. There were three sequences, it wrote, each lasting about four seconds. It believed that the material was relevant and in context. It noted that no genitals were shown and did



not believe standard G2 was breached. The final item dealt with Tantric sex. TVNZ wrote:

The item was presented as information and instruction about a form of relationship therapy which has spread worldwide, and is one that the target audience might be expected to hear of and become curious about.

It denied that the scenes depicted group sexual activity, observing that that could not be determined because no genitals were shown. Further, TVNZ wrote, Tantra does not involve actual intercourse, noting:

Fulfilment is experienced through touch and spiritual togetherness and it was the Committee's observation that is what seemed to be happening at the session depicted.

In the context of the programme, TVNZ did not believe that the good taste and decency standard was breached.

Mr Sharp's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's decision, in a letter dated 20 May, Mr Sharp referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He disagreed with TVNZ that the items were relevant in context, accusing it of attempting to justify the screening of pornography on television. Mr Sharp also rejected the argument expressed by TVNZ that reporting should not be censored at all. He argued:

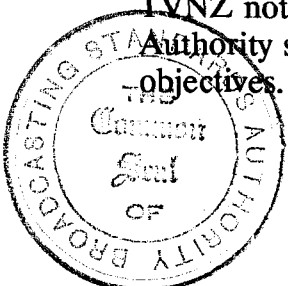
There is a great difference between reporting facts and screening on national television explicit pornography and reducing women to sexual objects and sexual play things.

He maintained that so far in this series of *Sex*, pornography has been screened in every episode. He noted that a news report of 20 May stated that Channel 9 in Australia had stopped screening *Sex* because it caused embarrassment to families.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 24 May and TVNZ's reply, 2 June 1993.

TVNZ noted that it had little to add to its previous comments, emphasising that the Authority should take into consideration the context of the series and its overall objectives. It observed:



the second series of *Sex* appears to have broadened its constituency to include couples in longer term relationships and consequently a higher proportion of material which provides advice on enhancing the joys of love-making. However, overall the "safer sex" message continues to predominate.

It took issue with Mr Sharp's assertion that TVNZ had suggested that reporting should not be censored at all, responding that its appraisers had cut many scenes from the series to "allow for the sensibilities of New Zealand viewers." It clarified its position with regard to reporting on activities which are intrinsically denigratory to women, observing that it was preferable to have an informed society and that it was important to disseminate information provided that it did not step beyond the boundaries of good taste and decency.

Mr Sharp's Final Comment to the Authority

In a letter dated 6 June 1993, Mr Sharp challenged TVNZ's assumption that television does not influence viewers' attitudes and values. He maintained that it was a very powerful medium of influence and that the broadcast of programmes such as *Sex* was absolutely offensive and unacceptable for national television.

He cited the work of a British anthropologist which suggested that where people were sexually free and permissive, their culture deteriorated. He lamented the erosion of values.

