

Decision

The Tribunal, including the co-opted members, watched a videotape of the programme and considered the arguments put by both parties. The Tribunal considered the arguments under two separate headings: timing and explicitness.

Timing

The programme began at 9.30 p.m. and, as the BCNZ advised, had a special category certificate. This is part of its internal programme censorship and means that the programme cannot be shown before 9.30 p.m. In fact the particular scenes were broadcast at approximately 10.15 p.m., on a Monday night. This is not regarded as peak viewing time and the Tribunal finds that the timing would not be grounds for upholding the complaint.

Mrs Morrison's view was that the timespot was really irrelevant as the scenes were so unacceptable as to be not suitable for screening at any time. This is considered under the later heading.

The Tribunal also noted that this episode was the third in a series which was marked by its extreme realism. The tone of the earlier episodes, and indeed the tone of the particular programme, was such that the incident would not be surprising. There were other incidents in the programme that were disturbing—for example the death of the older man in hospital, and his descriptions of soldiers' lecherous behaviour during the liberation of Hamburg. Our view is that it cannot be expected that programmes will be as sanitised at that hour as is necessary earlier in the evening.

Part of Mrs Morrison's complaint was her concern about children who might be watching programmes at this time. Her view is that many children watch television until late at night and that headmasters and teachers regularly complain of this. However we consider it is unlikely that many children would have been watching this particular programme at this particular time. The intellectual complexity of the programme would have been too much for most children and the programme would have been unlikely to hold the casual interest of children. A young person who had persevered in watching "The Singing Detective" for three quarters of an hour would, we consider, have had to have a very mature intellect and outlook on life, and would have been able to cope with these particular scenes.

The Tribunal is of the view that this programme was not one which was likely to have been watched by accident. The viewer would not casually turn it on and continue to watch for light entertainment or in the hope of sexual titillation. It was a programme requiring considerable concentration from the viewer and the sexual activity was comparatively a very small part of the programme.

Explicitness

The Corporation conceded that the intercourse scene was "more explicit than might normally be accepted". This aspect of the series was doubtless reflected in the censor's "special category" certificate and the late evening placement in the schedule.

The Corporation, in their letter in reply to Mrs Morrison, summarised the series.

" 'The Singing Detective' centered on P E Marlow, a writer of cheap stories. He had psoriasis, a disfiguring disease which had put him in hospital. To keep his sanity, and because he could not help it, he re-wrote in his imagination the plot of one of his novels. Elements from another story—his own childhood in fact—kept interposing."

One of the major elements was an incident from his childhood when he witnessed his mother, unbeknown to her, in a sexual encounter. Marlow's relationship, as a boy, with his mother, was central to this particular episode and in fact important throughout the series. It was clear that this particular incident

had a lasting effect on Marlow and contributed to his disgust with physicality. He spoke of disliking dirt and he crushed a ladybird in a fastidious manner after witnessing this scene. Seeing his mother behave in this way had clearly affected Marlow very deeply.

The programme did not present sexual activity as particularly desirable. Afterwards the woman was crying, the man was confused, the boy was traumatised. It was more of a morality tale, and did not condone marital infidelity. There was no feeling of exploitation of the woman as clearly the intercourse took place because both parties wished it. The woman's tears afterwards appeared to be the result of her realisation of the hopeless situation she was now in and what she had done to her relationship with her husband by deceiving him in this way.

The Tribunal consider the scene was not presented in a pornographic or titillating manner, but was a realistic presentation of what the child had seen which had a deep effect on him.

Mrs Morrison said the marital infidelity could have been suggested in much less explicit ways. That may be so but in the particular context of this programme it is the Tribunal's view that cutting these particular scenes would have distorted the programme. The sound effects of the sexual intercourse were tied in with the sounds Marlow could hear coming from the man in the next bed to him in the hospital who was dying. Oxygen was being given to him and the heavy panting noises made by that machine, behind the curtains drawn round the bed, were contrasted repeatedly with the breathing of the man and the woman. The common literary contrast of the "big death" and the "little death" was present and the dreadful effect on Marlow of the sounds made by his mother, which he had heard as a child, and their similarity with the sounds of death he was now hearing was made clear.

Decision

The Tribunal finds that the Corporation did not breach the requirements of section 24 (1) (c) as the scenes were not beyond reasonable standards of good taste and decency. The censor's "special category" certificate was observed and the scenes were not unacceptable in the particular programme at the time it was screened.

The complaint is not upheld.

Co-opted members

Mrs G. K. Drury and Dr Russell Campbell were co-opted as persons whose qualifications or experience were likely to be of assistance to the Tribunal in dealing with the complaint. They took part in the consideration of the complaint and the deliberations of the Tribunal, but the decision is that of the permanent members.

Dated this 13th day of July 1988.

Signed for the Tribunal:

A. E. WILSON, Member.
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Decision No. 20/88

COM: 7/85

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by the **Auckland Combined Unions Information Service:**

Warrant Holder: The Broadcasting Corporation of New Zealand (Television One):

The Tribunal:

Chairman: B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: Brian W. Stephenson and Diane Billing