

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 7/91

Dated the 15th day of March 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

LIAM WRIGHT

of Auckland

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

Introduction

On 20 February 1990, TV1's *Holmes* programme broadcast an item which outlined the findings of the Cartwright Report into cervical cancer treatment at the Auckland National Women's Hospital. It was shown at the time disciplinary proceedings were being brought against four doctors, and as a background to the subsequent studio interview with Phillida Bunkle, one of the authors of the Metro magazine article which first outlined the research programme and its consequences. It was, in fact, a re-broadcast of a news item first run in August 1988 and was identified as such with a superimposed key.

On 26 February, Mr Wright, an Auckland Obstetrician and Gynaecologist, wrote to the Manager, TVNZ, Auckland complaining that the item contained a statement that Judge Cartwright had said that one hundred and twenty three patients needed urgent treatment in 1988. The statement had been reinforced by a printed statement on the screen which, he alleged, would have been read by most people as being a quotation from the Report of the Inquiry. He maintained that the statement had no basis in fact and that it was misleading because of the strong inference that these patients were being mismanaged at the time the inquiry was held, thus reflecting badly on the people involved in the



management of those patients at the hospital in 1988. Accordingly, he requested that the statement be retracted and that an appropriate explanation be given.

As a result of a series of unfortunate delays and misunderstandings, (upon which the Authority comments hereafter) the complaint was not dealt with by TVNZ's Complaints Committee until 28 May. It was considered in the context of Television Programme Standard 1 which requires broadcasters to be truthful and accurate on points of fact. The Committee did not uphold the complaint and Mr Wright was not informed of this decision for a further month.

The complainant then referred the matter to the Authority for an investigation and review pursuant to section 8(a) of the Broadcasting Act 1989.

### TVNZ's Response to Mr Wright's Formal Complaint

TVNZ's Complaints Committee's reasons for rejecting Mr Wright's complaint (referred to above) were contained in its letter to him of 28 June. The Committee quoted the following relevant extracts from the Cartwright Report:

On page 123, Judge Cartwright said of the women involved:

I believe the medical profession and I have a special duty to these women  
... .

and

The best available treatment must be offered to this group of women.

On page 211 Clause 3.a reads:

The names of 123 women have been reported to the Minister of Health starting in September 1987 and concluding in June 1988. This list included some women with microinvasive disease. Suggestions to assist follow-up treatment or advice have been made. They include recommendations concerning cultural, social, emotional and medical matters. I have reported that a special duty is owed to these women who must be offered optimal management.

On page 217, again under the general heading "Findings and Recommendations" the report said:

Special duties are owed to all those women (123) whose names have been reported to the Minister of Health.



These duties can be discharged by providing optimal medical and support

facilities for those 123 women who may need further treatment and advice.

The facilities must be independent of National Women's Hospital, if that is what these women wish.

Colposcopic examination should be provided where necessary as should culturally and emotionally appropriate contact and support services.

On page 233, the summary to Appendix 3 includes the line:

The names of 123 patients were referred to Judge Cartwright in order that suitable follow-up could be arranged.

Whilst TVNZ's Complaints Committee acknowledged that the word "urgent" did not appear in the report in relation to the treatment of the 123 women, it stated that the whole tone of the report implied urgency. Accordingly, it seemed to the Committee that "optimal management" meant the same thing as "urgent treatment". Further comments were provided in support of the argument that the statement "123 patients required urgent treatment" was a fair summary in lay terms of what was outlined in the report.

Dealing with Mr Wright's complaint that this statement was portrayed as an actual quotation from the report, the Committee commented that the report was a very complex document and it was necessary to translate many of its recommendations into lay language for presentation to the public in the context of a news programme.

However, the Complaints Committee did express some reservations about the running of a large segment of an 18 months old news bulletin to set the scene for a new aspect on an item of this sort:

The perception of a complex document like the Cartwright Report was seen as being capable of change with time, and the quick summary provided on the night the report was released was thought to be no substitute for the more reasoned and mature account that becomes possible with the benefit of time and hindsight. However, because it was made clear that it was a rebroadcast of an earlier news bulletin there could be no misleading implications.

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

On 19 July 1990, Mr Wright referred his complaint to the Authority. He pointed out that TVNZ's Complaints Committee had judged his concern to be with the word "urgent" whereas it was in fact with the words "required ... treatment". He also drew attention to the qualification made by Judge Cartwright on page 123 of the Report, in the same paragraph as the phrase "I believe the medical profession and I have a special duty to the women" - quoted by the Committee. She stated:

The time has come for these women to located, examined, where necessary treated ... .



Mr Wright stated that to translate "have a special duty to these women" into "required urgent treatment" was erroneous and grossly misleading. He also rejected as patent nonsense TVNZ's explanation that the oral and written line was to simplify terms used in the report, claiming that the words used in the original report were simple and had a simple meaning and arguing that most ordinary people would not need to consult a dictionary to distinguish between "a special duty" and "required urgent treatment". Further, he did not agree that "need urgent treatment" was an accurate translation of offer "optimal management".

Mr Wright also expressed his concern at the manner in which his complaint had been handled, listing the delays and frustrations.

In response to the Authority's requirement, Mr Wright subsequently submitted a Referral Form, reiterating and expanding on the grounds for his complaint. In addition he commented that the programme had had a further 18 months from the time of the original broadcast to correct the facts and that a media release dated 2 August 1989 reported that, on the initial recall, none of the 123 women located and examined had been found to have invasive cancer. He argued that:

A major current affairs programme making comments of such potentially serious abuse should have been aware of this fact.

#### **TVNZ's Response to the Authority**

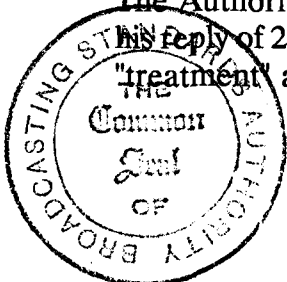
On 27 July, the Authority sent Mr Wright's complaint to TVNZ, followed on 5 September with a copy of the Referral Form.

TVNZ responded to the Authority by letter dated 13 November, stating that the question was one of semantics. The Company maintained that, in the case of the 123 women, Judge Cartwright saw a need for urgent follow-up attention or treatment and that was what the item indicated.

In spite of the complainant stressing that this complaint did not relate to the word "urgent", the response continued to concentrate on this aspect but also commented that the complaint pointed to a fundamental difference of definition or understanding as to what is meant by "treatment". The Company also detailed the timetable of events accounting for the delays surrounding Mr Wright's original complaint which had caused him such frustration.

#### **Mr Wright's Final Comment to the Authority**

The Authority sent a copy of TVNZ's letter of 13 November to the complainant who in his reply of 27 November referred to the Oxford dictionary's definition of "semantics" and "treatment" and developed these definitions in relation to his argument.



## Decision

Mr Wright has complained that an item broadcast on the *Holmes* programme on 20 February 1990, which outlined certain findings of the Cartwright Report, contained a statement that Judge Cartwright had said that 123 patients needed urgent treatment in 1988 i.e. at the time of her report. This oral statement on the programme had been emphasised by the use of a superimposed key. He claimed that most viewers would have accepted the statement as a quotation from the Report of the Inquiry, and that it was misleading, with the strong inference that these patients, the majority of whom had been under surveillance by a variety of doctors since the retirement of Professor Green in 1982, were being mismanaged at the time the Inquiry was held.

TVNZ's Complaints Committee, in rejecting the complaint, quoted several statements made by Judge Cartwright in her report, arguing that both individually and collectively the phrases she had used fully justified the programme's interpretation. This decision, therefore, must be based on the Authority's opinion as to whether the statement "123 women needed urgent treatment" was, in TVNZ's words, "a fair summary in lay terms of what was outlined in the report" or in Mr Wright's words, "has no basis in fact [and] is grossly misleading".

In its consideration of the complaint, TVNZ gave its reasons why the use of the word "urgent" was justified, but Mr Wright subsequently confirmed that it was the use of the word "treatment" to which he took such strong exception. The Authority has taken this into account but considers that the phrase should be taken as a whole in order to ascertain accurately the impression that it was likely to give viewers of the programme. It notes in this regard that cancer is an emotional word for most people and urgency of treatment is implied. Further, Mr Wright maintained that the manner in which the statement was presented, both orally and visually, gave the impression that it was in fact an actual quotation from the Cartwright Report. This might well be the case but, whether or not this impression was given, it is the accuracy and fairness of the words used with which the Authority must be principally concerned.

The Authority considered each of the phrases from the Cartwright Report quoted by TVNZ in its defence (set out, above, under the heading "TVNZ's response to Mr Wright's formal complaint") and whether the summary statement that was broadcast accurately conveyed the factual information in the report and reflected the tone of the Judge's findings.

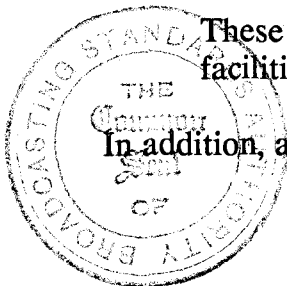
The word "treatment" is used three times by Judge Cartwright in these quoted passages:

The best available treatment must be offered to this group of women;

Suggestions to assist follow up treatment or advice have been made; and

These duties can be discharged by providing optimal medical and support facilities for those 123 women who may need further treatment and advice.

In addition, although not specifically referred to by TVNZ, on page 123 the Judge says:



The time has come for these women to be located, examined, and where necessary treated ... ."

In none of those sentences is there a definitive statement that these women "needed urgent treatment". Indeed, TVNZ, in its letter to the Authority dated 13 November 1990, specifically says that "Judge Cartwright saw a need for urgent follow-up attention OR treatment and this is what the item indicated". (emphasis added) The Authority does not consider that this is what the item indicated. Each of Judge Cartwright's comments provide alternatives and none justified their paraphrasing into the unequivocal words "123 women needed urgent treatment."

TVNZ also claimed that the report was a very complex document and that it was necessary to translate many of the recommendations into lay language. This may have been true in some areas but, in the Authority's view, nothing in the phrases quoted appeared to need translation, and certainly not into the unequivocal statement, "123 women needed urgent treatment".

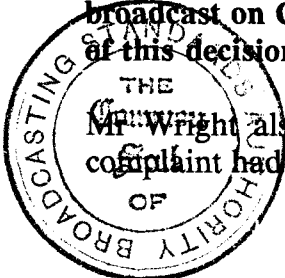
In his complaint referral form, Mr Wright also mentioned that it was pertinent to his complaint that the section of the *Holmes* programme about which he was complaining was largely a rebroadcast and that the broadcaster had had 18 months to correct the facts. Furthermore, some six months before the *Holmes* programme a media release, reporting on the initial recall of these women, reported that none of the women located and examined had been found to have invasive cancer. TVNZ had already commented that its Complaints Committee had observed that the perception of a complex document like the Cartwright Report was seen as being capable of change with time, and the quick summary provided on the night of the report was released was thought to be no substitute for the more reasoned account that becomes possible with the benefit of time and hindsight. It concluded, however, that

... because it was made clear it was a rebroadcast of an earlier news bulletin there could be no misleading implications.

The Authority shares these reservations and supports the complainant in this aspect of the complaint. It disagrees with TVNZ's argument that, because it was a rebroadcast of an earlier news bulletin viewers could not be misled. A viewing of the programme clearly confirms that the voice-over accompanying the written script, used the words ["The Judge believes] special treatment [must now be given] to 123 women who need urgent treatment." The written sentence omitted the words shown in brackets. Despite the presenter's introduction, the use of the word "believes" in the present tense could well have led some viewers to understand that on 20 February 1990, 123 women were in need of urgent treatment.

**For the above reasons, the Authority upholds this complaint and orders TVNZ to broadcast on Channel One between 6.00 pm and 7.00 pm within seven days of the date of this decision a brief summary, approved by the Authority, of this decision.**

Mr Wright also expressed his concern to the Authority at the manner in which the complaint had been handled specifying lack of acknowledgement and delays in response



to his letters. It has already been mentioned in a recent decision of the Authority that it intends issuing an advisory opinion to TVNZ pursuant to its statutory powers. The subject of delays will be included in that opinion.

Signed for and on behalf of the Authority



Iain Galloway  
Chairperson

15 March 1991

