

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 8/92

Dated the 2nd day of March 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

COOK ISLANDS PEARLS LIMITED
of Rarotonga

Broadcaster
TV3 NETWORK SERVICES
LIMITED

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

DECISION

Introduction

The black pearl industry on Manihiki, one of the islands in the Cook Islands group, was the subject of an item entitled "Black Pearls" on the *60 Minutes* programme broadcast by TV3 Network Services Limited on Sunday 7 July 1991.

Cook Islands Pearls Ltd, which is the largest oyster farming interest on the atoll, complained to TV3 that the item was false, misleading and unbalanced. Further, it said that the people of Manihiki had been portrayed in a patronising way and it described the programme as racist in continually describing the owner of the company, a Chinese Tahitian Yves Tchen Pan, and the company itself, as "the Chinaman". The company had not, it averred, contrary to the programme's allegations, broken any promises it had made to the Manihiki Island Council.

TV3, maintaining that it had reported the situation on Manihiki fairly and accurately in line with the information it had received, rejected the complaint. As the complainant was dissatisfied with TV3's response, the complaint was referred to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have studied the correspondence (summarised in the Appendix) and have viewed the item to which the complaint relates.

Cook Islands Pearls Ltd is the largest oyster farming interest on Manihiki, one of the islands in the Cook Islands group. It complained to TV3 about a *60 Minutes* item called "Black Pearls", broadcast on 7 July 1991, which examined the pearl industry on Manihiki. Mr Tylor, the company's secretary and solicitor, initially described the programme as racist, patronising, inaccurate and unfair.

At no time has the complainant referred specifically to the standards in the Television Code of Broadcasting Practice which the item allegedly breached. Neither has the broadcaster listed the standards against which the complaint has been assessed. Consequently, it has been the Authority's responsibility to decide which standards the programme has allegedly breached. After carefully studying the issues raised by the complainant and the issues to which TV3 responded, the Authority decided that the complaint addressed standards 1, 4, 6, 15 and 26 of the Television Code. The first three require broadcasters:

1. To be truthful and accurate on points of fact.
4. To deal justly and fairly with any person taking part or referred to in any programme.
6. To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

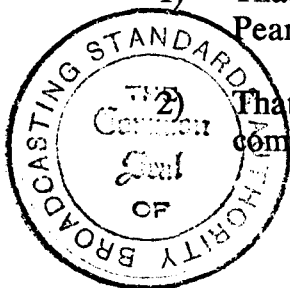
Standards 15 and 26 read:

15. Care must be taken in the editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or the overall views expressed.
26. Except as the legitimate expression in context of satire, dramatic themes and current affairs reporting might legitimately dictate, the portrayal of persons in programmes in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or occupational status or as a consequence of legitimate expression or religious, cultural or political beliefs, may not be encouraged.

The complainant's specific complaint dealt with the following matters:

- 1) That the continued use of the term "the Chinaman" to describe Cook Islands Pearls and its owner, Mr Yves Tchen Pan, was a racist slur - standard 26.

2) That the item lacked balance, fairness and accuracy when it accused the complainant of breaching its promises to seed oysters - standards 1 and 6.



- 3) That the programme lacked balance by reporting matters as facts when the matters had either not been put to the company, or the company's response had been omitted, or they were presented in a misleading manner - standards 4 and 6.
- 4) That the reference to Mr Tchen Pan's religion was denigratory - standard 26.
- 5) That the editing of the interview with the mayor of Manihiki had been carried out in such a way as to misrepresent his view deliberately on one issue - standard 15.
- 6) That the programme lacked overall balance and the attacks on Cook Islands Pearls omitted any reference to the company's positive contributions to Manihiki's economy and to the development of the pearl industry - standards 1 and 6.

1) The use of the term "the Chinaman"

The complainant pointed out that during the broadcast only TV3 had used the term. On two occasions, it added, when people were asked about "the Chinaman", they referred in their answers respectively to "Yves" and "the foreigner". Mr Tylor wrote:

As no Manihikians in fact used the word, on the programme, in my mind, it is the announcer who appears to be racist.

In response, TV3 maintained that its broadcast of the term reflected common usage and that there was no intention to make a racial slur.

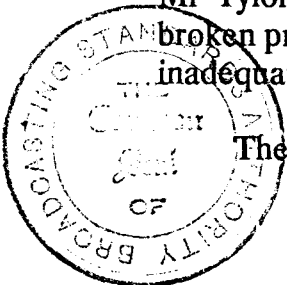
In an affidavit for the Authority, Mr David Greig, legal advisor to the Manihiki Island Council, noted that the programme's value was trivialised by the frequent references to Mr Tchen Pan as "the Chinaman" which, he said, was a racist term in the Cook Islands.

The Authority accepted that the term might be used on Manihiki, but on the programme it was used only by TV3's reporter. The Authority concluded that while the reporter may have adopted the term merely as a convenient "catchword", its constant use (repeated 10 times) did have racist connotations. While a minority of the Authority rated it as just "impolite", the majority thought it was derisory and, as it encouraged the denigration of a community on account of its race, it breached standard 26 of the Television Code.

2) Accusations of broken promises

Mr Tylor said that the programme's theme was that the company had allegedly broken promises about seeding oysters. That conclusion, he argued, reflected TV3's inadequate research and he continued:

There was no question of a promise being forgotten, and the announcer knew



it. The promise was part of a contract which the Island Council itself breached, resulting in Cook Islands Pearls Ltd not performing its part also.

TV3 acknowledged that there were contractual difficulties between the company and the Council, especially about the verbal agreement between the parties. It explained that, following a detailed examination of the facts, it accepted the Council's views. Mr Greig stated during the programme that the company was not legally bound to seed oysters and in the affidavit he added that the contents of the oral agreement between the company and the Council were a source of friction between the company and some Manihikians.

The company is obviously very concerned about this point and it described the contractual difficulties as the issue which the programme featured. TV3 responded by stating that the black pearl industry, its less than anticipated financial rewards and the major disagreements between the various parties were the programme's theme. The Authority accepted TV3's summary of the theme as the more accurate, but considered that the dispute about the content of the verbal agreements could have been explained on the item with considerably greater clarity. However, in view of the material which was broadcast the Authority declined to uphold the company's complaint that the programme's references to the promises breached standard 1 or 6.

3) Unsubstantiated matters reported as "facts"

The complainant divided this aspect of the complaint by averring that matters reported as "facts" were either not put to the company, or the company's response was omitted, or they were presented in a misleading manner. It gave examples under each of these headings. The Authority decided that TV3's response to all the issues but one justified the approach taken in the broadcast.

The issue on which the Authority initially sought more information was the amount of rent paid by the company annually. TV3 broadcast the sum of \$5,000 which figure, it said, was provided by the complainant. It denied that a figure of \$50,000 (or \$500,000) had been mentioned by the company, the Island's mayor or its legal advisor. Mr Tylor maintained that he had advised TV3 that the annual rental was close to \$500,000. Mr Greig, the Council's legal advisor, stated in his affidavit that he distinctly recalled telling TV3 that the Council received approximately \$500,000 annually from the company by way of a 5% royalty on the company's gross sales of pearls. That sum, he explained, was in addition to the nominal annual rental of \$5,000.

The Authority did not find it necessary to decide between these conflicting points of view. However, it believed that the company's contribution of approximately half a million dollars annually to the Island's economy is a matter of considerable importance. By not ascertaining this information, and regardless of what amount was mentioned by Mr Tylor and Mr Greig, the Authority decided that it was a serious and unfortunate omission on TV3's part.



Therefore, the Authority concluded that TV3, by not broadcasting the amount of the annual royalties paid by the company to the Council, breached standard 4 of the Television Code requiring that people referred to be treated fairly.

4) The reference to Yves Tchen Pan's religion

The reporter's comment about the influence of Mr Tchen Pan's religious beliefs on the company's employees, Mr Tylor wrote, denigrated his religion. TV3, acknowledging that the comment was a matter of editorial licence, pointed out that two of the company's senior staff had confirmed that farming souls rather than pearls was their priority.

The Authority agreed that the comment was an aside of minimal relevance to the item's theme but that it did not encourage the denigration of Mr Tchen Pan on account of his religious beliefs. Accordingly, it did not breach standard 26.

5) Editing the mayor's comments

The item showed the reporter asking Manihiki's Mayor, Solomona William, what he would do if the company (described by the reporter as "the Chinaman") refused to keep its promise to seed oysters. Mr William's response was to wave his hand and say "bye bye".

The company complained that the programme had been deliberately edited to misrepresent the mayor's view as, when asked whether he wanted to get rid of the company, he had said that he did not know.

TV3 agreed that the interview had been edited. It continued:

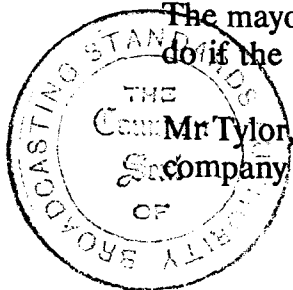
The question related to what he would do if Cook Island Pearls did not honour its original agreement and refused to remove half their oysters which had been illegally moved to another part of the lagoon. (This section of the question was removed because it would have further confused an already complex story). The mayor's response was in context and in line with his consistent attitude that he was in favour of the company being removed from the lagoon.

It added that both the mayor and Mr Greig had expressed their preference for the company to leave Manihiki.

Mr Greig, who was present throughout TV3's interview of Mr William, attested in his affidavit that Mr William, when asked whether he wanted the company thrown out of the lagoon, had said "I don't know".

The mayor's "bye bye" answer, he added, related to a question asking what he would do if the company refused to move its oysters to a different part of lagoon.

Mr Tylor, on the company's behalf and enclosing correspondence, confirmed that the company and the island Council were in negotiation about the company's use of



different parts of the lagoon.

Both parties agreed on the substance of the editing and the Authority is required to decide whether that editing amounted to a breach of standard 15 in that the broadcast distorted the original views expressed. The Authority observes that editors, when paraphrasing comments, must be careful to ensure that the broadcast account does not distort the views expressed. In the Authority's opinion, the practice of substituting an answer to one question as the answer to another is a dangerous one.

Because of this programme's focus on the black pearl industry on Manihiki and the company's role in it, the Authority concluded that the substitution of the answer to a specific question as the answer to a general question about the company was such that it did distort the mayor's view and amounted to a breach of standard 15.

6) Overall balance

Under this heading the complainant comprehensively castigated the programme, claiming that the primary facts on which the programme was based were either not correct or were misrepresented and that at no time had it examined the company's positive contributions to both Manihiki's economy and the development of the pearl industry.

TV3 responded in part:

Sixty Minutes made every effort to provide a fair and balanced view of the situation on Manihiki. The programme was thwarted throughout by Cook Islands Pearls.

Elements were omitted for reasons of narrative sense and because the full facts were denied the production team.

Because of a number of unanswered questions, it continued, it intended to revisit the story.

The Authority initially found it difficult to rule on this facet of the complaint. In view of the aspects of the complaint upheld, it could be argued that, in total, they amounted to an absence of overall balance. However, when deciding on some specific aspects, the Authority found Mr Greig's affidavit useful and he observed that the programme had many positive and informative aspects which would suggest that, overall, the programme achieved some degree of impartiality and fairness.

Despite Mr Greig's favourable review, the Authority's enquiries disclosed one piece of information which was neither mentioned in the programme nor indeed, by the company in its initial complaint. In his letter to the Authority of 28 November 1991, Mr Taylor recalled that while supplying information to TV3 about the verbal agreement to seed oysters, he had said that the company had seeded 10,000 oysters in February/March 1991 and this was a greater number than had been seeded



before.

When asked to comment on this point, TV3 advised the Authority:

The 10,000 oysters were seeded as part of a "farewell" gesture with the Island Council determining which farms should have their oysters seeded. This in itself led to arguments between the islanders and their council with the view that there had been favourites. Further demonstrating that our programme was correct in establishing that the pearl farming industry in Manihiki was rife with conflict.

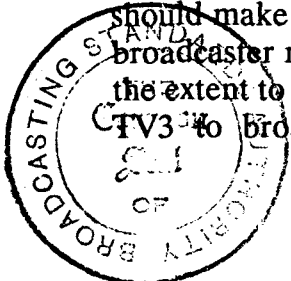
The point about the widespread conflict is well made and it was abundantly portrayed on the programme. Nevertheless, it was the company's participation in the conflict-torn industry which was emphasised and little was shown which reflected positively on it.

As the programme dealt with a topic which involved a number of parties each with a definite view of the issues and as the company was a major player in the dispute and was predominantly portrayed as being of questionable character, in the interests of balance the Authority concluded that the programme should have shown the company's positive contributions. Because of a lack of information and the difficulty of ascertaining the true state of affairs in a far-off and isolated island, the Authority declined to assess the factual accuracy or otherwise of all the issues discussed in the programme. However, it has determined that the programme's omission of two pieces of information favourable to the company - about the royalties and about the voluntary oyster seeding undertaken in 1991 - resulted in a programme that, overall, lacked balance and, accordingly, breached standard 6 of the Code.

For the reasons set forth above, the Authority upholds the parts of the complaint that the broadcast of the item by TV3 on *60 Minutes* on 7 July 1991 breached standards 4, 6, 15 and 26 of the Television Code of Broadcasting Practice in that (a) Cook Islands Pearls Ltd was not dealt with justly and fairly as the item did not refer to the amount of royalties paid annually by the company, and (b) the item failed to show balance, impartiality and fairness by not referring to the annual royalties nor referring to the voluntary seeding carried out by the company, and (c) the editing of the programme material distorted the views expressed by the mayor of the Manihiki Island Council, and (d) the portrayal of the company and Yves Tchen Pan as "the Chinaman" encouraged denigration of a section of the community on account of race.

However, the Authority declines to determine or declines to uphold the complaint that the broadcast breached standard 1 of the Code or that, beyond the findings noted in the previous paragraph, it breached standards 4, 6 and 26.

Having upheld the major aspects of the complaint, the Authority considered whether it should make an order under s.13(1)(a) of the Broadcasting Act 1989 directing that the broadcaster make a statement relating to the complaint. The Authority believed, given the extent to which the complaint had been upheld, that it would be appropriate to order TV3 to broadcast a summary of the decision, approved by the Authority, on a



forthcoming *60 Minutes* programme. However, the Authority hesitated to make such an order as the programme dealt with an issue about which most New Zealanders, other than those with some connection to the Cook Islands, would probably know little. Ideally, should TV3's promised second programme on the black pearl industry be forthcoming, the Authority would order that the statement referring to this decision be broadcast at the same time. However, the Authority is not aware of the production of a second programme and, moreover, it has no jurisdiction in the programming area and thus such an order is impractical.


An alternative would be to order TV3 to publish a summary of this decision in the major Cook Islands newspaper.

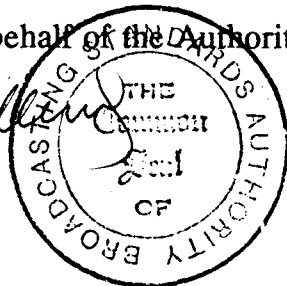
Given that the Authority believes that an order is appropriate in view of the extent to which it has upheld the complaint by Cook Islands Pearls Ltd, and given that it considers that there is not a single satisfactory way for TV3 to broadcast the order, it decided to follow the following course:

Order

The Authority orders TV3 to publish within 30 days of the date of the decision a brief summary of this decision, approved by the Authority, in the public notices column of the major Cook Islands newspaper.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
2 March 1992



Appendix

Cook Islands Pearls Ltd's Complaint to TV3 Network Services Ltd

After some preliminary correspondence, in a fax dated 29 July 1991, Mr R.W. Tylor the secretary of and solicitor for Cook Islands Pearls Ltd complained formally to TV3 Network Services Ltd about the item called "Black Pearls" broadcast on TV3's *60 Minutes* programme on 7 July 1991.

The item dealt with the black pearl industry on Manihiki, one of the islands in the Cook Islands group and Mr Tylor described the programme as a "grubby piece" of journalism. Specifically, he said, the programme had been racist to refer to Mr Tchen Pan as "the Chinaman"; that the programme had omitted to broadcast the correct amount of rental paid by the company to the Island Council; that the programme had referred incorrectly to broken promises about the stopping of seeding of oysters; that the programme had adopted a patronising attitude to the people of Manihiki; and that TV3's reporter's comments were both objectionable and biased.

TV3's Response to the Formal Complaint

TV3 responded to the complaint in a fax dated 8 August 1991 and its reply dealt with the specific points in the complaint.

It denied that the description of Mr Yves Tchen Pan as "the Chinaman" was a racial slur, adding that it was the term which was in common use throughout the Cook Islands and on Manihiki to describe both the individual and his company.

Regarding the amount of rental paid, TV3 said the annual rental figure of \$5,000 which was broadcast was given by the company, by the Island Council and by its legal representative.

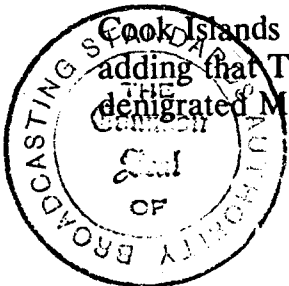
Referring to the complaint about broken promises, TV3 noted that there was a dispute between the company and the Island Council about the content of a verbal agreement and that it had reported the facts supplied by both the Council and Mr Tchen Pan.

TV3 rejected the complaint that the item had been patronising, adding:

Perhaps the real complaint is we reported facts that do not reflect well on the business ethics of Cook Islands Pearls of which you are a director.

TV3 concluded by calling the item fair and balanced.

Cook Islands Pearls elaborated on its complaint in a letter to TV3 on 12 August, adding that TV3 had not responded specifically to the point that the item had denigrated Mr Tchen Pan's religion.



TV3, in a fax dated 19 August, said that it did not want to elaborate on its response given in its 8 August letter, other than to maintain that it did not accept that the one comment associating the harvest of pearls with the harvest of souls denigrated Mr Tchen Pan's religion.

Cook Islands Pearls Ltd's Complaint to the Broadcasting Standards Authority

As the company was dissatisfied with TV3's response, the complaint was referred to the Authority under s.8(a) of the Broadcasting Act 1989, in a letter dated 27 August. The referral was presented in detail in a fax received on 17 September 1991.

1. The first aspect of the complaint was that the use of the term "the Chinaman" to describe Yves Tchen Pan was a racist slur. It pointed out that no Manihikians had used the term during the broadcast and its use by the reporter on the programme promoted racism.
2. The second objection to the programme was its lack of balance, fairness and accuracy when it accused the company of not carrying out its promises to seed. The letter summarised the recent history between the parties and said that the seeding had not been done as the Island Council had breached an agreement with the company. The company secretary, it added, had explained the situation to the TV3 team but TV3 had not broadcast it.
3. Thirdly, the company complained that the facts presented in the programme had put the company in a "bad light". The company continued:

For the most part, these "facts" were:

- (a) not put to the Company, or
- (b) were put to the Company, and the response was omitted from the program, or
- (c) were presented in a misleading manner, in particular by omitting other relevant facts which were in the knowledge of the research team assisting the announcer.

Some examples from each of these categories were provided.

4. The basis of the fourth complaint was the programme's blatant denigration of Mr Tchen Pan's religion.
5. Then, the letter said, the programme had been edited to misrepresent deliberately the interviewees' comments. The example highlighted was the interview with the mayor of the Manihiki Island Council. A letter from the Council was attached to the complaint and it recorded:

The Mayor does acknowledge that the interview conducted by Keith Davies has been selectively edited and an inaccurate image of his sentiments portrayed on Television. At no point has the Mayor denied the validity of



the licence under which Cook Islands Pearls Limited operates in the Manihiki lagoon.

6. The final complaint focused on the lack of balance in the programme. Of the item, the letter said:

It concentrated on attacking Cook Islands Pearls Ltd and at no time looked at the enormous contributions Cook Islands Pearls Ltd has made to the economy of Manihiki and the development of the pearl industry.

TV3's Response to the Broadcasting Standards Authority

As is its practice, the Authority referred the complaint to the broadcaster for comment. The referral is dated 17 September 1991 and TV3's response is dated 14 October.

It answered the six points with the following remarks.

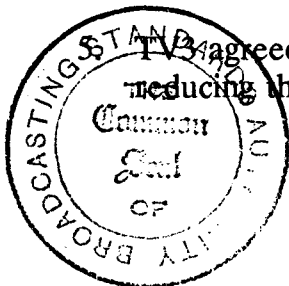
1. It stated that Mr Yves Tchen Pan was of chinese origin and the programme's use of the term "the Chinaman" reflected common usage. TV3 could not understand how the use of the term could be described as racist.
2. With regard to the complaint about lack of balance, fairness and accuracy, TV3 wrote:

The complaint itself highlights and confirms there were and continue to be contractual differences between Cook Islands Pearls and the Island Council. Sixty Minutes does not deny the company has an explanation for not honouring the agreement but chose, after detailed examination of the facts, to accept the view of the Island Council, its legal representative and government sources.

In short we do not accept what Mr Tylor has to say and rather than embark on a claim and counter claim exercise, stated what we then and now believe to be the facts.

3. TV3 responded to each of the examples provided by the complainant of the programme putting the company in a "bad light". It did not retract any of the points made in the programme.
4. The reference to Mr Tchen Pan's religion, TV3 recorded, was a piece of editorial licence substantiated by two senior managers who said during the programme that their primary task involved the harvesting of souls.

TV3 agreed that the interview with the Mayor had been edited in the interest of reducing the programme's complexities but added:



The Mayor and his lawyer appear to have had a change of heart.

6. With regard to the complaint about unfairness and the lack of balance, TV3 stated:

Sixty Minutes made every effort to provide a fair and balanced view of the situation on Manihiki. The programme was thwarted throughout by Cook Islands Pearls.

Elements were omitted for reasons of narrative sense and because the full facts were denied the production team.

We are now in the process of establishing the truth by way of the real ownership of Cook Islands Pearls, what went on behind the scenes during and after the auction, what happened to the unsold pearls and plans by the Cook Island Government to invite other interests to manage pearl farming on Manihiki.

Sixty Minutes intends re-visiting this story. Mr Tylor may be assured he will be given every opportunity to state his case.

Cook Islands Pearls Ltd's Final Comment to the Authority

When asked to reply to TV3's response, the complainant commented on the six issues in a letter dated 21 October.

1. The use of the term "the Chinaman", rather than describing Mr Tchen Pan as "Chinese", was a racial slur.
2. On the issue of balance, fairness and accuracy, Mr Tylor, the company secretary, wrote:

The broadcaster did not make a choice on the facts, because changes in the aircraft schedules meant it did not have the time to research both sides. The team returned from Manihiki with a number of new allegations, in the evening, and left for New Zealand the following morning - that gave them 45 minutes with myself to answer their questions - the choice they made was either what not to put to me, or, to leave out what was put to me. This was no "detailed examination of the facts" presented, and if there had been, this complaint would have been much briefer.

3. The complainant argued that, except on one point, TV3 had not responded satisfactorily to the factual disputes noted. On one disputed point, the complainant recorded that the item stated that the annual rental paid by the company to the Council was \$5000. The complainant added that TV3 was told by the Island Council's mayor and lawyer that a sum close to \$500,000 was paid as part of the rental agreement and that the lawyer would supply an affidavit to



confirm the point.

4. TV3's explanation about the reference to Mr Tchen Pan's religion, the complainant stated, was illogical as the phrase complained about was broadcast following a report on the "failure" of the annual pearl auction.
5. The complainant maintained that the editing had distorted the Mayor's comments and the Council's solicitor would provide an affidavit if requested to verify the matter.
6. The company secretary recorded, on the balance issue, that he had invited the TV3 team to the auction, had given them free access to all staff (bar one), to the farm, to Mr Tchen Pan and to himself.

Further Correspondence

After examining the complaint, the Authority sought further information from both parties for the reasons why TV3 accepted the views of the Island Council and from other sources rather than the complainant's. It also asked both parties about the extent of the editing of the mayor's comment. The complainant was also asked to supply the affidavit offered by the Island Council's lawyer that the annual rental paid by the company was considerably in excess of \$5000.

In a fax dated 28 November 1991, the complainant explained with regard to the contractual dispute between the company and the Island Council that the Council, not the company, failed to honour the agreement after which the company terminated the agreement. Nevertheless, the company "in fact seeded 10,000 oysters in February/March 1991, which was more than we had seeded before". TV3, it continued, had "deliberately omitted" this piece of information.

TV3, in a letter dated 26 November, said the annual rental of \$5000 had been confirmed by the company's public relations consultant and the Island's mayor - "At no stage was a figure of half a million dollars ever mentioned".

It stated further that the programme had outlined the thrust of the contractual difficulties and the company's apparent broken promise had been put to Mr Tchen Pan.

With regard to the editing of the mayor's response, TV3 recorded:

Sixty Minutes outlined the basic thrust of the contractual difficulties. By way of the commentary and the responses of Yves Tchen Pan the programme gave Cook Islands Pearls adequate opportunity to put their case. Yves Tchen Pan's earlier undertaking to seed the pearls had not been carried out, and therefore it was reasonable to interpret this as a broken promise and this was canvassed with Yves Tchen Pan.



On the question of the edited question, the Mayor was asked what his reaction would be if Cook Islands Pearls did not fulfil its contractual obligations and, specifically, remain in the area of the lagoon to which it had been given a licence, but from which it had moved without the authority of the Island Council. The Mayor's response was to wave at the camera and say "Goodbye".

In the course of compiling the report, this question was reduced to asking what he would do if they did not comply with their contractual obligations.

This, given our discussion with the Mayor and his legal representative, was a fair reflection of His Worship's attitude regarding the Island Council's ongoing relationship with the company.

The affidavit, dated 4 December 1991, from the Manihiki Island Council's legal advisor (David Greig) recorded that he remembered advising TV3 that the Council received approximately half a million dollars annually by way of a 5% royalty on gross sales and that this sum was separate from the nominal annual rental of \$5000.

Regarding TV3's editing, he said that he had been present when the Council's mayor had been interviewed. The mayor, when asked whether he wanted Cook Islands Pearls thrown out of the lagoon, had said "I don't know". However, Mr Greig continued, the item showed the mayor saying "Goodbye" as the answer to that question - an answer he had given to a question about the company moving the oysters to a new part of the lagoon.

He also recorded that the seeding programme was not part of the agreement for the company's entry into the Manihiki lagoon. He added:

An oral agreement was subsequently entered into between Cook Islands Pearls Limited and The Manihiki Island Council. It is this agreement which has led to the alleged friction between Cook Islands Pearls Limited and many people in Manihiki.

He concluded:

The program has many positive and informative points. However, its journalistic value was trivialised by the continual reference to Yves Tchen Pan as "the Chinaman" which is considered a racist term in the Cook Islands.

After assessing this information, the Authority sought further comment from TV3, generally about the points made by the complainant and Mr Greig, and specifically about the complainant's comment about the programme's thrust, about the omission of any reference to the 10,000 oysters seeded in 1991 and about Mr Greig's comment about the annual royalties of approximately \$500,000 paid to the Council. The complainant was asked for any general comments it might have.

TV3, in a letter dated 13 December 1991, refuted the complainant's description that the item focused on the question of seeding oysters as a condition of the company's



entry into the lagoon. "The thrust", it said, "was that there were major disagreements between the various parties and that the pearl industry was not the success it had been forecast to be". TV3 expressed pleasure that the complainant now confirmed, as had been disclosed on the programme, that the seeding was the subject of a verbal agreement and the lack of written assurance resulted in the confusion reported by the item.

TV3 did not respond directly to the question why the item omitted any reference to the 10,000 oysters seeded in early 1991. It replied:

The 10,000 oysters were seeded as part of a "farewell" gesture with the Island Council determining which farms should have the oysters seeded. This in itself led to the arguments between the islanders and their council with the view that there had been favourites. Further demonstrating that our programme was correct in establishing that the pearl farming industry on Manihiki was rife with conflict.

TV3 denied that Mr Greig had mentioned the issue of royalties although it noted that he confirmed, as broadcast on the item, the sum of \$5000 as the annual rental. In addition, TV3 said that Mr Greig, although he now described the term as racist, had used the term "the Chinaman" consistently when referring to Mr Tchen Pan.

The complainant, in a fax dated 15 December 1991, mentioned that TV3's responses indicated its inadequate research. It recalled that TV3, in its letter of 26 November, had asserted, when discussing the mayor's "Goodbye" answer, that the company had moved location in the lagoon without the Council's permission. A letter to the company from the Council was attached which showed that the company had carried out at least one movement with the Council's permission but that the Council had later decided to review that decision.

