

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 85/92

Dated the 5th day of November 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

NATIONAL COLLECTIVE OF  
INDEPENDENT WOMEN'S  
REFUGES INC.  
of Wellington

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

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

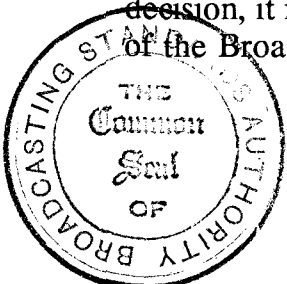
DECISION

Introduction

Events at the offices of the National Collective of Independent Women's Refuges when a visiting group of Te Arawa women were evicted by the Police were covered on *Te Karere* on 17 December 1991.

The Co-ordinators of the National Collective complained to Television New Zealand Ltd, as the broadcaster, that the item was unbalanced as it did not provide a reasonable opportunity for the Collective to present its point of view. Accordingly, they said, the item breached s.4(1)(d) of the Broadcasting Act 1989.

Noting that the incidents at the refuge had been an ongoing story spread over some months, TVNZ maintained that each broadcast could not be examined as an isolated occurrence. Taking into account that the events covered in the broadcast on 17 December were explained in an item broadcast on 11 February 1992, TVNZ declined to uphold the complaint. As the National Collective was dissatisfied with TVNZ's decision, it 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 item on *Te Karere* on 17 December 1991 complained about and the items on the programme on 18 December and 11 February 1992. They have also read translations of the transcripts of the 17 December and 11 February items and have read the correspondence relating to this complaint (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

In a letter dated 18 December 1991 and faxed on that day, the National Collective of Independent Women's Refuges complained to Television New Zealand Ltd that a broadcast on *Te Karere* on 17 December dealing with events stemming from a dispute at the Rotorua Women's Refuge was unbalanced and, accordingly, breached s.4(1)(d) of the Broadcasting Act 1989. The reporter, it added, seemed to dismiss the Collective's view as a Maori speaking spokesperson was not available. Because of the damage caused by the item, the Collective asked for a public apology and financial compensation. In a prompt response, TVNZ rejected the request for financial compensation and deferred the complaint until the next meeting of its Complaints Committee.

In its report dated 17 March 1992 sent to the complainant detailing the Complaints Committee's decision, TVNZ acknowledged that the 17 December item, in itself, was unbalanced as it did not include the Collective's point of view. It recorded that "no comment" was the response made to the programme on 17 December by one of the Collective's Co-ordinators and that response should have been reported. However, as the Collective's viewpoint was reported on the item broadcast on 11 February 1992 which was within the current period of interest, TVNZ said that s.4(1)(d) had been complied with. Because of the Christmas break, it added, there were only six or seven *Te Karere* programmes broadcast between 17 December and 11 February.

There is a dispute between the parties as to whether the Collective made or did not make an official comment for the item broadcast on 11 February. TVNZ supplied a translation of the transcript of the relevant comment on 11 February when the reporter stated in conclusion:

According to the elected spokesperson for the refuge, though they were pleased with the outcome they will stand by their policies. Furthermore, this shall now be the path to enable groups like this to air their problems, but at this stage they would like to express their views further through the media.

The Collective denied that they were contacted for comment and believed that the "elected spokesperson" was a representative from the group with which the Collective was in conflict. TVNZ responded:

We state categorically that the Collective was contacted by reporter Arana Taumata in connection with the 11 February broadcast - on the afternoon of that day.

It explained that Mr Taumata, who had not been responsible for the items on 17 and 18



December, had spoken to Ms Brenda Pilott. The Collective replied:

Cilla Moore and Brenda Pilott were in the office on 11.02.92 all day, and neither women recall any contact or conversation with Ms Arana Taumata.

Apart from noting the differing description of the reporter as Ms and Mr Taumata, the Authority is unable to resolve this direct factual conflict. Moreover, TVNZ maintained that the issue was not within the Authority's jurisdiction as it was not raised in the original complaint. However as is apparent below, its resolution is not essential to the Authority's determination of the complaint.

As recorded above, TVNZ acknowledged that the item broadcast about the issue on 17 December 1991 was unbalanced as it omitted to report the Collective Co-ordinator's "No comment". The Collective was also critical of the reporter's approach on 17 December and complained that she had not contacted the Maori speaking spokesperson arranged by the Collective who could have presented the Collective's perspective on the programme on 18 December. The complainants and the broadcaster disagree as to when TVNZ was advised of the availability of a Maori speaking spokesperson. The item broadcast on 18 December included interviews with some of the women who were evicted by the Police from the Collective's offices on 17 December.

However, the Authority is not required to decide the factual dispute about when the Collective advised TVNZ about the availability of a Maori speaking spokesperson. The complaint was laid under s.4(1)(d) of the Broadcasting Act 1989 which requires broadcasters to maintain standards which are consistent with:

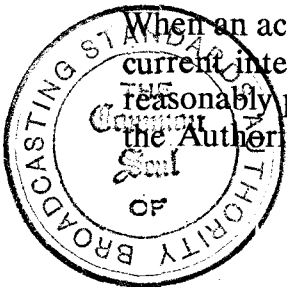
- (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest;

The broadcasting standards issues are whether the Collective's purported response on 11 February was "within the period of current interest" and, if so, whether it was balanced.

The Authority considers that, in view of the potentially wide-ranging circumstances which might arise, it is neither possible nor desirable to provide a set time limit which is always "the period of current interest". Rather, the Authority believes that it involves studying the circumstances applicable in each instance. One of the relevant considerations in this case was the fact that the 17 December broadcast contained an allegation. The translated transcript supplied by TVNZ noted:

The accusation being made by these people (ie Rotorua women) is that the National Collective did not give funding to support the Rotorua Women's Refuge.

When an accusation is made, the Authority considered, the effect must be to reduce the current interest period. In other words, fairness requires an accused party be given a reasonably prompt opportunity in which to reply. The importance of the allegation, in the Authority's opinion, was accentuated on this occasion as it involved a fundamental



aspect of the Collective's work. Also of relevance generally is the effect that the accusation may have on the party against whom it is made. The Authority did not attempt to quantify the damage that the allegation reported above might have caused the Collective but it accepted that, following the broadcast, the Collective has been required to undertake continuing restorative work.

Taking these matters into consideration and, notwithstanding the Christmas break, the Authority did not accept TVNZ's submission that the broadcast on 11 February 1992 was within the current period of interest within which to present a significant point of view about an item first broadcast on 17 December 1991. Indeed, the Authority took note of the fact that 17 December was a Tuesday and, in view of the impending break, the current period of interest in this case could well have expired by Friday 20 December.

As the Authority has concluded that the 11 February broadcast was outside the current period of interest, it is not necessary to determine the factual conflict between the complainant and the broadcaster about the reporter's actions on 11 February.

Nevertheless, given the general nature of the "elected spokesperson's" comment reported on 11 February and its lack of specific focus on the issue in dispute, the Authority has severe reservations as to whether that statement met the statutory requirement for balance.

**For the reasons set forth above, the Authority upholds the complaint that the broadcast by Television New Zealand Ltd of an item on *Te Karere* on 17 December 1991 about the visit of some Arawa women to the offices of the National Collective of Independent Women's Refuges breached s.4(1)(d) of the Broadcasting Act 1989.**

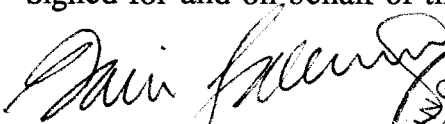
Having upheld a complaint the Authority may make an order under s.13(1) of the Act.

Putting aside both the Collective's criticism of the reporter's action on 17 December and its criticism of her alleged inaction on 18 December, and the disagreement between the parties about the actions of another reporter on 11 February, the Authority decided that an order was appropriate because it was foreseeable that the broadcast on 17 December, if not properly balanced by the Collective's view, would damage its reputation. Further, the Authority accepted the Collective's assertions that some damage did occur but it is not the Authority's function to award damages.

## ORDER

**The Authority orders TVNZ to broadcast on *Te Karere* within 14 days of this decision a statement approved by the Authority which is a brief summary of this decision, together with a brief summary of the Collective's position on the issue raised in the broadcast on 17 December 1991.**

Signed for and on behalf of the Authority

  
Iain Gallaway  
Chairperson  
5 November 1992



## Appendix

### National Collective of Independent Women's Refuges Inc.'s Complaint to Television New Zealand Limited

In a letter faxed on 18 December 1991, the Co-ordinators of the National Collective of Independent Women's Refuges Inc. (Ms Brenda Pilott and Ms Cilla Moore) complained to Television New Zealand Ltd about an item broadcast on *Te Karere* on 17 December.

Complaining on the basis that the Collective was not given an opportunity to present its point of view as it did not have a Maori speaking member available, the co-ordinators said that the item presented only one side of the event reported. As a consequence, the item had caused anxiety to Collective workers and considerable cost had been incurred in responding to criticisms.

The Collective sought an immediate public apology and financial compensation of \$50,000.

### TVNZ's Response to the Formal Complaint

In a letter dated 20 December 1991, TVNZ rejected the call for financial compensation. It advised the Collective of its Complaints Committee's decision in a letter dated 17 March 1992.

TVNZ began by noting that the complaint referred to the first of three broadcasts on *Te Karere* which dealt with an incident in Wellington when a group of Arawa women were evicted by the police from the Collective's office. The items had appeared on 17 and 18 December 1991 and 11 February 1992 and the complaint about the lack of balance which focused on the first, contained no reference to the reasons why the Collective had called the police to evict the women.

Acknowledging that the 17 December item by itself breached the standard, TVNZ argued that as the standard allowed for balance during the "the period of current interest", the Collective's viewpoint had been presented in the 11 February item which was broadcast at the time of the Arawa women's appearance in Court on trespass charges. Furthermore, TVNZ maintained that, as *Te Karere* was not broadcast between Christmas and early February, only about six or seven *Te Karere* programmes separated the item complained about and the explanation.

TVNZ noted some points which should have been mentioned in the items on 17 and 18 December but, as the 11 February item had put the whole matter into its proper perspective, the standard had not been breached. The complaint was not upheld.



**The National Collective's Complaint to the Broadcasting Standards Authority**

As the Collective was dissatisfied with TVNZ's response, in a letter dated 14 April 1992 it referred the complaint to the Authority under s.8(a) of the Broadcasting Act 1989. The completed Complaint Referral Form was finally received by the Authority on 8 July.

The Collective explained the events to which the broadcasts related and the efforts made to ensure that a Maori speaking representative was available for an interview for the item on 18 December. However, it added, that person had not been approached by *Te Karere*.

Emphasising the importance of the community's goodwill and support, the Collective said that the 17 December item caused "irreparable damage". In relation to the 11 February item, it continued:

The national collective have no recollection of any official comment being made by a national collective representative in the 11.02.92 news article.

This article, time wise was certainly too far removed to assist the national collective in repairing damage to the national collective's reputation.

It maintained that the items on both 17 and 18 December were unbalanced.

**TVNZ's Response to the Authority**

As is its practice, the Authority sought the broadcaster's response to the complaint. Its request is dated 8 July and TVNZ's response, 13 August. TVNZ explained by telephone that the delay occurred while translations of the transcripts were obtained.

TVNZ noted that the complaint referred to the item on 17 December and it did not dispute the point that the items on 17 and 18 December did not incorporate the Collective's views. Quoting a translation of part of the script in support, TVNZ continued:

However, a broadcast on 11 February which reported the end of the whole affair, did provide the required balance.

Furthermore, TVNZ argued, the item on 11 February was within "the period of current interest" as required by the s.4(1)(d) of the Act - the provision under which the complaint had been laid.

TVNZ stated that the Authority should not consider a number of the points made by the Collective when it referred its complaint to the Authority as they were not raised in the original complaint. TVNZ pointed out that it had acknowledged in its reply to the Collective that the reporter's professional performance was below the expected standard in the items on 17 and 18 December. It was unable to check some of the



Collective's more recent allegations as the reporter involved no longer worked for the company. TVNZ submitted that these points as well, as they were not raised in the initial complaint, should not be considered by the Authority.

### **The National Collective's Final Comment to the Authority**

When asked to comment on TVNZ's response, in a letter dated 26 August the Collective observed that TVNZ accepted that the items broadcast on 17 and 18 December failed to put the Collective's views. It proceeded to disagree with TVNZ that the broadcast on 11 February was within the period of current interest. It described TVNZ's claim that the 11 February item rectified the earlier broadcasts as "completely unreasonable". Further, as the Collective was not contacted for comment before the February broadcast, it denied that that broadcast presented the balance claimed.

The Collective reported that following the December broadcast, considerable damage had been caused to the Collective's reputation among Maori communities. Considerable effort had been expended, it continued, in visiting various areas to minimise the damage caused.

The Collective also repeated its concern about the actions of TVNZ's reporter when preparing the December items and it concluded by offering to make an oral presentation of its complaint if requested by the Authority.

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

As is the Authority's practice, the broadcaster was sent a copy of the complainant's final comment for its information. TVNZ responded by stating "categorically" that a reporter, Arana Taumata, contacted the Collective on the afternoon of 11 February and spoke to Ms Brenda Pilott. TVNZ repeated, as the issue was not raised in the Collective's initial complaint, that it should not be considered by the Authority. It also reiterated that the reporter responsible for the items on 17 and 18 December was no longer employed by TVNZ.

### **The Collective's Response**

In a letter dated 22 September, the Collective advised that both National Coordinators were in the office on 11 February and neither recalled any contact or conversation with the reporter Arana Taumata. It also advised that the clip used by TVNZ was taken some years earlier and that its comments in the Authority's Complaint Referral Form, to which TVNZ now objected, were included as part of the Authority's request for information.

The Collective also noted that TVNZ admitted that the broadcasts on 17 and 18 December were unbalanced.

