

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 96/92

Dated the 17th day of December 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

LESLIE JAMES MCKAY
of Riverton

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

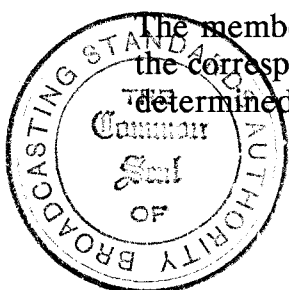
The 1992 electoral referendum, then forthcoming, was described as a "Proportional Representation Referendum" on the *Tonight* programme broadcast by TV1 at 10.30pm on August 12. That description was used once by the presenter and once in the subtitles.

Mr McKay complained to Television New Zealand Ltd, as the broadcaster, that the description was inaccurate. TVNZ upheld the complaint. It said that the mistake had been identified very quickly after the broadcast and had not been repeated on any other programme.

As Mr McKay was dissatisfied with the action taken by TVNZ after it had admitted the mistake, he referred his 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 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 McKay complained to TVNZ about the manner in which the (then) forthcoming electoral referendum was referred to on *Tonight* at 10.30pm on 12 August 1992. It was described, once verbally and once in sub-titles, as the Proportional Representation Referendum.

That error was also noticed by TVNZ staff ~~was~~ and action~~4~~ taken on the day after the incorrect broadcast (13 August) to ensure that all future references were correct. Mr McKay was advised of TVNZ's actions after his complaint was assessed and upheld by TVNZ's Complaints Committee.

Mr McKay, however, was not satisfied with the action taken by TVNZ and referred his complaint to the Broadcasting Standards Authority. In view of the fundamental influence of the electoral referendum on the parliamentary process, he regarded TVNZ's mistake as one of great importance and, by not correcting immediately the misleading impression which the error might have caused, argued that TVNZ should be censured. He regarded TVNZ's attitude, which he described as "getting it right next time", as inappropriate.

The Authority commends TVNZ for the prompt action taken upon realising the error but, in view of the complaint, it was required to consider whether that action was sufficient. It noted that the item on *Tonight* which dealt with the referendum questioned the quality of its publicity and reported the apparent confusion felt by many members of the public. TVNZ's incorrect description both reflected and, indeed, could well have added to the public confusion and the Authority considered whether a brief announcement on 13 August (the night after the error) would have been an appropriate way to acknowledge the error, to advise viewers of the referendum's correct title and to rectify the impression left by the use of a misleading title.

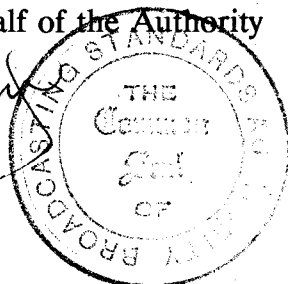
Taking into account the confusion about the referendum then evident, the Authority decided that an announcement on 13 August would not have been either appropriate or helpful. Because the issues were so complex, it would not have been possible to include all the relevant details in a brief statement. The Authority agreed with Mr McKay that the referendum was of major importance and it also agreed with TVNZ that, because of the complexities, the issues had to be dealt with thoroughly. The Authority decided that TVNZ had acted responsibly by ensuring that all future references to the referendum were correct and, furthermore, that its action in ensuring the details covered by the referendum were dealt with competently in later programmes was a sensible response to the issue.

For the reasons set forth above, the Authority declines to uphold the complaint that TVNZ's action, having upheld the complaint, was inappropriate.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson
17 December 1992



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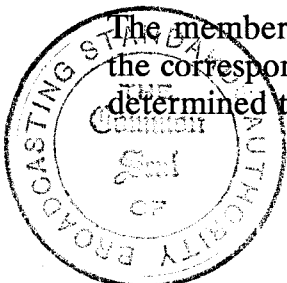
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Signed for and on behalf of the Authority

Iain Gallaway
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Chairperson
17 December 1992



Appendix

Mr McKay's Complaint to Television New Zealand Limited

In a letter dated 13 August 1992, Mr Leslie James McKay of Riverton complained to Television New Zealand Ltd about an item broadcast on the *Tonight* programme at 10.30pm on 12 August.

Both the presenter and the subtitles, he wrote, had referred incorrectly to the forthcoming electoral referendum as the "Proportional Representation Referendum". As the issue was serious and as TVNZ's description could mislead viewers, he demanded that a correction be broadcast.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr McKay of its Complaints Committee's decision to uphold the complaint that the broadcast had been inaccurate in a letter dated 8 September 1992.

The mistake, it continued, had been identified quickly. As the appropriate staff had acted on the morning following the broadcast of the inaccuracy and had maintained vigilance to ensure all subsequent references on news programmes had been accurate, TVNZ believed that no further action was required.

Mr McKay's Complaint to the Broadcasting Standards Authority

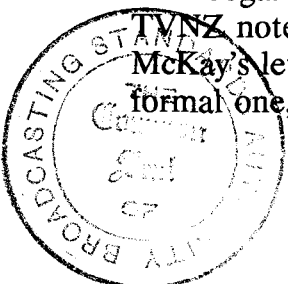
Dissatisfied with TVNZ's decision not to take any further action, Mr McKay referred his complaint to the Authority in a letter dated 20 September 1992.

Stressing the importance of the referendum and the potential of the acknowledged mistake to mislead viewers, he argued that TVNZ should have broadcast a correction as soon as the mistake was drawn to its attention. He disagreed with TVNZ's practice of "getting it right next time" and said, moreover, that TVNZ had misrepresented the referendum's intention on the evening before voting took place. He believed that TVNZ should be censured for not taking prompt corrective action.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's comment on the complaint. Its letter is dated 8 October 1992 and TVNZ's reply, 28 October.

With regard to the aspect of the complaint referring to its complaints procedure, TVNZ noted that the mistake was acknowledged and corrected internally before Mr McKay's letter was received. However, as Mr McKay had called his complaint a formal one, it was necessary to follow the statutory process. Nevertheless, as



corrective action had been taken promptly, by the time his complaint was upheld by the Complaints Committee it was decided that further action was unnecessary.

As for the aspect of the complaint which expressed dissatisfaction with the action taken, TVNZ believed that one possible action would have been to explain in detail each option on the night after the use of the incorrect description. While that was not done on the following evening, during the weeks leading up to the vote each option had been examined in more detail than could have been done in any one news programme. TVNZ believed that the action taken had been appropriate.

Mr McKay's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 7 November 1992 Mr McKay said that the core of his complaint involved the point whether a broadcaster could breach the truth and accuracy standard in a news broadcast and fail to take "adequate remedial measures to dissipate" the effect of the breach. Describing TVNZ's reasons for failing to broadcast an apology as being without substance and arguing that the term used - the proportional representation referendum - confused the real issue, Mr McKay pointed to the referendum's first question which dealt with retaining or changing the present system. That issue had not been addressed by TVNZ.

Mr McKay suggested that a statement covering the first question on the referendum should have been broadcast on *Tonight* during the evening after the error. That would have shown that TVNZ was honest and did not hide behind the camouflage "of getting it right next time".

