

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 3/93

Dated the 4th day of February 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

JENNY RITCHIE

of Hamilton

Broadcaster

TV3 NETWORK SERVICES
LIMITED

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

DECISION

Introduction

The proposed Maori fisheries deal and the Maori call to boycott the forthcoming electoral referendum were two of the specific issues discussed on *The Ralston Group* broadcast by TV3 on Wednesday evening 2 September. Contemporary Maori issues were the focus of the entire programme.

Ms Ritchie complained to TV3 Network Services Ltd, as the broadcaster, about the ethnic composition of the panellists - one Maori (Derek Fox) and three Pakeha (Pam Corkery, Richard Griffin and Jenni McManus). Because of the racial imbalance and because the Maori panellist had insufficient opportunity to put his point of view, she said that the programme was neither balanced nor informative and not in the public interest.

Expressing the opinion that Mr Fox, the sole Maori panellist, explained his perspective adequately during the heated debate, TV3 declined to uphold the complaint. As she was dissatisfied with TV3's response, Ms Ritchie referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

Members of the Authority have watched the programme 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.

Ms Ritchie complained to TV3 about the programme *The Ralston Group* broadcast on 2 September. It dealt with a number of issues of importance to Maori and was unbalanced, she said, as the panel of four comprised three Pakeha (Pam Corkery, Richard Griffin and Jenni McManus) but only one Maori (Derek Fox). Moreover, the Pakeha panellists expressed some racist views and seemed determined not to be enlightened by Mr Fox.

TV3 acknowledged that a vehement discussion had taken place during which, it maintained, Mr Fox had adequately presented his point of view.

Ms Ritchie did not cite the specific standards allegedly breached by the broadcast when she formally complained to TV3 and the broadcaster, in its response to her, did not record the standards under which the complaint had been assessed. The Authority records again that if a complainant does not nominate the standard(s) under which a complaint is made, then it expects the broadcaster to do so and to record that it has done so when responding to the complainant.

When Ms Ritchie referred her complaint to the Authority, she used wording from the standards under which she claimed she had complained to the broadcaster. Taking into account the comments in Ms Ritchie's original complaint to TV3, the Authority has assessed the complaint under s.4(1)(d) of the Broadcasting Act 1989 and standards 4 and 26 of the Television Code of Broadcasting Practice.

Section 4(1)(d) 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;

Standard 4 requires broadcasters:

- 4 To deal justly and fairly with any person taking part or referred to in any programme

Standard 26 reads:

- 26 The portrayal of people in a way which is likely to encourage denigration of or discrimination against any section of the community on account of sex, race, age, disability, occupation status, sexual orientation or the holding of any religious cultural or political belief shall be avoided. This requirement is not intended to prevent the broadcast of material which is:

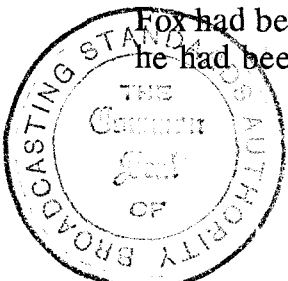


- i) factual, or
- ii) the expression of genuinely-held opinion in a news or current affairs programme, or
- iii) in the legitimate context of a humorous, satirical or dramatic work.

The discussion on *The Ralston Group* in the programme broadcast on 2 September was at times quite vehement and involved the participants in a considerable amount of talking across each other rather than listening. Mr Fox (the Maori panellist) was the most restrained in his presentation but the quality of the information provided by all the panellists suffered severely from the constant interruptions and abuse. Ms Ritchie complained that the Maori point of view on the issues discussed was not adequately presented. The Authority believed that neither the range of Pakeha nor Maori points of view were adequately presented but, in both cases, that did not result from lack of opportunity. Rather, it occurred because of the manner in which the participants conducted themselves and because they expressed their concerns in such a way that the quantity and volume of the contribution often seemed more important than the quality of the content. The Authority also took into account the boisterous nature of the debate and the programme's format which in this particular programme allowed little time for panellists to express reasoned points of view.

With those considerations in mind, the Authority assessed the complaints against the standards noted above. Section 4(1)(d) requires that reasonable opportunities be given to present significant points of view. The Authority decided that standard had been complied with. It expects broadcasters to ensure that the balance issue is taken seriously in news and current affairs items and although it could be argued that the programme should have been divided in time by approximately half - the three Pakeha panellists sharing one half and the Maori panellist entitled to the other - the Authority does not accept that such a mechanistic approach to balance is appropriate for this or other current affairs programmes. Mr Fox was given the opportunities to present his perspective and to respond to the points made by the others. Some of the arguments advanced by the other panellists were provocative and, as has been mentioned, generated heat rather than knowledge, but that also applied to some extent to Mr Fox. In the circumstances, the Authority concluded that he was given a reasonable opportunity as required by s.4(1)(d).

The Authority reached a similar conclusion when assessing the programme against the standard 4 requirement for people to be treated justly and fairly. After again considering and putting aside the mechanistic argument that fairness required equal ethnic representation, the Authority considered that the panellists who accept an invitation to appear on *The Ralston Group* must be prepared to have their views challenged and for the likelihood that such challenges might at times be vigorous. The panellists, the Authority observed, tended to be high profile personalities who were familiar with the media. Noting in addition on the programme complained about that on occasions Mr Fox had been specifically asked to respond to some points, the Authority concluded that he had been treated fairly and justly in accordance with standard 4.



Standard 26(ii) provides an exemption for current affairs programmes from the prohibition on broadcasts which encourage denigration of or discrimination against a section of the community on account of race. While *The Ralston Group* may emphasise personalities and the personalities selected may sometimes promote an ideology at the expense of constructive debate, it deals with current affairs issues and, consequently, it falls within the exemption to the provisions in standard 26.

For the reasons set forth above, the Authority declines to uphold the complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson

4 February 1993



Appendix

Mrs Ritchie's Complaint to TV3 Network Services Limited

In a letter dated 14 September 1992, Ms Jenny Ritchie of Hamilton complained to TV3 Network Services Limited about the programme *The Ralston Group* broadcast on Wednesday 2 September at 9.00pm.

Ms Ritchie said the programme discussed a number of issues of importance to Maori and had focused specifically on the proposed Maori fisheries deal and the Maori call to boycott the forthcoming electoral referendum. The racial composition of panellists comprised three Pakeha and one Maori which Ms Ritchie described as unbalanced. Furthermore, she added, the Pakeha panellists expressed racist views and seemed determined to prevent the Maori panellist from enlightening them. Consequently, the programme was not balanced, not informative and not in the public interest.

TV3's Response to the Formal Complaint

TV3 advised Ms Ritchie of its Complaints Committee's decision in a letter dated 30 September 1992.

While acknowledging that the panel comprised three Pakeha and one Maori, TV3 said that the Maori commentator (Mr Derek Fox) explained the Maori point of view "quite adequately" during the vehement discussion. It stated that a heated discussion usually occurred on *The Ralston Group* and it declined to uphold the complaint.

Ms Ritchie's Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's response, in a letter dated 13 October Ms Ritchie referred her complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Ms Ritchie disagreed with TV3's opinion that Mr Fox was given a fair hearing saying:

The other panellists were rude and dismissive of both his attempts to provide information and his expertise to be able to provide them with information.

She stated that TV3 had not addressed the standards under which she had made her complaint which were s.4(1)(d) of the Broadcasting Act, standard 26 of the Television Code of Broadcasting Practice and the other standards in the Code requiring fairness.



TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 22 October and TV3's reply, 2 November.

TV3 said that it maintained its position reported in its 30 September letter to Ms Ritchie and added that the show's panel was not selected by gender or race.

Ms Ritchie's Final Comment to the Authority

When asked to comment on TV3's reply, in a letter dated 6 November Ms Ritchie maintained that the programme breached the standards requiring broadcasters to give reasonable opportunities for the presentation of significant points of view, and prohibiting the denigration of a section of the community on account of race.

She said that the first standard had been breached by the actions of the Pakeha panellists, one of whom spoke disparagingly, when Mr Fox attempted to present a Maori perspective. The intolerant attitudes displayed by the Pakeha panellists had reinforced negative attitudes to Maori issues and, consequently, breached standard 26 of the Television Code.

Ms Ritchie concluded by asking if TV3 did not select panel by gender or race, how did it meet the broadcasting standards requiring accuracy and the presentation of significant points of view?

Further Correspondence

TV3 maintained in a letter to the Authority (26 November) that comment on racial issues need not be confined to members of the race being discussed and concluded:

We do not believe Maori will suffer denigration or be subject to discrimination because of this particular debate.

In her response (27 November), Ms Ritchie did not dispute TV3's point that it was unreasonable to expect that only a Maori should comment on Maori issues but she continued to argue that Mr Fox on the 2 September programme was not given a reasonable opportunity to advance Maori opinion. Moreover, some of the attitudes displayed by the Pakeha panellists would encourage denigration of, and discrimination against, Maori. She concluded by asking what criteria were used by TV3 in selecting panellists to ensure that the requirements for balance were met. She stated:

I would suggest that TV3 should have a clear policy regarding matters such as the criterion for selecting of talk-show panels in order to meet the requirements of the Broadcasting Act.

