

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 139/93
Dated the 29th day of October 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

KRISTIAN HARANG
of Auckland

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Introduction

Hon John Banks, a fervent opponent to an amendment to the Human Rights Act then before Parliament, was interviewed by presenter Paul Holmes on TV1's *Holmes* programme broadcast between 6.30 - 7.00pm on Friday 23 July.

Mr Harang complained to Television New Zealand Ltd that Mr Banks had been denied the opportunity to express his opinion, that he had been treated unfairly and that the item was unbalanced. Mr Banks, he continued, had been rudely harangued and interrupted while speaking about decency and moral values.

Arguing that Mr Banks' views on a controversial issue had been challenged by vigorous questioning and that he was given an ample opportunity to respond and had done so vigorously, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr Harang referred his complaint to the Broadcasting Standards Authority under s.8(1)(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.

An item on TV1's *Holmes* programme broadcast on 23 July involved a vigorous studio debate between the presenter, Mr Holmes, and cabinet minister, Hon John Banks about an amendment to the Human Rights Act. In Parliament, Mr Banks had expressed strong opposition to the amendment which proposed to prohibit discrimination on the grounds of sexual orientation.

Mr Harang complained to TVNZ that while Mr Banks had tried to express his views about an important moral issue calmly, he had been harangued and rudely interrupted by an agitated Mr Holmes who had abruptly terminated the interview.

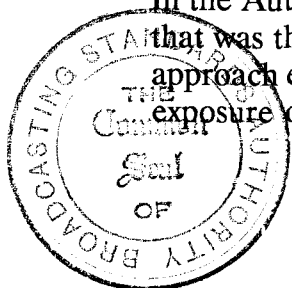
TVNZ assessed the complaint under standards G3, G4 and G6 of the Television Code of Broadcasting Practice. They require broadcasters:

- G3 To acknowledge the right of individuals to express their own opinions.
- G4 To deal justly and fairly with any person taking part or referred to in any programme.
- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

Noting that Mr Banks had made some controversial remarks in Parliament which had been challenged during the television interview by Mr Holmes as the devil's advocate, TVNZ pointed to one lengthy uninterrupted speech made by Mr Banks and argued that he had been dealt with fairly and allowed to present his views. Consequently, in a debate where Mr Banks "was seen to give as good as he got", balance was achieved.

The Authority agreed with many of TVNZ's contentions. It noted that both participants had expressed their views vigorously and that Mr Banks, during a lengthy uninterrupted speech, had been given and had taken the opportunity to present his point of view fully. It accepted that during an interview, unlike a news commentary, balance can be provided through the interaction between the interviewer and interviewee and that impartiality in those circumstances might not be particularly applicable, especially when the interviewee was advancing a polarised view. Taking these considerations into account, the Authority concluded that Mr Banks had been able to express his opinion and had been dealt with fairly. Moreover, because of Mr Holmes' approach, sufficient balancing views were advanced to meet the requirements of standard G6.

In the Authority's opinion, one matter was of particular relevance to this complaint and that was the experience of the person being interviewed. Had Mr Holmes' adopted the approach employed on this occasion when interviewing a person who was unfamiliar with exposure on television and whose argument and presentation suffered accordingly, the

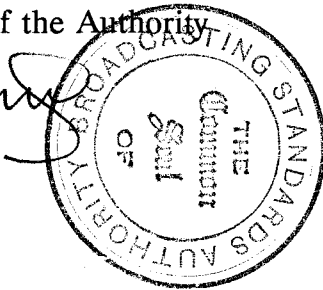


Authority might have concluded that the fairness requirement in G4 had not been achieved. However, the Authority agreed with TVNZ that Mr Banks, because of his experience and manner, gave "as good as he got" and that the fairness requirement had not been contravened on this occasion.

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

Signed for and on behalf of the Authority

Iain Gallaway
Iain Gallaway
Chairperson



29 October 1993

Appendix

Mr Harang's Complaint to Television New Zealand Limited

Although the Authority does not have a copy of Mr Kristian Harang's original letter of complaint to Television New Zealand Ltd, he is aware of the procedure and the issues he raised were apparent in the subsequent correspondence, particularly in the Authority's Complaint Referral Form. In the section of the Form in which a complainant is asked about the aspects of the programme to which objection was taken, Mr Harang complained about the following matters in the interview of Hon John Banks on TV1's *Holmes* programme between 6.30 - 7.00pm on 23 July 1993.

While Mr Banks had tried to correct a point about a parliamentary speech, Mr Harang wrote, he was rudely harangued and interrupted by an agitated Mr Holmes. Mr Banks, Mr Harang continued, had tried to express his views calmly, about the important topics of homosexuality and moral values, while Mr Holmes rudely interrupted and then terminated the interview.

Mr Harang concluded by explaining that the bad treatment received by Mr Banks and the lack of broadcasting professionalism, not views about homosexuality, was his central concern in the complaint.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Harang of its Complaints Committee's decision in a letter dated 20 August 1993.

TVNZ recalled that the broadcast interview followed the debate in Parliament about an amendment to the Human Rights Act and had been considered under the standards which require broadcasters to acknowledge the right of individuals to express their own opinions, to deal fairly with any person taking part in a programme and to show balance when dealing with controversial issues.

In Parliament, TVNZ noted, Mr Banks was a vigorous opponent to an amendment to the Human Rights Act which made discrimination on the grounds of sexual orientation illegal and had made some controversial remarks. During the interview, TVNZ continued, Mr Holmes as a current affairs journalist had adopted the role of the devil's advocate to challenge and test the views advanced by Mr Banks. TVNZ added:

The [Complaints] Committee believes this approach is a proper function of journalism which, as part of its function acts as a community watchdog over the actions of those in positions of power and those elected to represent the people. If a point of view stands up in the face of vigorous questioning and analysis then it is the stronger for it. If it falls in such circumstances then it is revealed to contain flaws.



TVNZ observed that Mr Banks, who was described as an experienced "media performer", had ample opportunity to advance his views and had responded vigorously to Mr Holmes' challenges.

Dealing with the standards, TVNZ said Mr Banks was given the opportunity to express his views, particularly at the stage when he delivered a lengthy statement unchallenged. Rather than being treated unfairly, TVNZ stated that Mr Banks "was seen to give as good as he got" and the viewer would have been well aware of Mr Banks' opinions. As Mr Holmes had adopted the role of the devil's advocate, he had ensured balance.

TVNZ apologised for any offence taken by Mr Harang and declined to uphold the complaint.

Mr Harang's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 24 August 1993 Mr Harang referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Disagreeing with TVNZ that Mr Banks had had ample opportunity to advance his views, Mr Harang said that he had been rudely interrupted by Mr Holmes who had then terminated the interview. He added that Mr Banks was not dealt with fairly and that the interview was unbalanced.

TVNZ's Response to the Broadcasting Standards Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 26 August 1993 and TVNZ's response 28 September.

Repeating that the item was broadcast after Mr Banks had been involved in a heated debate in Parliament in which he opposed an amendment to the Human Rights Act, TVNZ reiterated the point that Mr Holmes had adopted a devil's advocate role to ensure that a balancing perspective was advanced. It added:

We remind the Authority that the subject was a controversial one on which segments of the community hold passionate and sharply differing opinions. For that reason it was important that the views advanced by Mr Banks were properly tested and that the reasons he holds such views be clarified.

TVNZ maintained that Mr Harang had "significantly" overstated his case when he alleged that Mr Banks had been interrupted frequently and rudely. Rather, it asserted, Mr Banks was given an ample opportunity to express his views, his opinions were presented understandably and he had not been treated unfairly.

Mr Harang's Final Comment to the Authority

In a letter dated 5 October 1993, Mr Harang advised that he had no further comment to make in reply to TVNZ.

