

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 163/93

Dated the 9th day of December 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

MINISTER OF CUSTOMS
HON MURRAY McCULLY

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

DECISION

Summary

Voter preferences were reported on *One Network News* on 5 May and 2 June after a Heylen poll was conducted prior to each date. The items reported that according to those results, should an election have been held, a party led by Mr Peters would have performed well.

The Hon Murray McCully, Minister of Customs, complained to Television New Zealand Ltd, the broadcaster, that the two items were in breach of the standard requiring balance fairness and accuracy in the reporting of news. He claimed that the use of questions about a hypothetical party was in the category of creating news rather than reporting it.

Explaining that the Heylen poll results did not claim to predict the outcome of a general election but simply presented a profile of voters' preferences at the time, TVNZ denied that it was attempting to predict a future election result. It defended its use of opinion polls in reflecting the constantly changing mood of the electorate. It also denied that the 'Peters factor' could be considered hypothetical in the context of conjecture about his future political plans. Dissatisfied with TVNZ's decision not to uphold his complaint, Mr McCully referred it to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



For the reasons given below, the Authority declined to uphold the complaint.

Decision

The members of the Authority have viewed the items complained about and read the correspondence (summarised in the Appendix). Although Mr McCully requested an oral hearing, because it was a straightforward matter the Authority followed its usual practice and determined the complaint on the basis of the written submissions.

Two items on *One Network News*, one on 5 May and the other on 2 June, reported the results of opinion polls about voter preferences. The first poll indicated that if an election had been held then, a Peters party would collapse the Alliance vote, beat National by a substantial margin and run close to Labour. According to the 2 June news item, the second poll revealed that had an election been held the previous weekend, Mr Peters would have won, either by forming his own party or joining the Alliance.

Mr McCully complained to TVNZ that it was neither fair nor accurate to suggest that a poll of voter intentions could be used to predict the outcome of an election. In his view, any poll which used hypothetical questions (for example about a possible Peters party) was seeking to make a prediction, and such a use was contrary to the guidelines provided by the Heylen Research Centre which conducted the polls. He argued that when reporting a poll result, a clear distinction had to be made between predicting the outcome of an election and providing a snapshot of voter intentions.

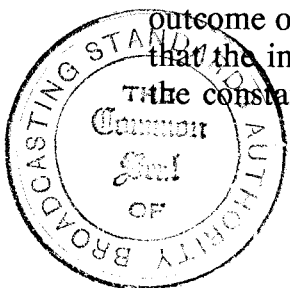
TVNZ reported that it had assessed the complaint against standard G14 which reads:

G14 News must be presented accurately, objectively and impartially.

TVNZ denied that the polls were used to predict election results, maintaining instead that they produced an electoral snapshot at a specific moment in time. It explained that it was emphasised in the items that the polls presented a profile of voters' intentions at the time the poll was taken, adding that this had relevance because it reflected the constantly changing mood of the electorate. Because the poll results were tied to a specific time, TVNZ denied that there had been a breach of standard G14.

Responding to the claim that the question about a hypothetical party, to be led by Mr Peters, was a breach of standard G14, TVNZ argued that at the time there was a great deal of interest in and conjecture about the future intentions of Mr Peters. In its view, the 'Peters factor' was as real as any other aspect of the political poll and could not be considered hypothetical. Besides, it added, the whole business of political polling was hypothetical because it asked voters to make known their intentions as if the election was being held then. It declined to uphold this aspect of the complaint.

In the Authority's assessment, the transcript of the items conveyed that the poll results were confined to the times identified, and did not suggest that they would be the outcome of a general election in the future. As TVNZ suggested, the Authority believed that the information provided a snapshot of voter intentions at that time and reflected the constantly changing mood in the electorate.



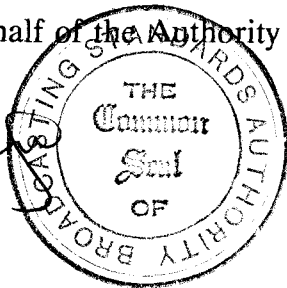
It also believed that viewers would interpret the information in the context of their own knowledge and would have known that the question about a possible Peters party was a hypothetical one. It was not inaccurate to report that people polled considered that they might vote for such a party. The Authority believed that many would have found it interesting to know which parties would have received support from the cross-section of voters polled.

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

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson
9 December 1993



Appendix

Hon Murray McCully's Complaint to Television New Zealand Limited

In a letter dated 24 June 1993, the Hon Murray McCully, Minister of Customs, complained to Television New Zealand Ltd about two items broadcast on *One Network News*, the first on 5 May and the second on 2 June 1993. The items each reported the results of a Heylen poll which had asked voters who they would have voted for had the elections been held at the time of polling.

Mr McCully pointed out that Heylen provided a Guide which was to be used on how to report poll results. He noted:

Heylen's material states emphatically that "opinion polls cannot predict election results". The first edict they issue in their guidelines to the media is: "Fair and accurate coverage should include: - the fact that the poll cannot predict".

He noted that fairness, accuracy, impartiality and balance were all requirements of television news, and argued that the items referred to contravened those standards. He quoted the text of the two items:

Wednesday 5 May

Our latest Network News Heylen poll shows that if an election were held, a Peters party would collapse the Alliance vote, beat National by a substantial margin and run Labour close for the Government.

Wednesday 2 June

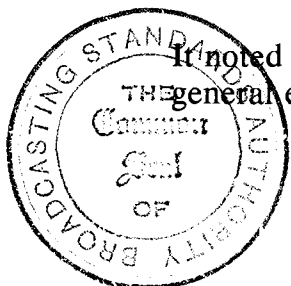
Our last One Network News Heylen poll reveals Peters would have won a general election at the weekend, either by forming his own party, or by joining the Alliance.

Further, Mr McCully argued that the use of questions in respect of a hypothetical political party (the Peters party) and the Alliance, of which Mr Peters was not a member, could only be a basis for predicting outcomes based on polls. He argued that this approach was in the category of initiating news rather than reporting on it.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr McCully of its Complaints Committee's decision in a letter dated 21 July 1993. It reported that it had assessed the complaint against standard G14 of the Television Code of Broadcasting Practice which requires that news be presented accurately, objectively and impartially.

It noted that the Heylen polls did not claim to predict the outcome of a future general election, but produced an electoral snapshot at the time of polling. It



observed that in Mr McCully's letter of 24 June, the word "now" was omitted from his transcript of the 5 May item and should have read "...if an election were held now..."

In TVNZ's view, this did not amount to predicting a future result, but presented a profile of voters' inclinations at the time the poll was taken. It believed this was the proper role of political opinion polls and concluded that because the result was related to a specific time, there was no breach of standard G14.

With reference to a party led by Mr Peters, TVNZ pointed out that the Peters phenomenon was one which could not be ignored and despite the absence of any official announcement there was much public conjecture about his future plans. It believed it would have been irresponsible to ignore his role.

TVNZ also observed that after reporting the relative standings of the parties, it then introduced the Peters factor and reported that the results reflected the way voters felt on the day they were polled. It did not agree that the Peters factor could be considered hypothetical, arguing that it was as real as any other aspect in the political poll.

It declined to uphold the complaint that the items were in breach of standard G14.

Mr McCully's Complaint to the Broadcasting Standards Authority

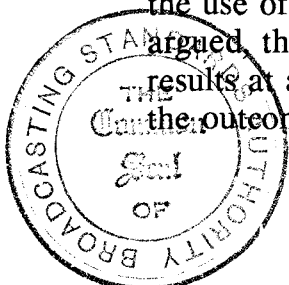
Dissatisfied with TVNZ's decision, in a letter dated 6 August 1993 and Complaint Referral Form dated 25 August (faxed to the Authority on 5 October), Mr McCully referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Mr McCully maintained that the use of poll questions to predict the outcome of an election was a breach of the standard requiring accuracy, objectivity and impartiality (G14). He wrote:

On the basis of the Heylen poll, the broadcaster is entitled to say that "In our latest Network News Heylen poll, New Zealanders said they would have voted for...". However, to say that "...Peters would have won a general election..." is a breach of Code G14.

Furthermore, the use of the polls in these items contravenes Heylen's own instructions to the media. These state that: "Opinion polls cannot predict election results." The first edict they issue in their guidelines is: "Fair and accurate coverage should include: - the fact that the poll cannot predict.

Mr McCully claimed that TVNZ had misinterpreted the grounds of the complaint as the use of the polls "to predict the outcome of a future general election". In fact, he argued the core of the complaint was that polls cannot be used to predict election results at all. He pointed out that there was a clear distinction between predicting the outcome of an election and providing a snapshot of voter intention.



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 5 October and TVNZ's reply, 21 October 1993.

TVNZ maintained that in neither of the items did it predict an election result. The two Heylen polls, it continued, provided a snapshot of electors' intentions at a particular time.

Noting that the central thrust of Mr McCully's complaint was that Heylen polls could not be used to predict election results, TVNZ expressed its concurrence. It observed that the two items did not foretell an election result, but provided an indication of voters' intentions at particular times.

Further Correspondence

On 26 October 1993, the Authority sent Mr McCully a copy of TVNZ's response for comment should he wish to do so. Mr McCully did not respond.

