

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 170/93

Dated the 16th day of December 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

DEIRDRE KENT

of Auckland

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

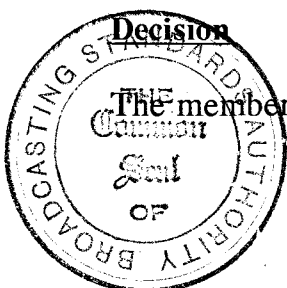
Summary

A report about an Auckland meeting on electoral reform was broadcast by TV1 on *One Network News* on 29 October 1993 between 6.00 - 6.30pm.

Ms Kent complained to Television New Zealand Ltd that the item was edited to suggest that crowd support for FPP and MMP at the meeting was equally divided. This was a distortion of the original event and consequently was inaccurate.

In its response, TVNZ acknowledged that an error occurred during the editing process which caused the wrong impression to be given of the event, and advised that it upheld Ms Kent's complaint. It also advised that the news staff would be required to be more diligent about editing news items in the future. Dissatisfied with the action taken by TVNZ, Ms Kent referred the complaint 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.



The members of the Authority have viewed the item complained about and have read

the correspondence (summarised in the Appendix). As is its usual practice, the Authority determined the complaint without a formal hearing.

A report of a meeting on electoral reform was broadcast on *One Network News* on 29 October 1993. It focussed on the debate between supporters of First Past the Post (FPP) and Mixed Member Proportional (MMP). The meeting, which was organised by the Superannuitants' Association, largely supported the MMP option, according to Ms Kent who was present. The news item had been edited in such a way as to give the impression that the FPP proponent's (Mr Jennings) speech was followed by applause.

Ms Kent complained to TVNZ that its editing distorted the original event and consequently was inaccurate. Having been present herself, she knew that there was no such support for Mr Jennings and the FPP option.

TVNZ advised Ms Kent that it had examined the complaint under standard G19 of the Television Code of Broadcasting Practice which reads:

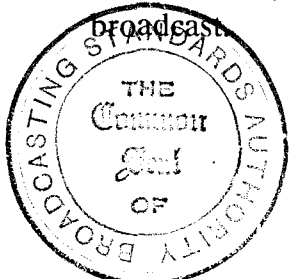
G19 Care must be taken in the editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or the overall views expressed.

It explained that an error had occurred in the editing process and acknowledged that a shot of the audience applauding was incorrectly inserted after an extract from Mr Jennings' speech. It reported that it had no hesitation in upholding the complaint that the item was in breach of standard G19.

After reassuring Ms Kent that there was nothing sinister or malicious in the composition of the item, TVNZ advised that its News and Current Affairs staff had been warned to take particular care to avoid making such a mistake in the future.

Since she was dissatisfied with the action taken by TVNZ, Ms Kent referred her complaint to the Authority. Acknowledging that the complaint had been dealt with quickly and staff had been instructed not to repeat the mistake, Ms Kent argued nevertheless that further action was necessary. In her view, the seriousness of the error justified both a substantial penalty and a public inquiry. She considered that in the context of the final week of a robust political campaign, the fact that many voters had not made up their minds and that TVNZ was a primary news source for most New Zealanders, it was particularly important that news reports be accurate and impartial. Ms Kent argued that it was not implausible to suggest that the item could have affected the outcome of the vote and, had the race been closer, changed the whole outcome of the referendum.

Ms Kent believed that this was a significant error and that a serious penalty should be imposed. She suggested that the Authority should order a fuller inquiry into the circumstances of the mistake, impose a fine of \$20,000 and order that an apology be



TVNZ maintained that the appropriate sanction was to draw the matter to the attention of those involved in news delivery and, while it regretted the error, explained that mistakes will happen from time to time in a business where hundreds of editing decisions are made each day.

In the Authority's estimation, the assembly of the item exhibited carelessness of a culpable kind. The juxtaposition of the applause with the extract from Mr Jennings' speech distorted the tenor of the meeting and, in view of the political context and the fact that many voters could still have been undecided about how they were going to vote in the electoral referendum, the Authority regarded the mistake as a serious breach of the broadcasting standard which requires that care be taken in the editing of a programme to ensure the original event is not distorted. It considered Ms Kent's ire was understandable, especially in view of the intensity of the debate and the accusations being levelled against both sides at the time that the advertising campaigns were distorting the facts. The Authority considered that TVNZ acted appropriately in upholding the complaint.

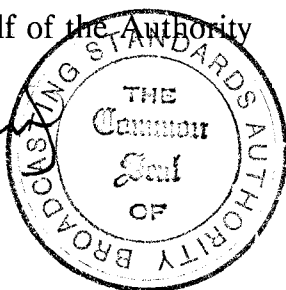
It then examined the action taken by TVNZ, which, in Ms Kent's view, was insufficient. The Authority accepted that the mistake was unintentional and that its seriousness had been acknowledged. It considered that there was no need to initiate a full inquiry into the circumstances of the mistake, as suggested by Ms Kent. The Authority also noted that under s.13(1) of the Broadcasting Act 1989, it had the power to order TVNZ to broadcast a statement correcting the mistake. It decided on this occasion such a correction was not appropriate. It did not have the power to fine the broadcaster, as requested by the complainant, and the Authority concluded the action taken by TVNZ in the circumstances was appropriate and it declined to uphold Ms Kent's complaint.

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
16 December 1993



Appendix

Ms Kent's Complaint to Television New Zealand Limited

In a letter dated 3 November 1993, Ms Deirdre Kent of Auckland complained to Television New Zealand Ltd about an item broadcast on *One Network News* on 29 October 1993 between 6.00 - 6.30pm.

The item reported on an Auckland meeting on electoral reform organised by the Superannuitants' Association, at which Ms Kent was present. She described the press report in the New Zealand Herald of the next day as accurately reflecting the mood of the meeting when it headlined the story "Rowdy reception for MMP foes" and continued:

"Anti-MMP campaigners had a tough time getting their message across to a group of rowdy superannuitants in Auckland yesterday. The 200 mainly elderly people at the Auckland Town Hall booed and jeered as Campaign for Better Government members Mr Owen Jennings and Mrs Patricia Schnauer tried to explain their opposition to mixed-member proportional representation."

Therefore, she wrote, it was surprising to see the item on *One Network News* that night which gave the impression that the crowd was equally divided. She noted that the item showed that Mr Jennings' speech was followed by loud and warm applause. In her view this did not happen - there were only a handful of FPP supporters present and they were anything but vigorous.

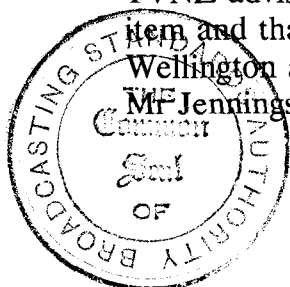
Ms Kent submitted that the item was a distortion of the original event and, accordingly, was in breach of broadcasting standards.

TVNZ's Response to the Formal Complaint

TVNZ advised Ms Kent of its Complaints Committee's decision in a letter dated 10 November 1993. It reported that it examined the complaint in the context of standard G19 of the Television Code of Broadcasting Practice which requires that care must be taken during the editing of a programme to ensure that the extracts used are not a distortion of the original event.

Explaining that an error had occurred in the editing process, TVNZ acknowledged that a shot of the audience applauding was incorrectly inserted after an extract from Mr Jennings' speech. It reported that it had no hesitation in upholding the complaint as a breach of standard G19.

TVNZ advised that there was nothing sinister or malicious in the composition of the item and that it was simply a mistake. The reporter who assembled the item was in Wellington and had used an inappropriate "cutaway" to separate speech extracts by Mr Jennings and Ms Fletcher. TVNZ added that it had been assured by the Director



of News and Current Affairs that staff would be advised to take particular care to avoid such a mistake in the future. It noted:

The Department is aware that such errors reflect adversely on the integrity of news output and is determined to prevent any recurrence.

Ms Kent's Complaint to the Broadcasting Standards Authority

Dissatisfied with the action taken by TVNZ, in a letter dated 12 November 1993, Ms Kent referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Although satisfied that the complaint had been dealt with quickly and staff had been instructed not to repeat the mistake, Ms Kent felt that further action was necessary. She believed that making such a serious journalistic error deserved both a substantial penalty and a public inquiry for the following reasons:

We were in the last week of a major political campaign, The voting system of the country was just about to be put to the people in a referendum.

1. It is generally accepted by political studies academics that about one third of people make up their minds in the last week.
2. It was generally known by the polls that the voting was to be quite close and that FPP was gaining ground.
3. It is also known that most people gain their news from TV1 Six O'Clock News.
4. Certain voters are influenced by "whether other people agree with them" and, since this item said there was warm support for FPP, this news item may have given them reassurance to go ahead and vote FPP.

Because it was a sensitive period, Ms Kent argued that TVNZ should have been scrupulously impartial and accurate in their reporting. She maintained that it was not outside the realms of possibility that the item could have affected the outcome of the vote and, had the race been closer, might have changed the whole outcome of the referendum.

In her view, the error deserved a serious penalty. She suggested that the Authority order a fuller inquiry into the circumstances of the mistake, impose a fine of \$20,000 to be donated to the Electoral Reform Coalition and order that an apology be



TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 15 November and TVNZ's reply, 29 November 1993.

TVNZ repeated its explanation that the item had been put together close to deadline and included material from around the country. The shot of the audience applauding was intended as a bridge between speech extracts from Mr Jennings and Ms Fletcher.

The inclusion of a shot conveying incorrect information was human error - there was nothing sinister or malicious about it.

It advised that Mr Norris, Director of News and Current Affairs, had taken the action requested by the Complaints Committee and had cautioned the reporter that care must be taken in the editing of a programme to ensure that the original event was not distorted. A copy of the memorandum sent to the reporter (and copies to others within TVNZ) was enclosed.

TVNZ questioned Ms Kent's rationale for imposing punitive measures, arguing that it was a wild generalisation to suggest that about one third of people made up their minds about how to vote in the last week, and that "certain voters" were influenced by whether other people agreed with them.

Referring to Ms Kent's request that a fuller inquiry be made, TVNZ argued that such an inquiry would be futile and time-wasting because it would simply reveal that this was a case of human error. It added:

Mistakes, regrettable though they are, will happen from time to time in a business where hundreds of editing decisions have to be made every day.

TVNZ rejected Ms Kent's suggestion that a substantial fine be imposed, arguing that the best outcome was that the error had been drawn to the attention of the reporter and others concerned with news delivery.

Ms Kent's Final Comment to the Authority

When asked to comment briefly on TVNZ's response, in a letter dated 8 December 1993, Ms Kent repeated her argument that when a critical election was about to take place, extra care should have been taken to ensure accuracy. She maintained that it was not good enough to use the wrong applause.

Ms Kent defended her statement that one third of voters make up their minds in the last week before an election, claiming that it came from a TVNZ news report. She also quoted a poll published the week after the election which said that between 25 - 33% made up their minds in the last week.

Maintaining that people like to be on the winning side, Ms Kent argued that by



putting the applause with the FPP speech, the item gave hundreds of thousands of people the idea that FPP had strong support at the Auckland meeting. She argued that if between 25 - 33% of those people were undecided, then the item may have influenced some of them.

In concluding, Ms Kent asked that the reporter be required to broadcast an apology on *One Network News*, and added that if the Authority had the power to impose fines, it would be nice if TVNZ helped the Electoral Reform Coalition to pay its debts.

