

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 175/93

Dated the 21st day of December 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

CHRIS LEITCH

of Auckland

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

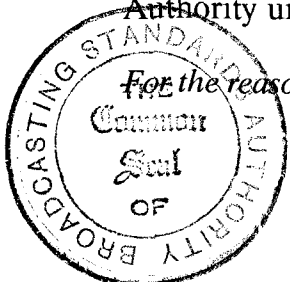
Summary

Items on *One Network News*, broadcast on 12, 13 and 15 July at 6.00pm, which chronicled the emergence of the New Zealand First Party, identified Mr Chris Leitch as an advisor to Mr Winston Peters.

Mr Leitch complained to Television New Zealand Ltd, the broadcaster, that it was untrue to describe him as an advisor to Mr Peters, and was concerned that his denial of this allegation was ignored when he drew it to TVNZ's attention. He pointed out that it was unfair that he was not contacted by TVNZ and not given the opportunity to comment.

Responding, TVNZ noted that the description of Mr Leitch as an advisor to Mr Peters was made in good faith after the reporter had received this information from a variety of sources and that news staff had tried to contact Mr Leitch. It maintained that the news department was justified in proceeding with an important political story based on the best information available to it and declined to uphold the complaint. Dissatisfied with that decision, Mr Leitch referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

~~For the reasons~~ given below, the Authority upheld the complaint that the item on 13 July did



*not deal fairly with Mr Leitch and consequently, was in breach of standard G4.*

### Decision

The members of the Authority have viewed the items 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.

Reports on *One Network News* on the evenings of 12 and 13 July 1993 suggested that Mr Leitch, an Alliance party spokesperson, was an advisor to Mr Peters, who at that time was about to announce the formation of his own party. A third item on 15 July broadcast Mr Leitch's denial of that suggestion.

After the 12 July broadcast Mr Leitch issued a media release, addressed to TVNZ's political reporter, which stated that he "utterly rejected" the accusation that he was a senior advisor to Mr Peters. He noted that he had only spoken to Mr Peters once in the previous six months, and that was to exchange the words "How are you?" at a public meeting. He accused TVNZ of running the story without making any serious attempt to contact him and seek his response. He indicated he would be seeking a correction.

On 13 July, Mr Leitch telephoned TVNZ to lodge a complaint with regard to the statement on the previous evening's news that he was an advisor to Mr Peters. When contacted by TVNZ later in the day, he was advised that his media release was in the hands of the news team and that they would be "doing something on it" that night.

After the broadcast of *One Network News* that evening (13 July) Mr Leitch wrote again to TVNZ, angrily protesting that the news team had ignored the categorical denial contained in his press release and repeated in his telephone call, and had continued to quote further unnamed sources. He advised that his letter was to be regarded as an official complaint because no serious attempt had been made to contact him to check the accuracy of the broadcast, and because his denial had been ignored.

In its response, TVNZ reported that it had assessed the complaint against standard G4 of the Television Code of Broadcasting Practice which requires broadcasters:

- G4 To deal justly and fairly with any person taking part or referred to in any programme.

TVNZ pointed out that the series of stories complained about chronicled the emergence of the New Zealand First Party and included the description of Mr Leitch as an advisor to Mr Peters. This information, it continued, had come from a variety of sources, both within the Alliance and from supporters of Mr Peters. It maintained that the reporter had made "strenuous efforts" to contact Mr Leitch to confirm the reports, and having been unable to do so, had relied on the confirmation from a number of independent sources that there was a link between Mr Leitch and Mr Peters. Following Mr Leitch's denial, TVNZ reported that it had reappraised the story. It checked the sources and attempted to contact Mr Leitch, again without success. Explaining that since Mr Leitch's categorical denial ran contrary to a number of well-positioned sources in the Alliance,



TVNZ defended its decision not to broadcast it on 13 July. It noted that after he was contacted on 15 July the denial was broadcast.

TVNZ asserted that Mr Leitch's denial had not been ignored. It pointed to the difficulty experienced in trying to contact Mr Leitch and its belief that further research was needed before broadcasting his denial. It rejected Mr Leitch's allegation that no serious attempts were made to contact him to put his point of view. Although it agreed that the series of news items would have been improved had they had specific comment from him, it defended its decision to proceed with the story on the basis of the information that was available to it at the time. It believed the matter was satisfactorily resolved in the final item on 15 July. Since it was of the view that everything possible had been done to contact Mr Leitch for his views, it concluded that there was no breach of standard G4 and did not uphold the complaint.

The Authority considered each of the three items separately. The first, broadcast on 12 July claimed that Mr Leitch was one of Mr Peters' advisors. In the Authority's view, it was legitimate, in the context, to speculate on who might be behind the new political party which was being formed.

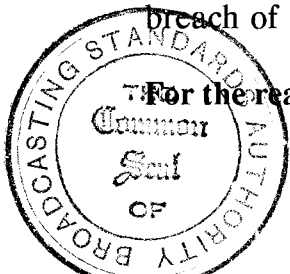
The second item, broadcast on 13 July, referred to the fact that Mr Leitch had spoken to Mr Peters only once in the previous six months and included a statement from Mr Peters denying the report that his team included Mr Leitch. However, it cast doubt on the apparent evidence that there was no link between Mr Peters and Mr Leitch not only by omitting Mr Leitch's denial, but also by stating that it was understood Mr Leitch worked behind the scenes for Mr Peters.

Two days later (15 July), when TVNZ had again spoken to Mr Leitch, it reported his denial of the claims that he was an advisor to Mr Peters.

The Authority believed that in the context of what TVNZ described as "a rapidly moving political story" a two-day time lapse between when the information was received and when it was reported was significant. Even though it was the reporter's duty to investigate and report well-sourced information to the contrary, the Authority considered that Mr Leitch's strongly-worded denial should have been broadcast when it was received on 13 July.

The Authority accepted that there were difficulties in contacting Mr Leitch, although it was inclined to the view that those difficulties were not insurmountable, as was apparent when one of TVNZ's reporters was able to contact Mr Leitch on his pager (and the Assistant Director of News and Current Affairs had been able to reach him by telephone on 13 July, albeit after many attempts). The Authority considered that TVNZ should have responded more quickly to Mr Leitch's press release and telephone call after the 12 July broadcast which denied his involvement in Mr Peters' party. It concluded that, by not broadcasting Mr Leitch's categorical denial at the first available opportunity, TVNZ had not dealt with him fairly. This infraction, the Authority concluded, was a breach of standard G4.

**For the reasons set forth above, the Authority upholds the complaint that the broadcast**



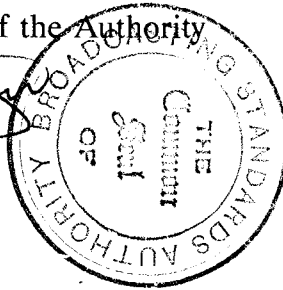
of the item on *One Network News* on 13 July, because it did not deal fairly with Mr Leitch, breached standard G4 of the Television Code of Broadcasting Practice.

Having upheld a complaint the Authority may impose an order under s.13(1) of the Broadcasting Act 1989. It does not intend to do so on this occasion because the denial was broadcast albeit two days after it was issued.

Signed for and on behalf of the Authority



Iain Gallaway  
Chairperson  
21 December 1993



## Appendix

### Mr Leitch's Complaint to Television New Zealand Limited

In a letter dated 13 July 1993, Mr Chris Leitch of Auckland complained to Television New Zealand Ltd that items on *One Network News* on 12 and 13 July contained incorrect information and further, that his attempts to rectify the error were ignored.

When the first item had incorrectly identified him as an advisor of Winston Peters, Mr Leitch issued a media release addressed to TVNZ's political reporter. He denied that he had any association with Mr Peters, noting that he had only spoken with him once in the previous six months. He accused TVNZ of running the story without making any serious attempt to contact him and seek his response and indicated that he would be seeking a correction.

Later on 13 July he telephoned TVNZ to lodge a complaint. He was advised that his media release was in the hands of the news staff and that they would be "doing something on it" that night.

Following the broadcast of *One Network News* on 13 July, he wrote:

For your news team to ignore the categorical denial in my release that "I utterly reject" the accusation, and then to quote further unnamed sources ("TVNZ understands that") is in my view despicable journalism.

I wish to advise that you should take this letter as an official complaint to TVNZ in respect of both days' items in that

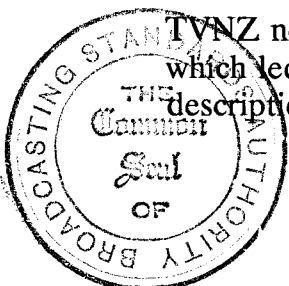
- 1 No serious attempt was made on either occasion to contact me to check the accuracy of the proposed broadcast.
- 2 My categorical denial of the allegation was ignored.
- 3 I was not contacted by your news team and given the opportunity to comment.

He requested a "satisfactory correction of both items".

### TVNZ's Response to the Formal Complaint

TVNZ advised Mr Leitch of its Complaints Committee's decision in a letter dated 30 July 1993. It reported that the complaint had been considered under standard G4 of the Television Code of Broadcasting Practice which requires that people are dealt with justly and fairly.

TVNZ noted that the item was in a sequence of stories which chronicled the events which led to the emergence of the New Zealand First Party. It maintained that the description of Mr Leitch as an advisor to Mr Peters was made in good faith and that



the reporter had received the information from a variety of sources. Although the reporter made strenuous efforts to get Mr Leitch to confirm the reports, she had been unable to do so. It reported that it had made the decision to go ahead with the broadcast on 12 July on the basis that several sources had confirmed the links with Mr Peters.

Following Mr Leitch's categorical denial, TVNZ reported that it had attempted to contact him again on 13 July, after double-checking its sources, but again with no success. Finally, after contact was made on 15 July, the denial was reported.

TVNZ denied that no serious attempts were made to contact Mr Leitch, although it accepted that it was unfortunate that its attempts were unsuccessful. It did not agree that his denial was ignored. It noted that further research was required because the statement was contrary to a number of well-positioned sources in the Alliance and the Peters' groups. The fact that Mr Leitch was not given an opportunity to comment was not, in TVNZ's view, for want of trying.

In concluding, TVNZ accepted that the news items would have been improved had they contained specific comment from Mr Leitch. However, it maintained, since all efforts to contact him were unsuccessful, the News Department was justified in proceeding with its story on 12 July. It declined to uphold the complaint.

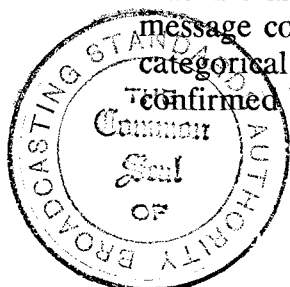
#### Mr Leitch's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 25 August 1993, and Complaint Referral Form dated 31 August, Mr Leitch referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

He requested that the Authority review and investigate his complaint, in particular he asked:

- 1 Was the complaint dealt with under the appropriate section of the Act, or were there other sections that were more appropriate.
- 2 Were TVNZ negligent, in relation to their responsibilities under the Act, in their treatment of the story, in particular in that they did not adequately ensure that they had their facts correct before the story was first broadcast and in that, presented with a categorical denial of the item, they did not move immediately to correct it, but exaggerated it with further comment that was also factually incorrect.

He then commented on matters which were raised in TVNZ's response. He inquired as to who the sources in the Alliance and Peters groups were. He also asked about the "strenuous efforts" made to contact him, pointing out that his pager, his answering machine and his home phone numbers were all listed on his press release, and that a message could have been left at Democrat headquarters for him. Referring to his categorical denial of the allegation, Mr Leitch questioned why his denial had to be confirmed by TVNZ's sources and why they were regarded as more reliable than he



was. Further, he questioned why, after his denial, TVNZ went on to claim that both he and Garry Knapp were part of the Winston Peters' team.

Mr Leitch noted that Alison Harley of TVNZ had been able to reach him to speak to him on July 13 (before the news was broadcast). He also noted that in response to his letter of July 13 in which he categorically denied the connection with Mr Peters, that Richard Harman of TVNZ had been able to contact him on 15 July, using the pager number.

Finally, he observed that it was relevant to note that both he and Garry Knapp had denied the allegation that they were involved with Mr Peters, which in his view, should have questioned the accuracy of the story.

He accused TVNZ of fabricating the story in order to widen the speculation that the Alliance was going to be split by the possibility of the Democrats leaving to join Winston Peters and expressed his objection to being a party to such an activity, especially after making a strenuous denial.

#### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. The Authority's letter is dated 27 August and TVNZ's reply, 8 October 1993.

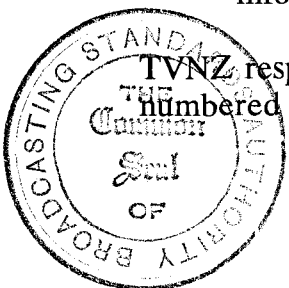
Commenting on points raised in Mr Leitch's referral to the Authority, TVNZ observed that Mr Leitch's political position was a valid part of the news story, and that he was very difficult to contact when the story broke. It did not believe that, when he was unable to be contacted, the News Department was in error when it chose to quote only part of his press release. When further information became available, it reported, it was included in an item broadcast on 15 July.

Responding to Mr Leitch's inquiry as to whether other standards might have been more appropriately applied to the complaint, TVNZ reminded him that it had asked to be advised promptly if Mr Leitch disagreed with its suggestion that G4 was the appropriate standard.

Referring to the matter of whether the facts were ascertained to be correct at the time of broadcast, TVNZ advised that the item of 12 July was based on information drawn from several sources on the day of the broadcast. It added:

The following day, the reporter included Mr Leitch's rebuttal in another item on the broader subject of Mr Peters' party. That item also reported that the wording of Mr Leitch's statement did not necessarily mean that he had no connection with the "Peters Party". This observation was consistent with information gained from other sources.

TVNZ responded point by point to Mr Leitch's referral to the Authority. The numbered items summarise Mr Leitch's points and are followed by TVNZ's



responses.

1. Who were the people who provided the information?

TVNZ responded that it was satisfied that the sources were genuine and had credibility. It defended its right to preserve the anonymity of the sources.

2. What efforts were made to contact Mr Leitch?

TVNZ maintained that its staff made repeated attempts to call Mr Leitch's home, finding that the number was constantly engaged or overloaded. Under the circumstances of a fast-moving story, it believed that the repeated calls to Mr Leitch's home amounted to a reasonable attempt to contact him.

3. How many unnamed sources were there?

Reporting that its policy was to have verification by two independent sources, TVNZ noted that this was followed.

4. Who was the most reliable source - Mr Leitch or the unnamed sources?

Clarifying its stance, TVNZ repeated that the original sources provided the information on which the 12 July story was based and that Mr Leitch's "denial" did not exactly refute what was claimed.

The Assistant Director of News and Current Affairs, Mrs Alison Harley, made at least twenty telephone calls to Mr Leitch. His number was constantly engaged. When finally contacted, Mr Leitch repeated what was said in the news release.

5. In spite of a categorical denial of his involvement with Mr Peters, why did TVNZ still feel the need to double check with the sources?

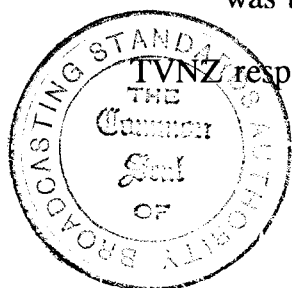
TVNZ defended its decision to double check because of the contradictory nature of the information. It noted that the item on 13 July reported both the information from Mr Leitch and from other sources.

6. On 13 July Mr Leitch called TVNZ and after a number of attempts Alison Harley was able to reach him.

See 4 above.

7. In response to Mr Leitch's letter of 15 July in which he threatened legal action, Richard Harman was able to contact him without difficulty using his pager number. After that, the denial which TVNZ had previously chosen to ignore was broadcast.

TVNZ responded that the denial was not ignored. It wrote:





What happened was that after further investigation, including information from confidential sources, Television New Zealand Limited decided to further clarify Mr Leitch's position on the matter in a news item on 15 July. It [the news item] said:

"However, other political figures are adamant that they have no involvement in anything Mr Peters might be doing. Democrat Deputy leader Chris Leitch says he utterly rejects claims he was a senior advisor to Mr Peters."

TVNZ maintained that this statement made the position clear and reported the matter in a fair and accurate way, within the period of current interest. It reminded the Authority that this was a rapidly moving political story and the developments were reported in good faith according to the best sources available.

#### Mr Leitch's Final Comment to the Authority

When asked to make a brief final comment on TVNZ's response, in a letter dated 1 December 1993, Mr Leitch repeated his assertion that TVNZ had not responded to his specific questions as to why it had not tried to contact him. He suggested that this revealed that its efforts to make contact were less thorough than it had asserted.

Responding to TVNZ's claim that it did not believe the news department was in error when it chose to quote Mr Leitch's press release as his views on the matter, Mr Leitch pointed out that TVNZ had selectively quoted from it. He argued that TVNZ had ignored the most important section and then further attempted to justify the position taken in the original broadcast.

Mr Leitch reported that he found it particularly offensive that TVNZ believed that its sources were more reliable than he was and found it necessary to double check before broadcasting his denial. Surely, he argued, he was the one person who would know the truth.

In Mr Leitch's estimation, TVNZ was fed information, incorrectly and maliciously, which suggested that three high profile Democrats were about to leave the Alliance to join Mr Peters. He accused TVNZ of running the story without checking the facts, adding:

They continued, even in the face of categorical denials from "the best sources available" to adopt an attitude that such a good story should not be muddied by the facts.

This event has had a strong negative influence on my political career and on my relationship and standing with hundreds, if not thousands, of members of the Democratic Party and The Alliance nationwide. It is my view that TVNZ have a responsibility to redress that result.

