

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 59/93

Dated the 13th day of May 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

TE REO TAKIWA O NGATHINE
of Whangarei

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson
J.R. Morris
R.A. Barraclough

DECISION

Introduction

A dispute at the Whangarei radio station Te Reo Takiwa o Ngatihine following the suspension of a disc jockey and claims that staff were paid with petrol vouchers, not with money, was covered in items on *Te Karere* on 13, 16 and 21 October 1992.

The Station Manager, Mr Thomas Allan, complained to Television New Zealand Ltd, the broadcaster, that neither he nor any other station representative had been given a reasonable opportunity to present the station's point of view and that the allegation about his behaviour when approached for an interview was inaccurate.

Explaining that the broadcasts did not contain any reference to the alleged incident involving the station manager and maintaining that the station's views were presented by the chairman of the trustees in each item, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's response, the Station Manager referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have viewed the items complained about and have read translations of the transcripts of the broadcast supplied by both the broadcaster and the complainant. They have also read the correspondence (summarised in the Appendix). As is its usual practice, the Authority has determined the complaint without a formal hearing.

The Manager of Te Reo Takiwa o Ngatihine 99.5 FM, Mr Thomas Allan, complained to TVNZ about items broadcast on *Te Karere* on 13, 16 and 21 October 1992 dealing with a dispute at the station. The items reported that one voluntary announcer had been suspended and that he, like other announcers, did not receive wages but was remunerated with petrol vouchers. The items showed a demonstration outside the station and carried adverse comment about some management practices. Each item carried an interview with Mr Murphy Tana, the Chairman of the Trustees, who spoke about the efforts being made to resolve the problems.

The contents of the brief summary in the preceding paragraph have been in contention between the parties. Whereas they both agree that the voluntary announcer was "suspended", the Station maintained that the Maori word used translated as "dismissed" and quoted an expert in support. TVNZ disagreed and cited an expert who supported its interpretation. There has also been disagreement as to whether some of the workers were paid under government work schemes and as to the number of petrol vouchers each received.

In view of the matters raised in the formal complaint, it has not been necessary for the Authority to rule on these matters or on a number of other details raised in the correspondence. The Authority's statutory task is to investigate and review the broadcaster's decision on the formal complaint. For the sake of completeness a brief summary is included of the other issues raised although most of the matters are not relevant to the Authority when carrying out its legislative duty to review the broadcaster's decision.

When he referred his complaint to the Authority, Mr Allan, alleged that the items had been inaccurate and not impartial. To support that claim, he pointed out - in addition to the matters noted above that the disc jockey at the centre of the dispute had been suspended not sacked and that a majority of the voluntary workers were paid in addition to receiving petrol vouchers - that there were two not three management positions as one of the *Te Karere* items alleged and that, of the two critics interviewed, one was the reporter's uncle and known for his extreme views and the other was a former employee dismissed for abusive language. Moreover, he alleged that the public protest was "jacked up" by the protest leader and the *Te Karere* reporter.

TVNZ denied the factual inaccuracies other than the reference to three rather than two management positions and maintained that the reports were impartial. It described the "jacked-up" allegation as an "unjustified slur". In his comment to the Authority in reply to TVNZ's response, Mr Allan provided, in addition to the translation received from TVNZ, another translation of the transcript and argued that the broadcast was inaccurate



in that it contained a reference to dismissal not suspension.

It is unusual for TVNZ to respond to the complainant's final comment, but it did so with this complaint to deal with the two different translations of the words "whakatana" and "whakatahatanga" and the matter of payment received by the voluntary workers. Acknowledging that it had been in error to describe Miss Pine Harding, a former employee, as Mr, TVNZ maintained that the items were otherwise accurate, balanced and fair to the radio station. It also reminded the Authority that its task was to investigate and review the broadcaster's decision on Mr Allan's original complaint. In his response to that letter, Mr Allan continued to dispute TVNZ's translation and, noting that the elaborations in his complaint had not been rejected previously, maintained that those issues should be considered by the Authority.

The Authority, nevertheless, agrees with TVNZ's description of the Broadcasting Standards Authority's function and, in his formal complaint to TVNZ, on which the Authority is entitled to act by law, Mr Allan raised two broadcasting standards matters. They were that *Te Karere's* reporter did not contact him to get his side of the dispute and that the broadcasts did not include Radio Ngatihine's point of view.

TVNZ assessed the complaint under standards 1, 4 and 6 of the Television Code of Broadcasting Practice which require broadcasters:

- 1 To be truthful and accurate on points of fact.
- 4 To deal justly and fairly with any person taking part or referred to in any programme.
- 6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

Pointing out that *Te Karere* had been aware of the problems at Te Reo Takiwa o Ngatihine for some months and maintaining that Mr Tana, who had travelled from Auckland because of the dispute, was the appropriate person to give the Station's point of view, TVNZ declined to uphold the complaint.

Dealing specifically with the broadcasting standards matters, TVNZ argued that Mr Tana was, in effect, the Station's chief executive and accordingly was the appropriate person from whom to obtain comment. Moreover, the issue had been discussed thoroughly with him and, TVNZ continued, the broadcasts had not been unfair to Mr Allan.

In deciding on the specific standards matters raised, the Authority noted Mr Allan's comment to the Authority in a letter dated 19 February when he said:

It also remains my view that the radio station was not given the opportunity to respond to any of the allegations made by the protesters or their supporters. Mr Tana while being the Chairperson, chairs a monthly meeting. The protests happened after a meeting was held and while Mr Tana was out of town. He was not in a position to know the facts. The Chairman is a member of the Nga Uri



Ohinemaru, an organisation that is not involved in the day to day running of the station.

Despite the questionable relevance to the complaint of some of the other matters raised by Mr Allan, the Authority has been concerned to ensure that it dealt with the matters satisfactorily. As Te Reo Takiwa o Ngatihine 99.5 FM receives assistance from NZ On Air (the Broadcasting Commission), the Authority spoke to the Commission about both the situation at the station generally and the specific matters raised by the complaint. The Authority was advised that the situation reported by *Te Karere*, and the allegations made by Mr Allan against that programme, did not raise any unusual concerns which would justify the Authority declining to deal with the complaint, nor did they raise any specifically ethnic issues which would require it, for example, to add an appropriate Maori expert to the Authority for advice on the complaint.

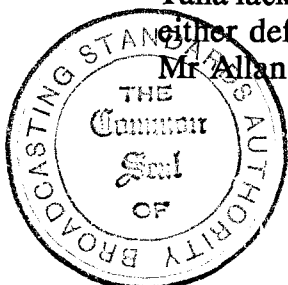
On that basis and taking into account the matters raised in the original complaint, the Authority has examined the items to decide whether or not, first, Radio Ngatihine's point of view was sought by TVNZ in order to provide a balanced series of items, and secondly, whether Mr Allan should have been interviewed about the allegations in the interests of fairness. As neither matter raised a question of factual accuracy, the Authority declined to uphold any aspect of the complaint under standard 1 of the Code. As the matter of Mr Allan's alleged behaviour when approached for an interview was denied by both TVNZ and Mr Allan, and as it did not raise an issue of broadcasting standards, the Authority has not dealt with that incident.

Because the dispute focused on management practices, Mr Allan argued that TVNZ should have sought his comment as the person who was responsible for the day-to-day management at the station. TVNZ replied that Mr Tana was, in effect, the Station's chief executive and, quite properly, was the person spoken to.

The Authority approached the issue by distinguishing between the requirements in standard 6 for balance and standard 4 for fairness to the parties referred to in an item.

In considering the former - the standard 6 requirement for balance - the Authority agreed that Mr Tana was an appropriate person to interview about the problems at the Station, particularly as he had travelled from Auckland in order to deal with the contentious matters at Te Reo Takiwa o Ngatihine. The Authority accepted TVNZ's view that Mr Tana, as Chairman of the Board, was well-placed to present the Station's perspective. Accordingly, the Authority decided that standard 6 had not been contravened.

Mr Allan complained that the item had been unfair as he had not been given an opportunity to respond to the allegations of bad management at the Station. In the previous paragraph the Authority noted that Mr Tana was an appropriate person to interview about the internal proceedings of the Station. It was of the view that if Mr Tana lacked the information to deal with specific questions about management, he could either defer his answer until he had ascertained the position or refer the questioner to Mr Allan as Manager.



In examining this issue the Authority noted that the broadcast contained references to bad management. However, Mr Tana as the Chairman of Trustees was not interviewed about the management of the Station. While the item on 13 October was introduced with shots of the demonstration in front of the Station which referred to the Station's management and the items on 16 and 21 October portrayed brief extracts from the demonstration, Mr Tana in the interviews for the 13 and 21 October expressed his concern, first, that the problems be "sorted out", and secondly, about the range of the station's transmission. Thus, the Authority concluded, that whereas "bad management" was raised by the protesters and Mr Tana could well have dealt with the issue, the fact that the allegation was raised but not put to Mr Tana was unfair to the management of the Te Reo Takiwa o Ngatihine. In these circumstances Mr Allan could and should have been given an opportunity to comment. Accordingly, a majority of the Authority decided that the items breached standard 4 of the Television Code.

For the reasons set forth above, the Authority upholds the aspect of the complaint that the broadcasts by Television New Zealand Ltd of the broadcast of an item on Te Karere on 13, 16 and 21 October breached standard 4 of the Television Code of Broadcasting Practice.

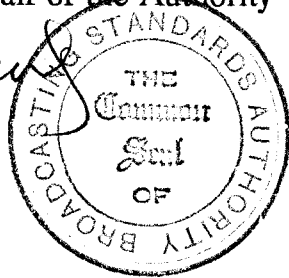
The Authority declines to uphold any other aspect of the complaint.

Having upheld a complaint, the Authority may impose an order under s.13(1) of the Act. On the basis that TVNZ made some effort to present the complainant's point of view at least to ensure balance, the Authority does not intend to impose an order on this occasion.

Signed for and on behalf of the Authority



Iain Galloway
Chairperson



13 May 1993

Appendix

Te Reo Takiwa o Ngatihine's Complaint to Television New Zealand Limited

In a letter dated 3 November 1992, the Manager of Te Reo Takiwa o Ngatihine, Mr Thomas Allan, complained to Television New Zealand Ltd about items broadcast on *Te Karere* on 14, 15 and 18 October about a problem at the station. (TVNZ later explained that the dates nominated should have been 13, 16 and 21 October.)

Specifically, Mr Allan maintained:

- 1) The reporter did not try to contact him or the person accused of causing the problem to hear their side of the dispute.
- 2) That a TVNZ staff member had falsely stated to a Radio Northland staff member that he, Mr Allan, had tried to knock a cameraman's gear out of the way when questioned.
- 3) The *Te Karere* items did not present Radio Ngatihine's point of view.

TVNZ's Response to the Formal Complaint

TVNZ advised the Station Manager of its Complaints Committee's decision in a letter dated 17 December 1992 and it stated that the complaint had been considered under the standards 1, 4 and 6 of the Television Code of Broadcasting Practice.

TVNZ began by explaining that *Te Karere* staff had been aware of problems at Te Reo Takiwa o Ngatihine 99.5 FM for some months and it culminated in protests by staff members on 13 October. TVNZ recorded that the station was partly funded by New Zealand On Air, that the Ngatihine Runanga was the licence holder and the operation of the station was overseen by a committee of trustees chaired by Murphy Tana.

Following the protest outside the station on 13 October, *Te Karere* reported that:

[T]he operational staff had been remunerated only with petrol vouchers and not paid wages, while three management staff had received wages. Pine, a former staff member who joined the protest, said on-camera that what was happening within the station was wrong. It was then reported that because of the protest action, the chairman of the Trustees, Mr Tana made a special trip to Whangarei to try to resolve the problems. He said (on camera) that he understood how the staff felt, and suggested everyone should meet to resolve the difficulties. The reporter then noted that at the end of that meeting the situation surrounding the dismissed disc-jockey remained unresolved.

The story was updated in an item on 16 October which included an interview with



Ruki Henare, a former trustee, and the reporter commented that one of the Station's problems was that it was located too far from where most potential tribal listeners lived. Mr Tana was again interviewed and advised that the problems were to be addressed at a meeting to be held a few days later.

The final item on 21 October, TVNZ continued, recalled the protest action and that bad management was the protesters' main complaint. It was followed by a further interview with Mr Tana saying that he felt for the staff and hoped that the matters could be sorted out. He also said, in response to a question, that the station hoped to improve its transmission to outlying areas.

TVNZ then dealt with Mr Alan's three specific complaints.

- 1) As Mr Murphy Tana was, in effect, the Station's chief executive, TVNZ stated that he was the appropriate person from whom to obtain comment. TVNZ did not understand why it was suggested by Mr Allan that the person causing the problem should be spoken to and, further, the *Te Karere* reporter did not know who was being referred to.
- 2) As the allegation about knocking the cameraman's gear was not included in a broadcast, TVNZ pointed out that it was not a matter of broadcasting standards and, accordingly, declined to deal with it. It continued:

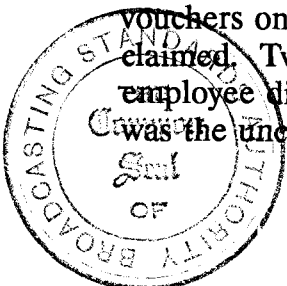
For the record, [the reporter] denies any knowledge of the incident and emphatically denies having spoken of it to anyone
- 3) Arguing that the station's views were thoroughly canvassed with Mr Murphy Tana, the chairman of the trustees, TVNZ declined to uphold that aspect of the complaint.

Having reviewed the issues fully, TVNZ declined to uphold the complaint.

Te Reo Takiwa o Ngatihine's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 18 December 1992 Mr Allan as manager referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He listed what he described as the factual inaccuracies in the broadcast. The disc jockey, he said, had not been sacked but suspended for three shifts for constant breaches of station policy. The majority of operational staff received wages of \$245.00 per week in addition to petrol vouchers. Voluntary staff received petrol vouchers only. There were only two paid management positions - not three as claimed. Two of the people interviewed were not impartial. One was a former employee dismissed for abusive language and another, known for his extreme views, was the uncle of *Te Karere's* reporter.



Mr Allan said, in addition, that the radio station was not given a reasonable opportunity to present its point of view. The committee which Mr Murphy Tana chaired, he explained, met monthly to discuss finances and policy and Mr Tana had been in Auckland before the events leading up to the protest.

How can a reasonable point of view be given if the reporter had not consulted with the people actually involved in the dispute, ie myself and the programme director.

Noting a number of points which the item was remiss in not having explored, Mr Allan continued:

My view is that the whole scenario was "jacked up" by the protest leader and the *Te Karere* reporter. The protest was timed for the arrival of *Te Karere*. It was common knowledge around Whangarei that the event was going to happen.

Moreover, Mr Ruki Henare had been specifically invited by his nephew to be interviewed. As evidence of the "jack-up", he referred to a visit he had received earlier in the day from two kaumatua who had been invited to a protest that *Te Karere* was coming to film but had forgotten the time.

TVNZ's Response to the Formal Complaint

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 15 January 1993 and TVNZ's reply, 5 February. TVNZ pointed out that the dates of the broadcast had been incorrectly recorded by the complainant.

TVNZ began by stating that apart from one minor error, the three news items were truthful and accurate. The broadcast had been correct as the Maori word used "whakatana" means suspended. The item had referred to the payment for management and staff and vouchers only for volunteers. TVNZ acknowledged that it was incorrect in referring to three management positions rather than two. Further the reference to petrol vouchers had been to the value of the voucher not to the total value of the vouchers received by the workers.

Pointing out that it neither was unusual nor avoidable for *Te Karere* journalists to interview family members, TVNZ said that it had not affected the item's impartiality as Mr Henare was a member of the Ngati Hine Runanga, was suggested by another elder and was only giving one perspective. Mr Murphy Tana was interviewed as the spokesperson and had, on the issue under discussion, agreed with Mr Henare. The former employee had spoken as a Trustee and his comment was followed by one from Mr Tana.

TVNZ also pointed out that none of the above points had been raised in the original



TVNZ repeated its belief that Mr Tana, as Chairman of the Trustees, was the appropriate person to interview about the station's administration.

Referring to the complaint that the protest was a "jack-up", TVNZ described it as an unjustified slur. The reporter, as a journalist, had gathered information about what was happening TVNZ rejected the other allegations made by the complainant.

Te Reo Takiwa o Ngatihine's Final Comment to the Authority

On behalf of the complainant, in a letter dated 19 February 1993 Mr Allan made the following comments in response to TVNZ's letter.

First, the transcript referred to whakatahatanga not to whakatana and, anyway, no respected source defined whakatana as "suspended".

Secondly, the transcript clearly stated that the workers, other than management, were paid in the form of petrol vouchers worth only twenty dollars. Furthermore, contrary to TVNZ's claim, there were three volunteers compared with eight Task Force Green workers paid \$214 pw plus \$30 in petrol vouchers.

Thirdly, as most Maori from North Auckland were related, TVNZ's reference to whakapapa was irrelevant. The point he had been trying to make, Mr Allan continued, was that Mr Ruki Henare was chosen for his extreme views and thus lacked balance.

Fourthly, the person referred to by TVNZ as Mr Pine Harding, a former employee who was also a trustee, was in fact Miss Pine Harding who had never been a trustee.

Mr Allan persisted with his complaint:

It also remains my view that the radio station was not given the opportunity to respond to any of the allegations made by the protesters or their supporters. Mr Tana, while being the Chairperson, chairs a monthly meeting. The protests happened after a meeting was held and while Mr Tana was out of town. He was not in a position to know the facts. The Chairman is a member of Nga Uri Ohinemaru, an organisation that is not involved in the day to day running of the station.

Mr Allan was also dissatisfied with *Te Karere's* translation of the transcript and enclosed one prepared by a licensed court interpreter.

Concluding by pointing out the item had not explained why a staff member had been suspended and that the very few Maori protesters justified the reporter's comment that Maori were fighting with Maori, Mr Allan stated that the item was inaccurate and unbalanced.



TVNZ's Response to the Final Comment

In a letter dated 1 April 1993, in which it acknowledged it was unusual to respond to a final comment, TVNZ "respectfully" reminded the Authority that its task involved reviewing the original formal complaint which, in this instance, dealt with three matters.

Nevertheless, TVNZ said, the definition of the word at issue was "whakatahatanga" which means to suspend. It did not mean to dismiss and that definition was supported by Mr Whai Ngata - an expert authority. TVNZ maintained that the reference to petrol vouchers did not contain any indication as to the number of such vouchers given to the volunteers.

TVNZ concluded by apologising for the error in identifying Miss Pine Harding as Mr.

Te Reo Takiwa o Ngatihine's Response

When asked if he wished to reply to TVNZ's comment, in a letter dated 7 April Mr Allan said "it seems TVNZ is twisting every which way". He acknowledged the points made in the original complaint but said that the other matters he had raised had not been rejected previously.

With reference to the disagreement about the translation, Mr Allan wrote:

This organisation has no misunderstandings over the words used and to say this word was in the dialect of the announcer makes it even more strange as the announcer is of Ngati Hine descent. Ngati Hine understand this to be abolished or got rid of in a permanent sense.

