

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 61/93

Dated the 13th day of May 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

DEPARTMENT OF SOCIAL
WELFARE

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

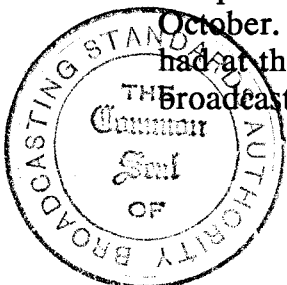
DECISION

Introduction

As part of its re-election campaign, the Labour Government of the Australian State of Victoria used advertisements which showed New Zealanders commenting negatively about their country's economic policies. The use of these advertisements was covered in an item broadcast on *One Network News* on 4 August 1992 and claims were reported that the disgruntled New Zealanders portrayed might have been recruited through the Social Welfare Department.

The Director-General of the Department of Social Welfare complained to Television New Zealand Ltd, as the broadcaster, that the comment about the Department was inaccurate. Moreover, as the Department's reactions had not been sought before the broadcast, he claimed that the item lacked objectivity and balance and that TVNZ had been unfair to the Department.

As a conflict about the source of the information had developed after the item was broadcast, TVNZ upheld the complaint that the four standards nominated in the complaint had been breached. It broadcast a correction of the original item on 7 October. Dissatisfied that TVNZ did not accept, first, that because the information it had at the time was insufficient to justify the recruiting claim, it should not have been broadcast at all, and secondly, that an effort to verify the allegations by contacting the



Department should have been made before the broadcast, the Director-General 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 item to which the complaint relates and have read the correspondence (summarised in the Appendix) which includes the text of the correction broadcast on 7 October. As is its practice, the Authority has determined the complaint without a formal hearing.

The Director General of the Department of Social Welfare (then Mr A. Kirkland) complained to TVNZ about an item on *One Network News* broadcast between 6.00 - 6.30pm on 4 August 1992. Discussing some anti New Zealand government advertisements being used by the Government of the Australian State of Victoria as part of its re-election campaign, the item reported that some of the New Zealanders depicted commenting negatively about the country's economic policy might have been recruited through the Social Welfare Department in Auckland. That comment, Mr Kirkland added, was inaccurate, lacked objectivity and balance, and was unfair in that the Department's response had not been sought before it was broadcast.

TVNZ considered the complaint under standards 1, 4, 12 and 13 of the Television Code of Broadcasting Practice. The first two 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.

Standards 12 and 13 read:

- 12 News must be presented accurately, objectively and impartially.
- 13 The standard of integrity and reliability of news sources should be kept under constant review.

As the source of information about the role of the Social Welfare Department now denied making the comment attributed to her, TVNZ said that the item breached the requirements for accuracy and objectivity in standards 1 and 12. In view of the train of events, the source was now unreliable and, consequently, the item breached standard 13. Finally, TVNZ acknowledged that as it had not reported the Department's subsequent denial of involvement, standard 4 had been breached.

TVNZ apologised to the Department for the "unhappy sequence" of events and on *One Network News* on 7 October broadcast the following statement.

On the fourth of August, One Network News reported that Department of Social



Welfare staff had been involved in recruiting people to appear in Australian TV advertisements for the Victorian Labour Party. We reported these claims in good faith. However, we now accept this information was incorrect. TVNZ regrets the inaccuracy. It accepts Social Welfare's assurance that its staff were not involved in recruiting for the advertisements.

Mr Kirkland referred the following aspects of the Department's complaint to the Authority. First, although TVNZ admitted an error in relying on a source which proved to be unreliable, it had not acknowledged that the claim itself, that the Department had been responsible for recruiting the disenchanted New Zealanders, was not substantiated by the evidence from the (unreliable) source. Secondly, it maintained that TVNZ had been unfair - not by failing to broadcast subsequent denials which TVNZ acknowledged in its apology - but by not seeking comment on the allegations prior to broadcast. This, it stressed, was its major concern and, in view of the seriousness of the allegation, the Department argued that its response should have been included (pointing to the after hours telephone numbers listed in the Telephone Directory) or the item delayed until a response had been obtained.

In response TVNZ maintained that it believed that it had had sufficiently reliable information at the time to report the allegation about the involvement of the Department's staff and that the late hour at which the material became available made it impossible to check with the Department.

In its final comment to the Authority, the Department said:

The basis of the complaint is that there was no evidence of Department staff being involved in recruitment. "Someone" in the Department is not "staff", which is a plural word, and a referral from a "contact" with someone in the Department is not recruitment.

The item was introduced in the following way:

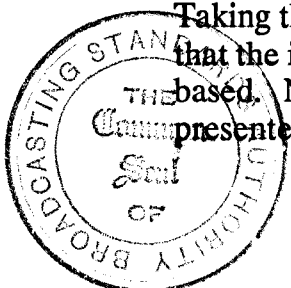
There are claims tonight that Auckland Social Welfare staff may have recruited some of the people for those controversial commercials.

The reporter commented during the item:

An Auckland Television producer who did [make these claims], told us she selected participants using a variety of contacts including someone who worked for the Department of Social Welfare.

The correction acknowledged that it was incorrect to report that "Department of Social Welfare staff had been involved in recruiting people".

Taking the Auckland television producer's comment into account, the Authority decided that the item's introduction was exaggerated in view of the information upon which it was based. Nevertheless, it also decided in view of the way that the information had been presented during the item about the number of staff involved and that person's role, that



it was not a major error. Furthermore, the Authority considered that the correction had, perhaps unintentionally, dealt with the inaccuracy in the introduction. In addition, the Authority acknowledged that a correction broadcast some two months after the original inaccurate broadcast might well only partially ameliorate the initial mistake.

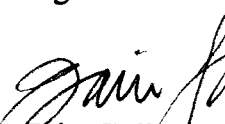
In regard to the standard 4 complaint about TVNZ's alleged unfairness in not contacting the Department before the broadcast, the Authority decided that TVNZ should have recognised that the issue raised in the item was very likely to be one of some importance to the Department and, accordingly, by not seeking comment before the item was broadcast on 4 August, TVNZ had not complied with the standard. The Authority recognised that the Department could be limited in what it would say but, by not being given the opportunity to report for example that an internal investigation would be made, it had not been dealt with fairly.

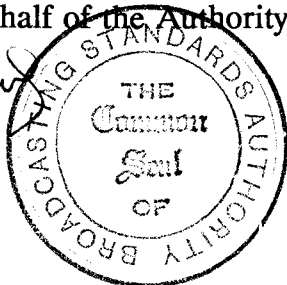
The Authority concluded that both aspects of the complaint were sustained. The introduction was not accurate and thus breached standard 1 and the absence of an opportunity for the Department to respond on 4 August was unfair and in contravention of standard 4.

For the reasons set forth above, the Authority upholds the additional aspects of the complaint that the broadcast by Television New Zealand Ltd of an item on *One Network News* on 4 August 1992 breached standards 1 and 4 of the Television Code of Broadcasting Practice.

Having upheld a complaint, the Authority may make an order under s.13(1) of the Act. On the basis that TVNZ has upheld what the Authority considers to be central and important issues raised by the complaint and broadcast a reasonably full correction on those matters and as there would appear to be little which can be done to ameliorate further the *One Network News* item of 4 August, the Authority has decided not to impose an order.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



13 May 1993

Appendix

Department of Social Welfare's Complaint to Television New Zealand Limited

In a letter dated 28 August 1992 to Television New Zealand Ltd, the Director-General of the Department of Social Welfare complained about a news item broadcast on *One Network News* on 4 August.

The item dealt with advertisements broadcast by the Government of the Australian State of Victoria as part of its re-election campaign. The advertisements showed New Zealanders commenting negatively about their country's economic policy and the item reported claims that some of the people who were filmed making those comments may have been recruited through the Social Welfare Department in Auckland.

Quoting some other media sources which said that the disgruntled New Zealanders portrayed had not been contacted through the Department of Social Welfare, the Director-General complained that the item breached standards 1, 4 and 12 of the Television Code of Broadcasting Practice in that it was inaccurate, lacked objectivity and balance, and was unfair to the Department as its reaction to the statement had not been sought. Moreover, it breached standard 13 in that, by relying on the integrity of an unnamed producer as the source of the story, TVNZ had made use of questionable material.

TVNZ's Response to the Formal Complaint

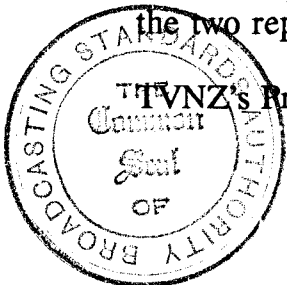
TVNZ advised the Director-General of its Complaints Committee's decision in a letter 12 October 1992.

Pointing out that the basis of the complaint was the quoted comment from an Auckland television producer who had been involved in making the commercials for the Victorian Sate Government, TVNZ reported that the producer now denied making the comment attributed to her. Nevertheless, the information contained in the broadcast had been acquired by two reporters - one during a telephone call to Wellington and one during a discussion with the television producer - and both had reached the same conclusion.

However, in view of the producer's subsequent denial, TVNZ concluded that the item breached the requirements for accuracy and objectivity in standards 1 and 12.

Further, TVNZ considered that the Department's denial of its involvement should have been reported and, by failing to do so, a breach of standard 4 had occurred. The subsequent sequence of events cast doubt on the reliability of the source used by the two reporters and thus standard 13 had been breached.

TVNZ's Programme Standards Manager wrote:



The Committee wished me to convey to you the Company's regrets for this unhappy sequence of events, but asked that I emphasise the Committee's belief that the original information was accepted in good faith, and was not the result of journalistic dereliction.

Taking everything into consideration the Committee was unanimous in deciding that breaches of all four codes had occurred.

Accordingly your complaint was upheld.

The letter concluded with the statement of correction broadcast on *One Network News* on 7 October 1992 which encapsulated the basis of the complaint and TVNZ's decision. It recorded:

On the fourth of August, One Network News reported that Department of Social Welfare staff had been involved in recruiting people to appear in Australian TV advertisements for the Victorian Labour Party. We reported these claims in good faith. However we now accept this information was incorrect. TVNZ regrets the inaccuracy. It accepts Social Welfare's assurance that its staff were not involved in recruiting for the advertisements.

The Department's Complaint to the Broadcasting Standards Authority

Expressing gratitude to TVNZ for accepting that the standards had been breached, in a letter dated 29 October 1992 the Department's Director-General nevertheless referred parts of the complaint to the Authority under s.8(a) of the Broadcasting Act 1989 as he was dissatisfied with TVNZ's decision on these aspects.

The Director-General was concerned that TVNZ had not dealt adequately with the complaint about the part of the item broadcast on 4 August which claimed that the Department had been involved in recruiting the people portrayed in the advertisements. Noting that the complaint had been upheld solely on the basis that a television producer now denied making the statement attributed to her, he continued:

My concern is that the initial claim in the news item, that the Department may have been involved in recruiting, was not supported at all by the evidence that Television New Zealand had at the time (and of course no longer has a result of the denial), and should not have been broadcast. In my view, any headline or introductory statement in a news item ought to be supported wholly by the broadcast, and matters of conjecture or innuendo should be absent from such broadcast.

He was also dissatisfied with TVNZ's response to the complaint under standard 4 that the Department had not been approached for comment on the allegations prior to its broadcast. That aspect of the complaint, he maintained, had not been dealt with by TVNZ. He concluded by stating that TVNZ had not dealt with the issues which he considered were central to the complaint.



TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 16 December 1992 and TVNZ's response 2 February 1993.

TVNZ began by expressing its mystification as to why the complaint had been referred to the Authority as it had been upheld by TVNZ on each of the four standards cited.

Noting that the Department seemed to think that TVNZ had not taken the programme's failure to reflect the Department's view into account when assessing the complaint, TVNZ quoted extracts from its letter in response to the complaint indicating that it had. TVNZ explained further that, before the broadcast, it had what appeared to be two reliable reports about the Department's involvement in the Australian advertisements. The late hour of the day made a check with the Department impossible and TVNZ had considered that it was an appropriate item to report. The breach of the standards had occurred by the failure to report the Department's denials on the following days.

As the Department also seemed to be objecting to the time taken by TVNZ to respond to the complaint, TVNZ pointed out that the matter was not identified initially by the Department as a formal complaint but, when that had occurred, the matter had been dealt with expeditiously and had complied with the statutory time limits. TVNZ concluded:

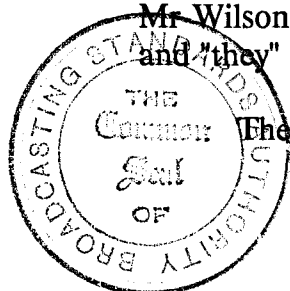
As indicated to Mr Kirkland in our letter dated 12 October, the Company regrets what was an unhappy chain of events. We believe that the Complaints Committee acted properly in upholding the complaint on all four grounds and that the correction broadcast on 7 October was the appropriate action to take.

The Department's Final Comment to the Authority

When asked to comment on TVNZ's reply, in a letter dated 22 February 1992 the Department's Acting Chief Executive (R.J. Wilson) repeated that while the item claimed, first, that Departmental staff might have recruited some of the people involved, and later, that some of the participants said that they got the job through Social Welfare, the information that TVNZ had collected actually disclosed that the advertisements' producer "selected the participants using a variety of contacts, including someone who worked for the Department of Social Welfare". Accordingly, the Department complained that the item was inaccurate as there was no evidence that Departmental staff had been involved in recruitment.

Mr Wilson referred to some of the general terms used in the item such as "someone" and "they" and observed:

The complaint is directed to preventing TVNZ making extravagant claims



against this Department or its staff that are not backed by evidence. The damage is done from the headline, and subsequent statements. I believe that a finding in relation to a breach of the code ought to be made accordingly, and has not been satisfied by the finding of breach by TVNZ.

As there was no reason why the broadcast of the allegations could not have been delayed one day, Mr Wilson said the second aspect of the complaint was TVNZ's failure to obtain Departmental comment. Moreover, and taking into account the process by which news bulletins were put together, Mr Wilson argued that there was probably time available in which to obtain comment and that there had been no justification for TVNZ's assumption that Mr Kirkland, the then Director-General, would not have responded. Indeed, in view of the seriousness of the allegation, it would have been followed up immediately.

Mr Wilson concluded:

There is no doubt that the allegation, if correct, is a controversial matter of public interest, but one which reflects seriously upon my Department, whether or not the allegations made in the broadcast were true. TVNZ did not give the Department the proper opportunity to respond prior to broadcast. A finding that this was in breach of the code should be made accordingly.

