

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 85/93
Decision No: 86/93
Decision No: 87/93
Dated the 29th day of July 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of complaints by the

CHURCH OF SCIENTOLOGY
of New Zealand

and

DENVER FRATER
of Auckland

and

DOUG KERSHAW
of Auckland

Broadcaster
TV3 NETWORK SERVICES
LIMITED

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

DECISION

Introduction

"Cult Busters", an Australian made 60 Minutes programme, was broadcast by TV3 Network Services Ltd as an item on *60 Minutes* on 20 September 1992. It dealt with some allegations about the Church of Scientology in Australia. "Defending the Faith", a New Zealand made programme in which a Church of Scientology representative participated in a debate with a number of people, was broadcast by TV3 as an item on *60 Minutes* on 27 September 1992.



On behalf of the Church of Scientology, its Director of Public Affairs, the Reverend Mike Ferriss, complained to TV3 about the item "Defending the Faith" on which he had appeared. As he had not been advised who the other participants were, he maintained that he had not been dealt with fairly. Moreover, the item had not been balanced or objective, had used unreliable sources and had encouraged the denigration of and discrimination against Scientologists.

Mr Frater complained to TV3 that both items were an unfair attack on the religion of Scientology. The second item had purported to give the Church a right of reply but, he continued, it was unfair, unbalanced and denigrated Scientologists.

With regard to the item, "Defending the Faith", Mr Kershaw complained on the grounds that it breached the standard requiring good taste and decency. Moreover, he stated, it was biased, unbalanced, inaccurate and encouraged discrimination against Scientology.

Maintaining that both programmes were based on well-sourced material, that the issues were raised fairly and that in "Defending the Faith" Mr Ferriss had been given an adequate opportunity to respond on behalf of the Church, TV3 declined to uphold the complaints. Dissatisfied with TV3's response, Mr Ferriss on the Church's behalf, Mr Frater and Mr Kershaw referred their complaints to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

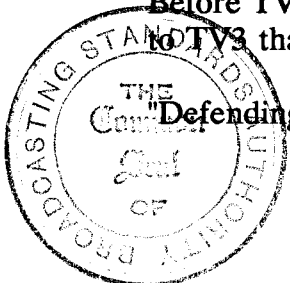
The members of the Authority have viewed the items about Scientology which were broadcast on *60 Minutes* at 7.30pm on 20 and 27 September 1992 and have read the correspondence (summarised in the Appendices). They have also read a transcript of the programme "Defending the Faith", supplied both by Mr Frater and the Church. In addition, the Church has provided a transcript of the version of that programme ("Defending the Faith") broadcast on Australia's Channel 9 on 22 November. As is its practice, the Authority has determined the complaint without a formal hearing.

The Programmes

"Cult Busters" was the title of an item on TV3's *60 Minutes* programme broadcast on Sunday 20 September 1992. It was a programme made by an Australian based *60 Minutes* team in which Jennifer Byrne was the reporter and it dealt with the experiences of a former member of the Church of Scientology in Australia. The former member's parents had hired an American who, as a former Scientologist himself, worked as a deprogrammer. His work involved verbal confrontations with existing Church members in an effort to counter its influence. The American deprogrammer (Jerry Whitfield) had convinced the Australian member (Glen McClelland) to leave the Church. The item noted that the Church of Scientology had refused to take part in the programme.

Before TV3 broadcast the item, the Church of Scientology in New Zealand complained to TV3 that it was a "hatchet job" on the Church.

"Defending the Faith" was the title of an item on TV3's *60 Minutes* programme broadcast



on Sunday 27 September 1992 (one week later). It was an item made by a New Zealand based 60 Minute team and it consisted mainly of a studio interview with the Reverend Mike Ferriss, the Director of Public Affairs for the Church of Scientology in New Zealand. It also included the participation by satellite of Jennifer Byrne in Los Angeles and Glen McClelland in London.

The Complaints

i) Church of Scientology

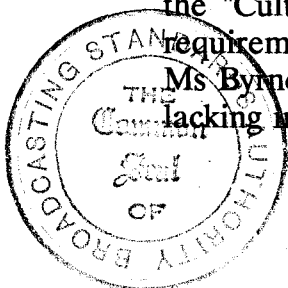
On behalf of the Church, Mr Ferriss complained to TV3 about the item "Defending the Faith" and alleged that it breached standards 4, 6, 12, 13, 17 and 26 of the Television Code of Broadcasting Practice. Standards 4 and 6 require broadcasters:

- 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.

Standards 12, 13, 17 and 26 read:

- 12 News must be presented accurately, objectively and impartially.
- 13 The standards of integrity and reliability of news sources should be kept under constant review.
- 17 Significant errors of fact should be corrected at the earliest opportunity.
- 26 The portrayal of people in a way which is likely to encourage denigration of or discrimination against any section of the community on account of sex, race, age, disability, occupation status, sexual orientation or the holding of any religious, cultural or political belief shall be avoided. This requirement is not intended to prevent the broadcast of material which is:
 - i) factual, or
 - ii) the expression of genuinely-held opinion in a news or current affairs programme, or
 - iii) in the legitimate context of a humorous, satirical or dramatic work.

Beginning by describing the item "Defending the Faith" as Scientology's right of reply to the "Cult Busters" programme, Mr Ferriss complained that it breached the fairness requirement of standard 4 as he had not been warned that he would be confronted by Ms Byrne and Mr McClelland. He described TV3's approach to Scientology as both lacking in objectivity and being "over-the-top", observing:



The only saving grace in this programme was that I kept my cool despite the surprises during the studio interview.

The requirement for balance in standard 6, he continued, was breached by the item's slant throughout the programme which was that Scientology was a cult and a secretive organisation which profited from the needs of its converts. That was the approach adopted despite Mr Ferriss's offer to TV3 that members of the Church would speak about its many good works.

The accuracy requirement for news in standard 12, Mr Ferriss stated, was contravened by the reference to the E-meter or auditor as a lie detector which "gobbled up money". The item had then referred to the sum of \$25,000 spent by Mr McClelland but, Mr Ferriss continued, his response was not included in the broadcast.

Mr Ferriss also complained under standard 13 - reliability of news sources - when he described Jerry Whitfield, Glen McClelland and Jennifer Byrne as biased critics. In particular, he described Jerry Whitfield, a former member and a professional deprogrammer, as one who was naturally biased against Scientology. He added:

It is a bit like talking to someone's ex-wife to find out what that person is like.

Standard 17 requires the correction of significant facts at the earliest opportunity which, Mr Ferriss contended, was breached as the "Cult Busters" programme had alleged that Scientology was a secretive organisation. That statement was shown to be factually incorrect as, while preparing "Defending the Faith", the 60 Minutes team was allowed to film in the Church, was offered the Church's mailing list and was told that its annual accounts were filed in the Companies Office.

As the item tried to encourage discrimination against Scientology and Scientologists by presenting them as "bad", Mr Ferriss argued, the item also breached standard 26 which prohibits broadcasts which encourage the denigration of or discrimination against a section of the community on account of religious beliefs.

ii) Mr Frater

Mr Frater complained that both broadcasts were an unfair attack on Scientology which he described as his religion. Recording his belief that the second item, "Defending the Faith", was the Church's right of reply to "Cult Busters", he said that it had not provided balance. Accordingly, he argued for a "true right of reply" which would be objective and include interviews with satisfied members of the Church. He did not specifically mention any standards in the Television Code which he believed had been breached.

In addition to the standards under which the Church's complaint was assessed, TV3 considered it under standards 7, 14, 15 and 16. Standard 7 requires broadcasters.

To avoid the use of any deceptive programme practice which takes advantage of the confidence viewers have in the integrity of broadcasting.



Standards 14, 15 and 16 read:

- 14 News should not be presented in such a way as to cause unnecessary panic, alarm or distress.
- 15 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.
- 16 No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcasters should aim to present all significant sides in as fair a way as possible, and this can be done only by judging every case on its merits.

iii) Mr Kershaw

Mr Kershaw's complaint focused on the item "Defending the Faith" which, he contended, was biased, unbalanced and inaccurate. Moreover, he had always found Scientologists to be honest and sincere while the programme portrayed them as dishonest.

TV3 advised Mr Kershaw, that in addition to the standards raised by the Church, his complaint was assessed under standard 3 of the Code which requires broadcasters:

- 3 To acknowledge the right of individuals to express their own opinions.

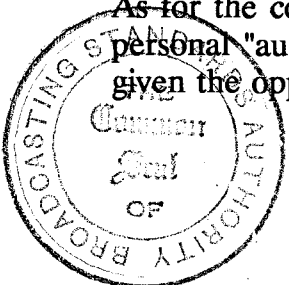
TV3's Response to the Complaints

When examining each aspect of the complaints, TV3 maintained that the programme "Defending the Faith" was not Scientology's right of reply. The Church, TV3 continued, had forfeited a right of reply to the allegations contained in "Cult Busters" for the reason that it had, when asked at the time to participate by the Australian *60 Minutes* team, responded with equivocation, circumlocution, unacceptable conditions and threats of legal action.

Referring to the programme "Defending the Faith" and the standard of fairness complaints, TV3 said that Scientology's representative had been told of the areas to be discussed and that it would involve participants from the "Cult Busters" item. The issues raised, TV3 added, dealt with points canvassed during official enquiries in a number of countries. Further, Mr Ferriss had claimed to TV3 that he had "won" the interview whereas, TV3 said, it did not view current affairs as involving winners and losers.

With regard to standard 6, TV3 said that the allegations were put and, as Mr Ferriss was given the opportunity to respond, the standard's requirements had been complied with.

As for the complaints about inaccuracy under standard 12, TV3 said that the costs of personal "auditing" were covered with Mr McClelland and that Mr Ferriss, although given the opportunity to respond, had declined to do so.



Denying that its sources were unreliable, TV3 said that it made use of both official records and the Church's publicity and, as there were no significant errors of fact, there was no need for any corrections. TV3 also denied a breach of the prohibition on denigration provisions in standard 26 because an exemption to the standard specifically allowed for the expression of genuinely-held opinion in current affairs programmes. That had occurred, it insisted, in "Defending the Faith".

After assessing each aspect of the Church's complaint, TV3 declined to uphold any part of it.

In considering Mr Frater's complaint under standard 7 (deceptive programme practice), TV3 stressed that considerable efforts had been made by 60 Minutes in Australia to obtain the Church's co-operation while making "Cult Busters". However, those efforts had been unsuccessful although TV3's announcer in New Zealand had reported that Mr McClelland had received a \$19,000 refund from the Church.

TV3 denied that either programme had caused unnecessary panic, alarm or distress, arguing that accepted journalistic principles had been applied in both programmes. The other matters, it stated, had been dealt with in the response to Mr Ferriss' complaint made on behalf of the Church and, TV3 remarked:

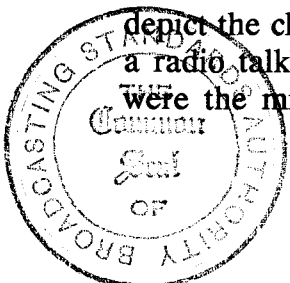
We repeat that the Church was given opportunities to refute any otherwise comment (sic) during both broadcasts. The Church only participated in the second. What use Mr Ferriss made of the Church's positive opportunities was over to him.

Standard 3 was the additional standard which had been applied to Mr Kershaw's complaint and TV3 advised that it was taken into account in its consideration and dismissal of the standard 26 complaint alleging denigration.

The Referral to the Authority

When referring the Church's complaint to the Authority, Mr Ferriss stated that he had watched "Defending the Faith" as broadcast in Australia on 22 November and had, as a result, laid a formal complaint with the Australian Broadcasting Authority. He also maintained that he had been told explicitly by TV3 staff that "Defending the Faith" was the Church's right of reply. Moreover, the version of the programme broadcast in Australia had been introduced in that manner. In addition he also denied that he had been told that Glen McClelland or Jennifer Byrne would be participants and he referred to part of the programme where that fact was confirmed by TV3's interviewer. In reference to TV3's remark when it reported that he believed that he had won, Mr Ferriss said that the issue was of importance as, during the programme, he had been persecuted by Mr McClelland, Ms Byrne and TV3's interviewer.

Mr Ferriss also maintained his contention that the item was constructed in order to depict the church as a hostile institution. For example, it began by showing him during a radio talkback session dealing with two negative calls although the negative callers were the minority during the talkback programme. He enclosed material about the



Whitfields in order to emphasise their unreliability as news sources while recalling, on the other hand, that TV3 had declined to interview people who could have spoken in support of the Church.

Reiterating the point that the tone of the item was negative and that the style of both the *60 Minutes* reporters was barbed, Mr Ferriss persisted with his argument that the item encouraged denigration of and discrimination against Scientologists.

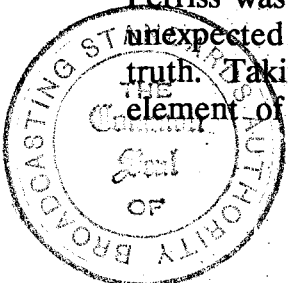
TV3 responded in detail to the Authority and maintained that the introduction used by the programme when broadcast in Australia was irrelevant to the complaint about a broadcast in New Zealand. "Defending the Faith" was not, it stressed, a "right of reply". It had been explained to Mr Ferriss, TV3 continued, that the programme would very likely involve critics and he had indicated his willingness to confront them. Their location, TV3 added, was irrelevant. It later advised the Authority in response to a claim from the Church, that Mr Ferriss did not seek an assurance nor was he reassured that Ms Byrne would not appear. Indeed, TV3 argued that its action, in confronting a Church representative with the reporter from "Cult Busters", was the fairest way to bring the accuser and accused face-to-face.

TV3 denied that it was a prosecutor. Its role had been to put the accusations - honestly held beliefs - made by critics of Scientology to its spokesperson. The programme, it added, had included a summary of the Church's case against the Whitfields and had let the viewers judge the validity of their comments. TV3 reported that Scientology had been investigated by authorities in other jurisdictions and it had used their conclusions. TV3 now described Scientology's interpretation of some of the findings as hair-splitting and it continued to decline to uphold any aspect of the complaint.

The Decision

The material has been dealt with in some detail as the complaints focused on a number of specific matters and, as well, maintained that the tone of the programmes was unbalanced and encouraged denigration of both Scientology and Scientologists. The Authority members noted that the limited knowledge which they had about Scientology had not been greatly enhanced by the programme "Defending the Faith" which contained little of substance about Scientology's beliefs. They also observed that Mr Ferriss was given the opportunity to explain those beliefs during the broadcast although he had not done so.

In dealing with the specific complaints, the Authority first considered Mr Ferriss' point that he had not been advised that Mr McClelland and Ms Byrne would be participants. The Authority accepted that Mr Ferriss had been advised that critics could be involved and that, when confronted by Mr McClelland and Ms Byrne, he had coped very well. The Authority acknowledged that not informing Mr Ferriss of the appearance of those two contained an element of unfairness. However, the Authority recognised that Mr Ferriss was expecting to face some criticism and that confronting a person with the unexpected during an interview was an accepted journalistic procedure for revealing the truth. Taking these competing arguments into account, the Authority decided that the element of unfairness was insufficient to justify a ruling that standard 4 had been



breached.

On the aspect of the complaint requiring balance under standard 6, the Authority agreed with Mr Ferriss that the item had suggested that Scientology was a secretive cult. However, the Authority also considered that the programme had complied with the requirement of the standard in that Mr Ferriss was given an opportunity to respond to the accusations. The standard requires that the opportunity be given - not that the opportunity be taken or that it be taken in a way which counters the arguments advanced. If the tenor of the programme is such that one party is denigrated because of the imbalance of the comments, then that might be a consideration under standard 26 which will be assessed later.

In previous decisions, the Authority has adopted a literal approach to standard 12. In a section of the Code headed "News and Current Affairs", it reads:

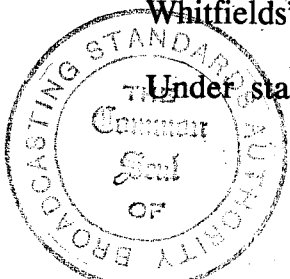
News must be presented accurately, objectively and impartially. (Emphasis added.)

Accordingly, the Authority has maintained that the standard does not apply to current affairs. However, as it did not want to exclude an aspect of a complaint on what might be thought to be a technicality and as the specific concern under standard 12 was also an aspect of the general requirement of standard 6 (also a ground of this complaint), the Authority has assessed under standard 6 the point - that the reference to the amount of money spent by Mr McClelland on E-meter auditing was inaccurate.

The item referred to the sum of \$25,000 paid by Mr McClelland to the Church of Scientology and implied that most, if not all, of the money had been spent on E-meter personal "auditing". The purpose of "auditing" was also explained. The Authority then noted that Mr McClelland was asked directly about the amount that he had received by way of a refund from the Church. Although the sum of \$19,000 was mentioned and although prompted about the possible reason for his reluctance to discuss the issue, Mr McClelland's answer to the question was evasive and confusing and the programme was not specific on how much he had in fact received by way of a refund. The Authority was of the opinion that the confusion, if it reflected adversely on anyone, reflected on Mr McClelland not the Church.

The complaint about the unreliability of the Whitfields as news sources was made under standard 13 which, again, refers to "news". However, the Authority believed that that aspect of the complaint, by referring to standard 13, put the standard to a use it was not intended to cover. The Whitfields were presented as participants - not as news sources. Although they were treated as credible participants initially, a summary of the material advanced by the Church criticising their reliability was presented and it was left for the viewers to determine which of the participants was the more reliable. Rather than a standard 13 complaint, the Authority considered that the matter involved a question of balance and that the programme had advanced the points raised by the Church as to the Whitfields' credibility.

Under standard 17, Mr Ferriss complained that significant errors of fact were not

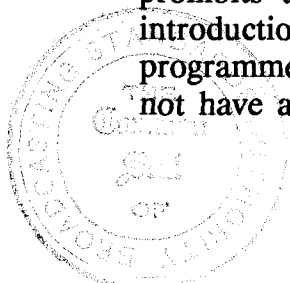


corrected at the earliest opportunity. To the extent that the complaint alleged that Scientology, in "Cult Busters", was portrayed as secretive, the Authority would agree that that was the message conveyed. However, that portrayal was balanced to some extent in "Defending the Faith" which included some filming in the Church's premises, the participation of Mr Ferriss and his willingness to answer questions. The Authority was unable to reach a final decision on the standard 17 complaint. The question which the Authority left unanswered because of insufficient information was - to what degree is Scientology a secretive organisation? The Authority decided that the best way to approach the issue was as a question under the balance requirement of standard 6. It then decided that, while it might be impossible to rule whether or not it was a factual error to describe the church as "secretive", an adequate opportunity had been given to Mr Ferriss to comment on the allegation.

The Authority next considered the aspect of the complaint that the programme encouraged the denigration of Scientologists in contravention of standard 26. The Authority has in previous decisions interpreted the standard in such a way that a considerable level of disparagement is required to justify the conclusion that denigration has taken place. Notwithstanding that requirement, the Authority had little hesitation in concluding that "Cult Busters" and "Defending the Faith" did in fact encourage the denigration of Scientologists. It then examined the exemption contained in standard 26, advanced by TV3, which allows for the expression of genuinely-held opinions in a news and current affairs programme. Noting that the Church declined to take part in the "Cult Busters" programme and that it had been the subject of a number of official inquiries, the Authority took account of the fact that TV3 could well be sceptical about at least some aspects of the Church's activities. The Authority also took note of the fact that TV3 had a wide range of material on which to base its questions and at times was paraphrasing the genuinely-held opinions of others. Thus, although the encouragement of denigration occurred, as the criticisms were genuinely-held opinion it was within the exemption to standard 26. Accordingly, the Authority decided that the broadcasts did not breach the standard.

The complaint from Mr Ferriss on the Church's behalf raised a considerable number of substantial issues. Because of their affiliation to Scientology, TV3 sent both Mr Frater and Mr Kershaw a copy of its response to the Church. However, as each of these complaints raised issues not addressed above, the Authority studied the programmes to see if their complaints raised matters other than those already dealt with where the standards had been breached. This process was of particular importance to Mr Frater's complaint as he referred to both "Cult Busters" and "Defending the Faith" whereas Mr Ferriss and Mr Kershaw only referred to the latter.

TV3 nominated the standards under which it had assessed Mr Frater's and Mr Kershaw's complaints in addition to the standards under which it had assessed the Church's complaint and, in the case of the former, they were standards 7, 14, 15 and 16. The Authority was not sure why TV3 had assessed the complaint under standard 7 which prohibits the use of a deceptive programme practice. If it related to the item's introduction showing Mr Ferriss dealing with some negative calls during a radio talkback programme, the Authority was unable to deal with that aspect of the complaint. It did not have a full transcript of the talk-back programme to assess whether the segment



shown used a technique which might deceive viewers.

TV3 assessed Mr Frater's complaint under standard 15 - the requirement that care be exercised when editing to ensure that the broadcast material is a true reflection of the original views expressed - and declined to uphold it on the basis that, when compiling the programme, it had exercised accepted journalistic practices. Having received from the Church a transcript of the item "Defending the Faith" as broadcast in Australia, the Authority has been able to examine the concerns expressed about the way the New Zealand broadcast was edited. Mr Ferriss highlighted parts of the New Zealand and Australian transcripts to support his allegation that what he believed was "hostile" editing had taken place.

As well as examining this aspect of the complaint under standard 15, the Authority has taken into account the Church's concerns about this part of the broadcast which were recorded first under standard 4 - the requirement that people referred to be dealt with fairly - and the requirement for objectivity under standard 12 which the Authority has subsumed in the requirement for balance in standard 6.

The Authority's examination focussed on the questions about which Mr Ferriss expressed specific concern and which, at least initially, seemed to have some substance. The Authority notes that it has used the transcripts supplied by the complainants and records that they do not quite match at times because, it would seem, the transcribing was not done professionally.

Mr Ferriss was concerned that the editing had been biased in two places and money had been the issue on each occasion. In the first instance, he complained that different sequences had been shown before one answer that he had given.

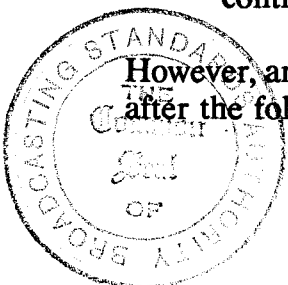
In Australia, Mr McClelland stated that he had spent \$25,000 with the Church and that was followed by a clip of Mr McClelland from the "Cult Busters" item commenting:

The organisation it just stinks. It's a rotten organisation and the guy who set it up, Ron Hubbard is basically a fucking asshole. That's all there is to it. The reason I feel so strongly about the guy was, he manipulated so many people and he's left a legacy that's still, the mechanism of it is still working today.

Mr Ferriss was then shown responding at some length:

I don't think Glen McClelland would have left the Church unless he was deprogrammed, and I think that that is the whole outpoint of the whole program last week that his parents didn't understand and didn't seek to understand what Scientology was and what it was that their son was getting into hired some professional deprogrammers to deprogram their son. That is the result of the deprogramming. I think Glen McClelland would have been quite happy to continue Scientology if that didn't happen.

However, an abbreviated answer was contained in the version shown by TV3 and it came after the following exchange. It began with a clip from the "Cult Busters" containing a



question to Mr McClelland about the amount of money he had spent on the Church and to which, he replied: "About \$25,000". It then omitted Mr McClelland's comments about the Church and the New Zealand reporter was seen to ask Mr Ferriss:

There's a young man who had a terrible time at the hands of your Church. Give me your reaction to that?

Mr Ferriss: No I disagree. I don't think Glen McClelland would have left the Church unless he was deprogrammed. I think Glen McClelland would have been quite happy to continue with Scientology if that didn't happen.

Mr Ferriss complained that, because of the editing, his answer did not quite fit as he had been responding to the clip shown on Australian television when Mr McClelland had referred to the Church in vituperative terms.

In the second case complained about, Mr Ferriss quoted a question that had appeared on the TV3 version of the programme. The local reporter introduced Jennifer Byrne from a studio in Los Angeles who asked:

Ms Byrne: ... Mr Ferriss I appreciate this opportunity to put to you the fundamental allegation that your Church uses brain washing techniques to extort money from its recruits. What is your response to that?

Mr Ferriss: Certainly not. Not brainwashing but I can tell you right now, you don't have a reality on Scientology - what it is, what it's done for me personally, or what it's done for other people personally and you make these claims ...

The Australian transcript recorded the question as:

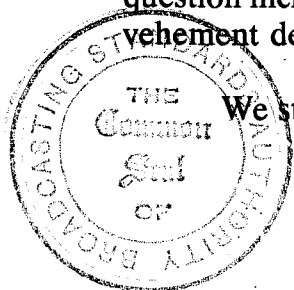
Ms Byrne: ... Mr Ferriss I appreciate this opportunity to put to you the fundamental allegation that your Church uses brain washing techniques. What is your response to that?

The answer was noted as:

Mr Ferriss: No, certainly not. Not brainwashing. Scientology is a way of getting people to look at themselves, find out who they really are and basically to know their true essential nature. I think ...

According to Mr Ferriss, the part of the question in the exchange containing the words "to extort money from its recruits" was not in the original question asked by Ms Byrne and had been added by TV3 later. Mr Ferriss said that when these words were spoken, the camera was on him and not on the questioner. However, after viewing the programme, the Authority could not agree with him. The reporter was seen to ask the question including the specific comment about recruits. The Authority also noted TV3's vehement denial and believed the broadcaster when it wrote:

We strenuously refute the allegation that the question put by Jennifer Byrne was



re-recorded for the programme to include the alleged words ["to extort money from recruits"]. The programme shows Keith Davis [the New Zealand reporter] and Mr Ferriss in the studio with the "real time" satellite image of Jennifer Byrne to the left. The audio continues uninterrupted even though there is a change (very appropriate) of camera to record Mr Ferriss's response to the question put by Jennifer Byrne.

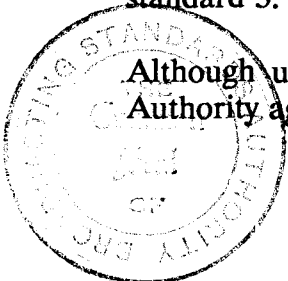
The Authority concurred with TV3 that there was no evidence that the segment had been edited unfairly. On balance, it concluded that the intent of the question and the answer in each case had been broadcast. Standard 15 had not been breached as the issues raised were incorporated in TV3's broadcast and standard 4 had not been contravened as Mr Ferriss had not been treated unfairly.

Nevertheless and despite that conclusion, had Mr Ferriss' allegation that part of the question regarding money been shown to be correct, a majority of the Authority would have been inclined to uphold the standard 4 and 15 aspects of the complaint that the editing had been carried out in a way that was unfair to Mr Ferriss.. With regard to the first allegation that different clips were shown, the majority felt that the way that the interview was edited was close to being in breach of standard 15 as it made Mr Ferriss look slightly evasive because he did not address the question of money. Had the second allegation been correct, that would have put the programme in breach as together both segments complained about would have made Mr Ferriss look as if he had deliberately avoided the question of extorting money. Because the Authority accepted TV3's explanation about the second question, the majority felt that although the first aspect of the editing had been borderline, as noted above, Mr Ferriss had been given a fair opportunity to answer the allegation that Scientology extorted money from recruits.

After a thorough consideration, the Authority reached a similar conclusion on the standard 6 aspect of the complaint. The issue was the money which Mr McClelland had spent with the Church. Having introduced the E-meter, explained its role and shown it in operation in "Defending the Faith", the Authority accepted that further details about it were unnecessary. Whereas Mr Ferriss maintained that the sum of \$25,000 spent by Mr McClelland included some other costs, the Authority accepted that standard 6 had not been contravened by not including Mr Ferriss' explanations in full. He mentioned its place in the Church's philosophy but, as the item was about more general issues, detailed explanations about either the operation of the E-meter or the breakdown of the \$25,000 spent by Mr McClelland were unnecessary in order to maintain objectivity and balance.

Because of the insufficient information provided by the parties, the Authority decided that it was unable to deal adequately with the aspects of Mr Frater's complaint about both "Cult Busters" and "Defending the Faith" which TV3 had assessed under standards 14 and 16. In view of the paucity of the information supplied, it reached the same conclusion when reviewing Mr Kershaw's complaint which TV3 had assessed under standard 3.

Although unable to decide on these specific details, from a broad perspective the Authority agreed with TV3 that neither item would inevitably have caused unnecessary



alarm and, furthermore, that there was no evidence to suggest that "Defending the Faith" was edited in such a way as to distort Mr Ferriss' views or that Mr Ferriss had been given insufficient opportunity to express his opinion. That conclusion about the adequacy of the opportunity also applied to "Cult Busters" when Scientology had declined to make use of the opportunity offered.

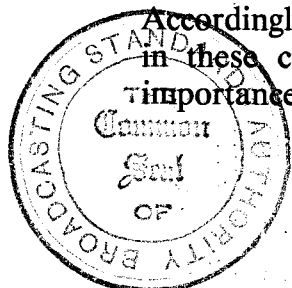
The Authority then considered Mr Frater's and Mr Kershaw's original complaints to TV3 about the broadcasts and concluded that, in each case, each complainant was principally concerned with the programmes overall. For example, Mr Frater recorded a lengthy list of derogatory adjectives which the programmes had used when referring to Scientology, adding that as they were untruthful, the programmes presented an inaccurate and partial portrayal of Scientology. Accordingly, the Authority decided that the most appropriate way to deal with these complaints was to incorporate them into its discussion in the following section entitled The Programmes Overall.

The Programmes Overall

In view of its conclusions on some aspects of the details of the complaints, the Authority then proceeded to review the total programmes to see whether, as complete items, they had breached the requirement for fairness in standard 4, the requirement for balance in standard 6 and the prohibition on encouraging denigration - with limited exemptions - in standard 26. It considered the entire programme, "Defending the Faith", under those standards as they were central to the Church's complaint and, as noted above, they incorporated a number of subsidiary aspects of that complaint and, as well, the central features of Mr Frater's and Mr Kershaw's complaints. The programme "Cult Busters", to which Mr Frater's complaint also referred, has also been considered under the standards cited.

The Authority first acknowledged that the programme, "Cult Busters", prepared by *60 Minutes* in Australia and broadcast on 20 September, was one-sided. The Authority also took into account that Scientology, by refusing to take part, had to accept a considerable degree of the responsibility for that outcome. Furthermore, because of the Church's refusal, TV3 was not obliged under the broadcasting standards to give it a "right of reply". The Authority thought it was irrelevant to its decision whether or not the Church believed that it had a right of reply in "Defending the Faith" and, furthermore, it was irrelevant to the Authority whether or not Mr Ferriss "won" the debate. Moreover, by introducing the item with critical telephone calls from a radio talkback session, the Authority noted that the debate had started in a manner designed to attract the viewer which, although provocative, was a matter which was relevant when considering the balance overall.

Having made these preliminary observations, the Authority also accepted that Scientology was a topic about which many viewers might have a limited understanding. Accordingly, in the Authority's opinion, the standard which imposes an strict requirement in these circumstances is the balance requirement in standard 6. Because of its importance, it merits repeating and it requires broadcasters:



- 6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

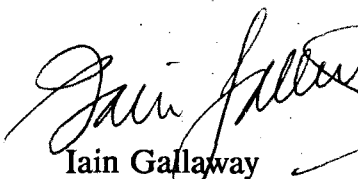
In broadcasting "Defending the Faith", an inquiry into aspects of Scientology, TV3 was required to give the church a thorough and forthright opportunity to present its views. Provided the opportunity was given, it was not the broadcaster's responsibility to ensure that the opportunity was taken. The Authority appreciates that it is very difficult to describe one's faith in some relatively brief comment during a television interview. In the circumstances, the Authority was impressed with the way Mr Ferriss dealt with some probing and, at times antagonistic, questions. Moreover, he was faced with two critics who had been both forceful and vocal in their comments about the Church and Mr Ferriss handled the interview very well. His demeanour throughout would have gone some distance towards balancing the negative comments made about the Church.

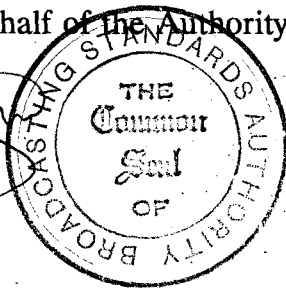
Although viewers might agree with the Authority that the programme was not as informative as it could have been about Scientology, the Authority concluded that it and viewers would have appreciated the fact that Mr Ferriss had been given an opportunity to present the Church's perspective, that he had been a good advocate, that he had presented some positive aspects of Scientology and that his demeanour and style were responsible. Accordingly, the Authority concluded, the balance requirement in standard 6 had not been contravened.

It merits repetition that, in the Authority's opinion, both broadcasts encouraged the denigration of a section of the community, Scientologists, on account of their religious beliefs. Nevertheless, as the criticisms advanced were based on genuinely-held opinion and were presented in a straight-forward manner during the broadcast, the Authority concluded that the broadcasts did not contravene the requirements of standard 26 of the Television Code.

For the reasons set forth above, the Authority declines to uphold any aspects of the complaints that the broadcast by TV3 Network Services Limited of the item "Defending the Faith" as part of *60 Minutes* on 27 September 1992 breached the nominated standards in the Television Code of Broadcasting Practice.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



29 July 1993

Appendix IChurch of Scientology's Complaint to TV3 Network Services Limited

In a letter dated 7 October 1992, the Church of Scientology's Director of Public Affairs (Rev Mike Ferriss) complained to TV3 Network Services Ltd about the item "Defending the Faith" which discussed Scientology and which was broadcast by TV3 as part of the *60 Minutes* programme on Sunday 27 September at 7.30pm.

Mr Ferriss stated that TV3 had agreed to give the Church a right of reply after its broadcast of the Australian 60 Minutes item "Cult Busters" on Sunday 20 September. The complaint, he continued, was made under standards 4, 6, 12, 13, 17 and 26 of the Television Code of Broadcasting Practice.

Referring initially to the standard 4 requirement which requires broadcasters to deal justly and fairly with any person taking part in a programme, Mr Ferriss maintained that, during the interview and without warning, TV3 had confronted him with two critics of Scientology who had participated in the "Cult Busters" item. They were linked via satellite from London and Los Angeles respectively whereas he had been advised that he would be interviewed by a TV3 reporter. Lack of advice of these arrangements, he argued:

was an attempt to attack me and my religious beliefs and to catch me off-guard.

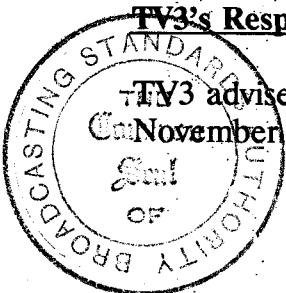
As for the complaints under the other standards, Mr Ferriss argued that the programme, by taking the perspective that Scientology was "bad", had tried to encourage discrimination against Scientology and Scientologists. It was not impartial and balanced when it had suggested that the Church was a cult and a secretive organisation and when it had not referred to the many good works being done by the Church. It was neither accurate nor impartial in its discussion about the costs of the auditing undertaken by the Church. Moreover, TV3 had alleged the Church was secretive despite being advised that its annual accounts were filed in the Companies Office and despite being offered the Church's mailing lists for examination.

Mr Ferriss also argued that the news sources used by TV3 about Scientology were unreliable and lacked credibility. As the item referred to critics only, he made the analogy:

It is a little bit like talking to someone's ex-wife to find out what that person is like.

TV3's Response to the Formal Complaint

TV3 advised the Church of its Complaints Committee's decision in a letter dated 16 November 1992.



Referring to the difficulty it had experienced in obtaining a Church spokesperson to respond to the "Cult Busters" item, TV3 denied that the item "Defending the Faith" was the Church's right of reply under the Broadcasting Act. TV3 continued:

It is TV3's view that if allegations are to be responded to they must first be put. That is what *60 Minutes* did, fairly and responsibly. You responded as you saw fit. You are not only the Secretary of the Church, you are also its Director of Public Affairs, familiar with the medium of television. You were briefed as to the location and nature of the programme. On three occasions the field producer made you aware of this. You were also made aware in detail, of the question areas.

The questions put, it added, sought a response to comments made by the Courts in a number of countries and to allegations by a former member. The interview did not consist solely of the allegations and balance was achieved when Mr Ferriss was given the opportunity to respond. Specifically, on two occasions Mr Ferriss had declined the opportunity to respond to comments about the fees charged by the Church for personal auditing.

TV3 said that the sources used by the programme were well-informed and reliable and denied that the programme contained any significant errors of fact.

With regard to the complaint under standard 26 that the item encouraged discrimination against Scientologists on account of their religious beliefs, TV3 referred to exception (ii) of the standard which allows, despite the general prohibition, the expression of genuinely-held opinion in a current affairs programme, which TV3 maintained, applied to the item "Defending the Faith".

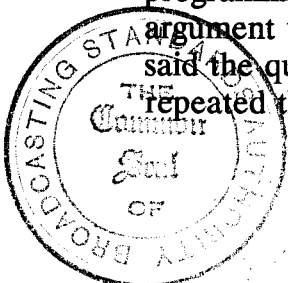
TV3 declined to uphold any aspect of the complaint.

Church of Scientology's Complaint to the Broadcasting Standards Authority

As the Church was dissatisfied with TV3's response, in a letter dated 7 December 1992 Mr Ferriss, on its behalf, referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Referring first to the standard 4 requirement that people taking part in a broadcast be dealt with justly and fairly, Mr Ferriss maintained that the item "Defending the Faith" had been explicitly offered to the Church as a right of reply but, despite TV3's claim to the contrary, the script disclosed that he had not been advised of the participation of the critics from London and Los Angeles.

He added that the Australian Channel 9 interviewer for *60 Minutes* seen on the programme corroborated that fact in one of her remarks. Contrary to TV3's argument that it did not view current affairs as a contest with winners and losers, he said the questioners - including TV3 staff - had acted as prosecutors. He also repeated that he had been advised by TV3 staff that he had won the debate "for



composure".

Mr Ferriss then addressed the complaint under standards 6 and 12 and expressed his disagreement when TV3 maintained that the item was fair and impartial and had provided opportunities for both sides of each argument to be presented. Rather, he continued, TV3 adopted a hostile slant and:

Many of my answers are abbreviated and in some places altered. There are at least two points where the questions have been altered and therefore my answers do not quite fit. This gives the appearance that I do not confront the questions being asked and therefore do not fully answer the allegations.

He also contested TV3's argument that it had used reliable news sources. He said that the Whitfields, who had been featured as critics, had embezzled money from and had been involved in unsuccessful law suits against the Church. Further, their current deprogramming practices had caused concern to the US National Association of Chiefs of Police. Moreover, because of TV3's efforts to advance only one side of the story, significant errors of fact had not been corrected at the earliest opportunity contrary to standard 17.

In relation to the alleged breach of standard 26 which prohibits encouraging denigration and discrimination, Mr Ferriss stated:

Given all of the aforementioned in the previous codes, I feel that TV3 were attempting to encourage discrimination or denigration of Scientology. There may have been genuinely-held opinions portrayed by Glen McClelland but this does not excuse the two reporters 60 Minutes employed to interview me. Their style was hostile and their questions barbed.

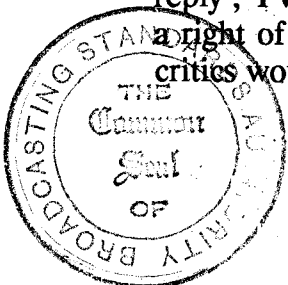
The narration was designed to give a very negative picture of Scientology and in itself held no basis in fact. If TV3 were being equivocal then Scientology would have been portrayed in a more accurate fashion.

TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 10 December and TV3's reply, 25 January 1993.

TV3 dealt with the points made by Mr Ferriss in his letter. It described the first, that a formal complaint had been made to the Australian Broadcasting Authority about the item "Cult Busters", as irrelevant.

Secondly, although Channel 9 in Australia might have offered the Church a "right of reply", TV3 had invited a response from the Church but had not felt obliged to give it a right of reply. It also maintained that Mr Ferriss had been told that the Church's critics would be involved in the programme.



In response to Mr Ferriss's point that his answer to one question showed that he was unaware that the critics would join the discussion, TV3 said:

What better way is there to take advantage of your opportunity to put your point of view but to face your accusers? Mr Ferriss did not ask which of the Church's accusers were going to be involved yet he was told of the strong likelihood they would be.

As the fourth point, TV3 said that Mr Ferriss raised the concept of winners and losers and that it was, for TV3, an alien concept in current affairs.

TV3 maintained that it was a legitimate question to ask Mr Ferriss if he could be brainwashed. Noting that TV3 was not the accuser, the letter pointed out the question was asked once and had evoked what it called a legitimate response.

To the sixth point, that it had adopted a hostile slant, TV3 wrote:

60 Minutes was presenting accusations - honestly held beliefs. Make your response Mr Ferriss. That is what he was there for. ...

TV3 rejects out of hand that questions and answers had been unfairly edited. He implies different answers were linked to different questions. Not so!

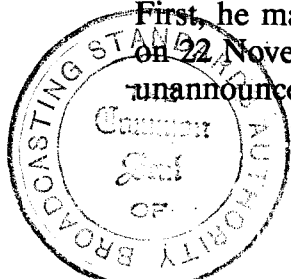
As for the complaint that the Whitfields were unreliable sources, the seventh point, TV3 said that some of Mr Ferriss' criticisms about them was included in the item and it was left to the viewers to decide as to their validity.

TV3 also rejected the eighth aspect of the complaint that the item denigrated Scientologists. The object of the programme, it continued, was to gain responses to the accusations. It was not, as Mr Ferriss wanted, his own public relations programme.

Church of Scientology's Final Comment to the Authority

When asked for a brief, final comment to TV3's reply, in a letter dated 7 April 1993 Mr Ferriss on behalf of the Church supplied transcripts for TV3's *60 Minutes* item broadcast on 27 September and for the Australian Channel 9 *60 Minutes* item broadcast on 22 November. The latter programme included substantial extracts from the discussion in the first item between Mr Ferriss, TV3's reporter and Ms Byrne - including excerpts not included in the New Zealand broadcast - and one comment from Ms Byrne which confirmed Mr Ferriss' claim that he was not aware that she had been invited to participate in the programme. Mr Ferriss then proceeded to respond to TV3's letter point by point.

First, he maintained that the broadcast of the programme on Australia's Channel 9 on 22 November was relevant as it provided an occasion for Jennifer Byrne, unannounced, to ask questions of a church representative.



Noting that the second point related to the standard 4 obligation that people be treated fairly, Mr Ferriss maintained that he asked for and, from TV3's response, assumed that he had been given a right of reply to the "Cult Busters". Mr Ferriss disputed TV3's contention that he had been advised that Church critics would be involved other than the possibility of a brief reference to Jerry Whitfield, the deprogrammer who had appeared on the earlier programme. Mr Ferriss added:

This was the only reference made to me or any hint of a possibility of involvement of any critic of the Scientology religion from the prior television programme. There was no mention whatsoever about Glen McClelland appearing on the programme. As I have mentioned previously, [TV3's] Towards Slater stated that he would not use or involve Jennifer Byrne as an interviewer or otherwise on the programme.

Thirdly, TV3 described Jennifer Byrne, a reporter, as an accuser which Mr Ferriss described as an "interesting admission" and an indication of TV3's and Channel 9's efforts to vilify the religion of Scientology.

As for TV3's denial of the fourth point, that the concept of winners and losers were inapplicable to current affairs, Mr Ferriss argued that his religious views were not questioned on the programme - they were attacked and denigrated in a situation where one person was faced with three accusers.

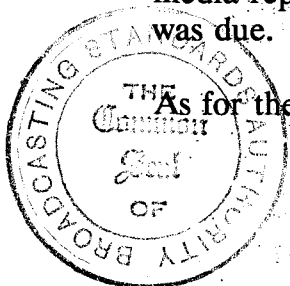
When TV3, as the fifth point, said it had legitimately asked Mr Ferriss about brainwashing, Mr Ferriss expressed his belief that TV3 was attempting more than just an interview.

Sixthly, TV3 maintained that it had put the honestly held beliefs of others to Mr Ferriss and had broadcast the replies unedited. In response, Mr Ferriss argued that the different transcripts of the items broadcast in New Zealand and Australia disclosed that what he described as "hostile" editing had occurred and, for confirmation of this aspect of the complaint, he advised the Authority to obtain an unedited version of the tape of the full interview.

Mr Ferriss continued to complain that TV3 had not dealt fairly with the information it had about the Whitfields, the deprogrammers, who, he added, used tactics reminiscent of Nazi Germany.

Mr Ferriss also maintained, as the eighth point, that TV3 had not attempted to broadcast a balanced programme. It had presented the opinions held by detractors but had ignored the material which dealt with the Church's good works. As an example of the latter, Mr Ferriss recorded that five Australian High Court Judges in 1983 had unanimously accepted Scientology as a religion. Mr Ferriss also noted that, unlike on the programme complained about, he had been questioned challengingly by media representatives on other occasions who, unlike TV3, gave credit where credit was due.

As for the final point when TV3 denied encouraging denigration of or discrimination



against Scientology, Mr Ferriss noted that in addition to the previous material supplied:

[W]e now have evidence which shows that certain personnel within TV3's *60 Minutes* team have acted as agents for the Cult Awareness Network deprogrammers in acting as a conduit for deprogramming referrals.

Therefore TV3 has allied itself to a criminally connected organisation (Cult Awareness Network) and acted in violation of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.

TV3's Response to the Church of Scientology's Final Comment

In view of the points raised by the Church, on 14 April 1993 the Authority sought TV3's response. In its reply dated 21 May, TV3 dealt with each of the points raised.

Beginning by stating that media organisations often worked together but that it did not entail wrongdoing which could be insinuated by the Church's use of the term "in league", TV3 explained that it was clear from the programmes that TV3 and Channel 9 had co-operated on this occasion.

TV3 repeated the point which *60 Minutes* had not offered Mr Ferriss a "right of reply". Furthermore, he had been told that named critics were likely to be involved and he had indicated a willingness to confront them. It also said that the Channel 9's reporter, Jennifer Byrne, had been described by the Church - not TV3 - as an accuser. TV3 also maintained that the questioning did not attack and denigrate Mr Ferriss' religion.

In regard to the complaint about editing, TV3 wrote:

With regard to editing: unless live to air, television usually edits material. In this case TV3 edited questions and answers recorded with Mr Ferris. However, all material was used in a proper context, it was not unfairly edited. We do not believe that Mr Ferris can demonstrate any improper editing techniques - they did not occur. Given the contentious attitude of the Church we were particularly scrupulous in observing all proper ethics and procedures throughout the preparation of the programme.

As for the complaint that it had not reported fully on the deprogrammers' credentials, TV3 said that the material supplied by the Church was not substantiated and, furthermore, the matter was not at the core of the issue. It added that Mr Whitfield and Mr McClelland had been checked out by Channel 9 to the satisfaction of TV3.

Continuing to describe the programme as balanced, TV3 concluded by referring to the Church's claim that TV3's staff were agents for the programmes, remarking:



We look forward to seeing Mr Ferris's evidence and advise that should such claims be disseminated further they will be regarded as defamatory and appropriate action will follow.

Church of Scientology's Second Final Comment to the Authority

On the Church's behalf, Mr Ferris replied to TV3's comments in a letter to the Authority dated 22 June 1993. He listed the standards under which the complaint was originally made and pointed out that while TV3 denied any breaches, it had failed either to present any evidence in support of its conclusions or to show any sincerity about correcting the broadcast.

He repeated the complaints: that the broadcast of "Defending the Faith", by trying to catch him off-guard with appearances from Glen McClelland and Jennifer Byrne, had been unfair; that TV3 had not made it clear that people like Mr McClelland and Jerry Whitfield would be involved:

Had I been told that I was to be facing the critics from "Cultbusters" I would not have had reason to have filed this broadcasting complaint or possibly have sought Australian representation for the programme due to the programme "content".

...

60 Minutes clearly had their story already written when they put together the "Cultbusters" programme in Australia. When I expressed a willingness to take part in a second programme, TV3 made it as difficult as possible for me to put forward the Church's point of view on the issue, I was outnumbered and my answers were edited.

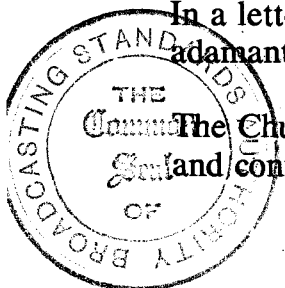
He continued the complaints: that TV3 had said explicitly that Jennifer Byrne would not be an interviewer; that the questioning was inflammatory and highly critical of the Church; that TV3's intimidatory tactics were unethical, ill-mannered and dishonest; that the editing of the broadcast when dealing with the issue of the money was biased; that the programme was not objective; and that TV3 ignored the material challenging the credentials of the USA based Cult Awareness Network adding:

This leads me to believe that there was possibly a hidden agenda behind the programme.

Further Correspondence

In a letter dated 12 July 1993 to the Authority, TV3 referred to the visuals and adamantly averred that Jennifer Byrne's comment about recruits had not been edited.

The Church in its response dated 19 July persisted in its argument to the contrary and continued to maintain that the item breached the standards.



Appendix IIMr Frater's Complaint to TV3 Network Services Limited

In a letter dated 5 October 1992, Mr Denver Frater of Auckland complained to TV3 Network Services Ltd about the broadcast of items on *60 Minutes* on 20 and 27 September 1992 which dealt with Scientology. The first was called "Cult Busters" and the second, "Defending the Faith", which, he said, purported to be a right of reply to the Church after the allegations contained in the first.

Mr Frater stated that both programmes made an unjust and unfair attack on the religion of Scientology which was his religion. The second programme, he said, was in no way a reasonable effort to provide balance. By calling the second programme a right of reply, he argued, it had breached the standards requiring fairness and accuracy.

He listed some of the many derogatory adjectives used during the broadcasts to describe Scientology which, he said, denigrated Scientologists and which breached the standard prohibiting the encouragement of discrimination against or denigration of a section of the community on account of its religious beliefs.

He concluded:

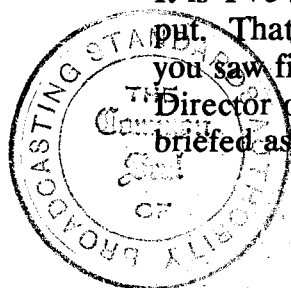
I would like to see broadcast, at least twice, a full apology for the breaches of the Broadcasting Act outlined above. I would also like to see a true right of reply in the form of a truly objective coverage of the actual subject of Scientology as taken from source materials and satisfied supporters interviewed.

TV3's Response to the Formal Complaint

TV3 advised Mr Frater of its Complaints Committee's decision in a letter dated 17 November 1992. In view of Mr Frater's adherence to Scientology, it enclosed a copy of its response to the Church's Secretary (Rev Mike Ferriss) who had complained about "Defending the Faith" on behalf of the Church.

The response to the Secretary dealt with the following matters. Referring to the difficulty it had experienced in obtaining a Church spokesperson to respond to the "Cult Busters" item, TV3 denied that the item "Defending the Faith" was the Church's right of reply under the Broadcasting Act. TV3 continued:

It is TV3's view that if allegations are to be responded to they must first be put. That is what *60 Minutes* did, fairly and responsibly. You responded as you saw fit. You are not only the Secretary of the Church, you are also its Director of Public Affairs, familiar with the medium of television. You were briefed as to the location and nature of the programme. On three occasions



the field producer made you aware of this. You were also made aware in detail, of the question areas.

The questions put, TV3 added, sought a response to comments made by the Courts in a number of countries and to allegations by a former member. The interview did not consist solely of the allegations and balance was achieved when Mr Ferriss was given the opportunity to respond. Specifically, on two occasions Mr Ferriss had declined the opportunity to respond to comments about the fees charged for personal "auditing".

TV3 said that the sources used by the programme were well-informed and reliable and denied that it contained any significant errors of fact.

With regard to the complaint under standard 26 that item encouraged discrimination against Scientologists on account of their religious beliefs, TV3 referred to exception (ii) of the standard which allows, despite the general prohibition, the expression of genuinely-held opinion in a current affairs programme, which, TV3 maintained, applied to the item "Defending the Faith".

TV3 advised Mr Frater that his complaint, in addition to the standards raised by the Church's Secretary, been considered under standards 7, 14, 15 and 16 of the Television Code. Standard 7 prohibits the use of a deceptive programme practice and that aspect of the complaint was vehemently denied by TV3.

The prohibition in standard 14 on the presentation of news in a way which might cause unnecessary alarm was not breached TV3 argued. Furthermore, it said, accepted journalistic practices were applied to both programmes and, accordingly standards 15 and 16 were not breached.

TV3 declined to uphold the complaint.

Mr Frater's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TV3's decision, in a letter dated 6 December 1992 Mr Frater referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Enclosing some basic source material on the subject of Scientology and reporting his stable and successful social and work history, he stated that he was one of three people who had introduced Scientology to New Zealand in 1952. He provided that information, he added, to indicate that the programme broadcast by TV3 had ignored source material other than that which questioned the integrity of Scientology and Scientologists.

He also said that, through editing, TV3 had omitted from the broadcast the positive comments made during the interview with the Church's Secretary. Referring to his own life and to all the documentation that he had supplied, he stated that careful



research would disclose the true value of Scientology. However, the broadcast contained:

lurid exaggerations, allegations, accusations, innuendos, implications, half truths and downright lies

He requested that the Authority carefully examine the material to decide whether it was "ethical, reasonable or even rational" for TV3 to accuse Scientologists as being sinister, dishonest and dangerous con men.

TV3'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 TV3's reply, 26 January 1993. It enclosed a copy of its letter in response to the complaint from Mr Ferriss, the Church's Secretary, which was also referred to the Authority and where it dealt with eight points. The letter to Mr Ferriss included the following observations.

It described the first point made by Mr Ferriss in this letter, that a formal complaint had been made to the Australian Broadcasting Authority about the item "Cult Busters", as irrelevant.

Secondly, although Channel 9 in Australia might have offered the Church a "right of reply", TV3 had invited a response from the Church but had not felt obliged to give it a right of reply. It also maintained that Mr Ferriss had been told that the Church's critics would be involved in the programme.

In response to Mr Ferriss' point that his answer to one question showed that he was unaware that the critics would join the discussion, TV3 said that he had been advised of the likelihood of the appearance of accusers in the programme and although he had not asked which of the accusers would be involved, he had been told of the likelihood of those who were involved.

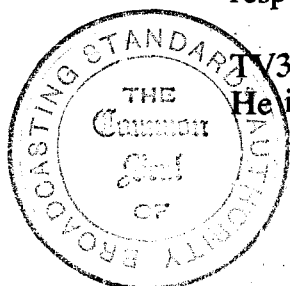
As the fourth point, TV3 said that Mr Ferriss raised the concept of winners and losers and that it was, for TV3, an alien concept in current affairs.

TV3 maintained that it was a legitimate question to ask Mr Ferriss if he could be brainwashed. Noting that TV3 was not the accuser, the letter pointed out the question was asked once and had evoked what it called a legitimate response.

To Mr Ferriss' sixth point, that it had adopted a hostile slant, TV3 wrote:

60 Minutes was presenting accusations - honestly held beliefs. Make your response Mr Ferriss. That is what he was there for. ...

TV3 rejects out of hand that questions and answers had been unfairly edited. He implies different answers were linked to different questions. Not so!



As for the complaint that the man featured in the "Cult Busters" (Jerry Whitfield) was an unreliable source, the seventh point, TV3 said that some of Mr Ferriss' criticisms about him were included in the item and it was left to the viewers to decide as to their validity.

TV3 also rejected the eighth aspect of the complaint that the item denigrated Scientologists. The object of the programme, it continued, was to gain responses to the accusations. It was not, as Mr Ferriss wanted, his own public relations programme.

In its comments specifically related to Mr Frater's complaint, TV3 argued that his personal history was irrelevant as he was not approached for comment. Mr Ferriss was the Church's spokesperson. It also argued that the Scientology material was irrelevant, noting:

What people do not appear to understand is that honestly held beliefs have been presented in the form of accusations against the Church and the Church has responded. Mr Ferriss was aware of the sources of the material used by 60 Minutes - it was 60 Minutes Australia which aired previously.

We point out that 60 Minutes was quoting court findings when mentioning the 'terms sinister, evil, corrupt, dishonest, dangerous con-men etc'.

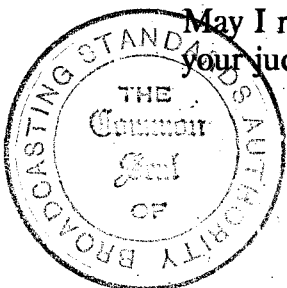
Mr Frater's Final Comment to the Authority

When asked for a brief final comment, in a letter dated 1 February 1993 Mr Frater said he stood by his comments in his previous letters.

He argued that TV3's arrogant attitude in promoting specious material of doubtful integrity was inconsistent with a genuine concern for broadcasting truthful programmes. Citing some comments from TV3's response to the Authority, he described TV3's attempt to research the topic as either pathetic or had involved deliberately ignoring information. He concluded:

This, of course, is consistent with the common schizophrenic attitude of the anti-social, the criminally inclined and the corrupt, namely, that honest, ethical and sociable people are dangerous because they are just too good to be true and therefore must be "investigated", discredited, attacked and their imagined crimes exposed.

May I respectfully suggest that in your overview of this whole affair you temper your judgment with this psychological phenomenon in mind.



Appendix IIIMr Kershaw's Complaint to TV3 Network Services Limited

In a letter dated 2 October 1992, Mr Doug Kershaw of Auckland complained to TV3 Network Services Ltd about the item "Defending the Faith" which discussed Scientology and which was broadcast by TV3 as part of the *60 Minutes* programme on Sunday 27 September at 7.30pm.

Mr Kershaw said that the item breached the standard requiring good taste and decency and was biased, unbalanced and inaccurate. He stated that, in his association with Scientologists, he had found them to be honest but that the programme implied that they were dishonest and had encouraged discrimination against Scientology.

TV3's Response to the Formal Complaint

TV3 advised Mr Kershaw of its Complaints Committee's decision in a letter dated 12 November 1992. In view of Mr Kershaw's association with the Church, it enclosed a copy of its response to the Secretary of the Church of Scientology (Rev Mike Ferriss) who had complained on behalf of the Church.

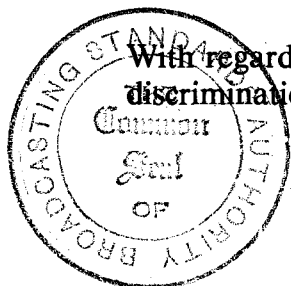
The response to the Secretary dealt with the following matters. Referring to the difficulty it had experienced in obtaining a Church spokesperson to respond to the "Cult Busters" item, TV3 denied that the item "Defending the Faith" was the Church's right of reply under the Broadcasting Act. TV3 continued:

It is TV3's view that if allegations are to be responded to they must first be put. That is what *60 Minutes* did, fairly and responsibly. You responded as you saw fit. You are not only the Secretary of the Church, you are also its Director of Public Affairs, familiar with the medium of television. You were briefed as to the location and nature of the programme. On three occasions the field producer made you aware of this. You were also made aware in detail, of the question areas.

The questions put, TV3 added, sought a response to comments made by the Courts in a number of countries and to allegations by a former member. The interview did not consist solely of the allegations and balance was achieved when Mr Ferriss was given the opportunity to respond. Specifically, on two occasions Mr Ferriss had declined the opportunity to respond to comments about the fees charged by the Church for personal "auditing".

TV3 said that the sources used by the programme were well-informed and reliable and denied that the programme contained any significant errors of fact.

With regard to the complaint under standard 26 that the item encouraged discrimination against Scientologists on account of their religious beliefs, TV3



referred to exception (ii) of the standard which allows, despite the general prohibition, the expression of genuinely-held opinion in a current affairs programme, which TV3 maintained, applied to the item "Defending the Faith".

In view of the comments in the above letter, TV3 advised Mr Kershaw that it declined to uphold his complaint.

Mr Kershaw's Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's response, in a letter dated 3 December 1992 Mr Kershaw referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He maintained that the item, overall, was biased and unbalanced and designed "to show the Church in a bad light". He also expressed his concern that Mr Ferriss, the Church's spokesperson, was not treated fairly on the programme when, without warning, he was confronted by two overseas critics via satellite.

TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 14 December 1992 and TV3's reply, 26 January 1993. It enclosed a copy of its letter in response to the complaint from Mr Ferriss, the Church's Secretary, where it dealt with eight points. The letter to Mr Ferriss included the following observations.

It described the first point made by Mr Ferriss in his letter, that a formal complaint had been made to the Australian Broadcasting Authority about the item "Cult Busters", as irrelevant.

Secondly, although Channel 9 in Australia might have offered the Church a "right of reply", TV3 had invited a response from the Church but had not felt obliged to give it a right of reply. It also maintained that Mr Ferriss had been told that the Church's critics would be involved in the programme.

In response to Mr Ferriss' point that his answer to one question showed that he was unaware that the critics would join the discussion, TV3 said that he had been advised of the likelihood of the appearance of accusers in the programme and although he did not ask which of the accusers would be involved, he had been told of the likelihood of those who were involved.

As the fourth point, TV3 said that Mr Ferriss raised the concept of winners and losers which was, for TV3, an alien concept in current affairs.

TV3 maintained that it was a legitimate question to ask Mr Ferriss if he could be brainwashed. Noting that TV3 was not the accuser, the letter pointed out the



question was asked once and had evoked what it called a legitimate response.

To Mr Ferriss' sixth point, that it had adopted a hostile slant, TV3 wrote:

60 Minutes was presenting accusations - honestly held beliefs. Make your response Mr Ferriss. That is what he was there for. ...

TV3 rejects out of hand that questions and answers had been unfairly edited. He implies different answers were linked to different questions. Not so!

As for the complaint that the man featured in the "Cult Busters" programme (Jerry Whitfield) was an unreliable source, the seventh point, TV3 said that some of Mr Ferriss' criticisms about him were included in the item and it was left to the viewers to decide as to their validity.

TV3 also rejected the eighth aspect of the complaint that the item denigrated Scientologists. The object of the programme, it continued, was to gain responses to the accusations. It was not, as Mr Ferriss wanted, his own public relations programme.

In its letter to the Authority about Mr Kershaw's complaint that the Scientology perspective was absent from the "Cult Busters" programme, TV3 stated:

Our attempts to give the Church its opportunity to express its point of view were met with equivocation, circumlocution, unacceptable conditions and threats of legal action.

Mr Kershaw's Final Comment to the Authority

When asked for a brief comment on TV3's reply, in a letter dated 5 February 1993 Mr Kershaw stood by his original complaint. TV3 had not, he maintained, given the Church an opportunity to express its point of view in the programme "Defending the Faith" and had portrayed his religion negatively.

