

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 95/93

Dated the 9th day of August 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

PATRICK CURRAN
of Levin

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

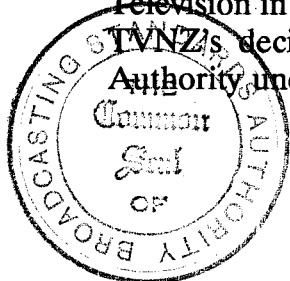
DECISION

Introduction

The statement "Police in Northern Ireland say Tony Butler's killing is part of the IRA's on-going campaign against drug dealers" was included in an item on TV1's *Holmes* programme broadcast between 6.30 - 7.00pm on 19 January 1993. The item dealt with Danny Butler's (the dead man's brother) request for asylum in New Zealand.

Mr Curran complained to Television New Zealand Ltd that the item was unbalanced and inaccurate as it promoted what he described as the mistruth that only the IRA was responsible for violence in Northern Ireland. In particular, the statement was at variance with earlier media reports which stated that a loyalist group, the Ulster Freedom Fighters, had claimed responsibility for the death of Tony Butler.

Acknowledging that the report on 19 January conflicted with earlier announcements, TVNZ said that the 19 January comment should have reported that it was based on the latest information which varied from that given earlier. However, noting that the information which had been broadcast was supplied by a reputable source - Sky Television in Great Britain - TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's decision, Mr Curran referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Standards Authority 1989.



Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

Mr Curran complained about a comment included in an item broadcast on *Holmes* on 19 January. The item consisted mainly of an interview with Danny Butler who was seeking asylum in New Zealand. Mr Butler was afraid that he would be killed if he was returned to Northern Ireland, as had happened to his brother Tony, and it was reported that "Police in Northern Ireland say Tony Butler's killing is part of the IRA's on-going campaign against drug dealers".

Referring to other media reports, including one on TVNZ's *One Network News*, that the illegal protestant terrorism group, the Ulster Freedom Fighters, had claimed responsibility for Tony Butler's death, Mr Curran stated that the item breached standards G6, G7 and G14 of the Television Code of Broadcasting Practice. The first two require broadcasters:

- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.
- G7 To avoid the use of any deceptive programme practice which takes advantage of the confidence viewers have in the integrity of broadcasting.

The other one states:

- G14 News must be presented accurately, objectively and impartially.

Expanding on the deceptive programming aspect of the complaint under G7, Mr Curran stated that the item used brief extracts, nearly subliminal, of a group of IRA members shooting into the sky. The implication, Mr Curran continued, was that Catholic terrorists were the only ones that Danny Butler need be worried about should he be returned to Northern Ireland.

Although not an aspect of the complaint, in the correspondence Mr Curran referred on a number of occasions to a statement on the *Holmes* programme on 5 November 1992 when, in an item about the danger of fireworks, the following comment was broadcast:

It is, when you think about it, an absurd celebration. Setting off fireworks to celebrate the intention of a deranged Irish Catholic to blow up the institution of Parliament.

Mr Curran considered that the inaccuracy in this comment reflected on TVNZ generally and on the *Holmes* programme specifically and was an indication of the biased reporting about events in Northern Ireland. In his ongoing correspondence with TVNZ over the years, Mr Curran has maintained that TVNZ has blamed the Catholic/Republican terrorists for most of the violence in Northern Ireland and, consequently, through this



approach, has absolved the Protestant/Loyalist terrorists. This continuing debate has resulted in the Authority ruling on two formal complaints from Mr Curran about TVNZ's coverage of events in Northern Ireland (Decision Nos: 47/91 and 41/92).

To substantiate his argument that both sides are responsible for the violence, Mr Curran lent the Authority the Royal Ulster Constabulary's Annual Report for 1992 which recorded that, while in the past the Republican Groups had been responsible for the majority of the terrorist murders in Northern Ireland, in 1992 the Loyalists had been responsible for the majority (52%) of the 85 people slain as a result of the sectarian warfare.

This background has been included as it impacts on Mr Curran's attitude as reflected in his complaints and on TVNZ's responses. The Authority has also taken the Annual Report into account in reaching a decision on this complaint.

In response to Mr Curran's complaint about the reference to Tony Butler's death on *Holmes* on 19 January, TVNZ acknowledged that it had been earlier reported that the Protestant Freedom Fighters had claimed responsibility for Tony Butler's death. The statement on *Holmes*, it added, was made on the basis of the latest information available and had been received from the British Sky network. TVNZ commented:

While the Complaints Committee did not believe "Holmes" was wrong in reporting the latest information concerning the death, it did believe it was unfortunate that "Holmes" did not acknowledge that the information it was giving was at odds with, or a development on what had been reported earlier.

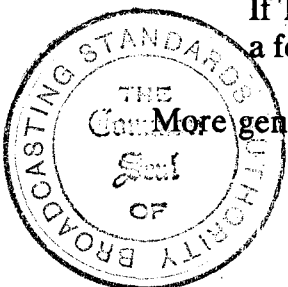
Dealing with the standards cited by Mr Curran, TVNZ maintained that as many stories change as more information becomes available, and as it was reported as a police statement - not as a fact - the balance and fairness requirement of standard G6 had not been breached. Standard G7 had not been contravened, TVNZ continued, as the shots of the gunmen, while brief, were not subliminal and were not an example of a deceptive programme practice. As for the accuracy requirement in standard G14, TVNZ maintained that the item was accurate at the time of the report. It also met the requirement for objectivity in standard G14 as the story about Danny Butler's fight to stay in New Zealand also included a quote from the Refugee Status Authority that there was "a real chance Danny Butler would be killed by the IPLO if he returned to Northern Ireland".

TVNZ declined to uphold each aspect of the complaint.

When he referred his complaint to the Authority, Mr Curran noted a number of TVNZ items about Northern Ireland which he maintained were unbalanced and, specifically with reference to the comment about Guy Fawkes, he asked:

If TVNZ lied about the Irish Catholic who tried to blow up the British Parliament a few hundred years ago how can you believe anything it says in this context now?

More generally, he questioned whether the *Holmes* programme, in the context of Irish



news relating to Irish terrorism, had been "a model of honesty and impartiality."

In its response to the Authority in regard to these comments, TVNZ expressed the opinion that Mr Curran did not appreciate that reporters, in the aftermath of a crime, did not accept the police version of events unquestioningly. Further information would be obtained and checked and double-checked and, TVNZ opined:

We believe most television viewers and newspaper readers accept and recognise that "facts" presented in developing stories will inevitably be subject to revision as most (sic) information unfolds.

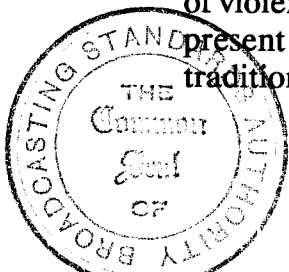
Repeating that the item was essentially a story about Danny Butler and his fight to remain in New Zealand and that there had been references to both the Sky account of Tony Butler's death and a report from the Refugee Status Authority on Danny Butler's fear, TVNZ argued that the standards had not been breached.

The Authority has provided a reasonably full account of the complaint and its background in order to illustrate that the factual issue (who was responsible for Tony Butler's death?) is not one it can resolve and that the central concern raised by this complaint deals with sources of the material broadcast as much as the broadcast itself. The question of sources was dealt with at length in Decision No: 47/91. Because of its relevance to the current complaint, the Authority considers that it merits repetition. In that Decision, it was recorded:

Although the Authority has not upheld Mr Curran's complaint, it understands his concern about the way Northern Irish issues are dealt with on television. It also understands TVNZ's efforts over the years to give Mr Curran what it described as "full, frank and free" explanations but which Mr Curran has rejected as unsatisfactory.

It would appear that TVNZ pinpointed the crux of the differing approaches in its 17 June letter to the Authority. There it explained that television news programmes dealt, in effect, with headlines which were accompanied by appropriate visuals. Further, TVNZ stated that it was terrorism by the IRA which has dominated world-wide media headlines about events in Northern Ireland. Mr Curran, as a viewer of TVNZ, is the recipient of the reports sourced internationally which TVNZ has editorially considered as relevant for New Zealand audiences. The Authority considered, in agreement with TVNZ, that the broadcasts do not reflect bias on the part of TVNZ or by its journalists. Rather, throughout the long history of violence in Northern Ireland the coverage appears to reflect internationally ingrained attitudes. However, there may come a time when, in view of the escalation of Loyalist terrorism, internationally sourced coverage is no longer sufficient.

Mr Curran, because of his close interest in Irish affairs, is aware of the amount of violence perpetrated by the different groups in Northern Ireland. However, at present the Authority does not consider TVNZ to be at fault in perpetuating the traditional and widely accepted approach which focusses on the IRA when it



broadcasts items which are supplied by its international news sources. The Authority would point out, nevertheless that New Zealand's perspective on controversial international events, whether in Ireland or, for example in the Falklands, the Middle East or Yugoslavia does not necessarily correspond with the approach taken by the international news sources used by TVNZ. To achieve a balance in some situations, broadcasters may well have to present an alternative perspective from informed New Zealanders.


The Authority was required to deal with the specific aspects of Mr Curran's complaint that the broadcast of an item on *Holmes* on 19 January 1993 breached standards G6, G7 and G14. The comment objected to was a small part of a story about Danny Butler and his family which acknowledged that sectarian violence in Northern Ireland was committed by protagonists from both sides. Furthermore, TVNZ made use of reputable sources and the statement which was broadcast was not reported as a fact but was attributed to the Police. The item also included a contrary reference, on this occasion attributed to the Refugee Status Authority.

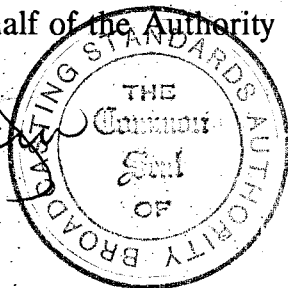
The Authority agreed with TVNZ that it should have reported that the comment from Sky varied from an earlier report, but it did not believe that it was essential for it to do so. Accordingly, the Authority decided that the broadcast had not breached standards G6 or G14.

As for the visuals of some Northern Ireland gunmen shooting into the air, the Authority thought that their inclusion could be regarded as sensationalist but accepted that they were an attribute of television as a visual medium and were justified in a story which dealt with Danny Butler's fear of being shot. As they could not be described as a deceptive programme practice, the Authority concluded that standard G7 had not been contravened.

For the above reasons, the Authority declines to uphold the complaint.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



9 August 1993

Appendix

Mr Curran's Complaint to Television New Zealand Limited

(a) Preliminary Correspondence

In a letter dated 21 January 1993, Mr Patrick Curran of Levin wrote to TVNZ's current affairs division asking for the source of a news report. TV1's *Holmes* programme, he recorded, had stated that Irishman Tony Butler had been killed in Northern Ireland as part of the IRA's "on-going campaign against drug dealers" while TV1's *One Network News*, Radio New Zealand and some newspapers had earlier attributed the murder to Protestants/Loyalists who were members of the Ulster Freedom Fighters.

He also asked whether Guy Fawkes had been described as an Irish Catholic on the *Holmes* programme on 5 November 1992.

TVNZ advised Mr Curran in a letter dated 3 February 1993 that Sky news in Britain was the source of information of the comment about Tony Butler on *Holmes* and that the introduction to the item about Guy Fawkes on 5 November stated:

It is, when you think about it, an absurd celebration. Setting off fireworks to celebrate the intention of a deranged Irish catholic to blow up the institution of Parliament.

Stating that TVNZ covered news on the basis of newsworthiness, TVNZ quoted Authority Decision No: 47/91 (determining a complaint from Mr Curran about the way TVNZ covered Northern Irish issues) which accepted that internationally ingrained attitudes, rather than TVNZ, could be biased against the IRA. It also recorded that, if loyalist terrorism increased, internationally sourced coverage might no longer be sufficient.

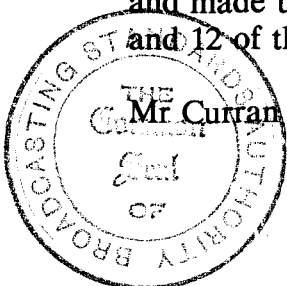
TVNZ's letter concluded:

TVNZ constantly reviews its sources of news from overseas. We believe we still make every effort possible, to ensure its accuracy and impartiality. When appropriate we add information from New Zealand to add to the public's understanding of issues in Ireland and elsewhere.

(b) The Formal Complaint

Mr Curran's formal complaint to TVNZ, dated 14 February 1993, alleged that the *Holmes* item which referred to Tony Butler on 19 January was unbalanced, inaccurate and made use of a deceptive programme practice in contravention of standards 6, 7 and 12 of the Television Code of Broadcasting Practice.

Mr Curran noted that reports in the print media, on radio and on *One Network News*



had dealt with the murder of Tony Butler in Belfast as his brother, Danny Butler, was seeking asylum in New Zealand. Those stories had ascribed the responsibility for Tony Butler's murder to the Ulster Freedom Fighters. However, the item on *Holmes* had ascribed the responsibility for Tony Butler's murder to the IRA as part of its campaign against drug dealers. Moreover, Mr Curran maintained, the item on *Holmes* had borrowed a technique for subliminal advertising by briefly flashing on three occasions a film clip of IRA gunmen while screening an interview with the Butler family.

The item breached the balance requirement of standard 6, Mr Curran continued, by blaming the IRA for Mr Butler's death without referring to the earlier reports. The "very quick flashes of the IRA film clip" breached the standard 7 prohibition on deceptive programme practices as it involved a "shameful journalistic trick, innuendo and omission".

The standard 12 requirement for accuracy, objectivity and impartiality was contravened, Mr Curran concluded, as the item did not report the Protestant killer gangs and the sectarian war in Northern Ireland.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Curran of its Complaints Committee's decision in a letter dated 10 March 1993.

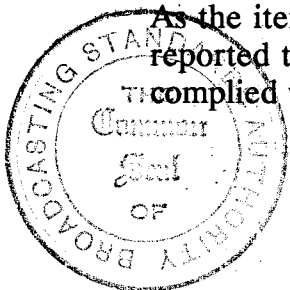
Describing as the central issue of the complaint the statement on *Holmes* about Tony Butler's murder when compared with other news reports, TVNZ said that the *Holmes* item was based on the latest information available from the British Sky network. The possibility that the death was linked to drug gangs, despite the claim by the Ulster Freedom Fighters for responsibility for the murders, had also been carried in the "Sunday Times" of 17 January.

In its conclusion to the background of the complaint, TVNZ stated:

While the Complaints Committee did not believe "Holmes" was wrong in reporting the latest information concerning the death, it did believe it was unfortunate that "Holmes" did not acknowledge that the information it was giving was at odds with, or a development on what had been reported earlier.

Dealing with standards cited (using the amended numbering system), TVNZ maintained that by reporting the latest information, the item had not breached standard G6. As the item did not contain any examples of subliminal shots, the deceptive programme requirement in G7 was not breached.

As the item was accurate and objective on the day it was broadcast - that police reported that Tony Butler's death could be linked to drug dealing - standard G14 was complied with. The complaint was not upheld.



Mr Curran's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's decision, in a letter dated 5 April 1993 Mr Curran referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Beginning by describing the comment about Guy Fawkes as a "blatant lie", Mr Curran argued that TVNZ was biased in its reports about the IRA. In a letter dated 9 May accompanied by the Authority's Complaint Referral Form, Mr Curran said that he was not surprised when TVNZ declined to uphold his complaint as TVNZ:

... sees nothing wrong with its current affairs programmes broadcasting the propaganda line that the Catholics/republicans are the only terrorists operating in Ulster.

He reported that he had written to the police headquarters in Belfast and a spokesperson had advised him that the police press release about Tony Butler's murder had not mentioned any drug connection. Accordingly, Mr Curran continued, the complaint raised the question whether TVNZ had invented the IRA connection to the Tony Butler murder. Moreover, a report in the "Evening Post" on 23 January, four days after the broadcast, recorded that Tony Butler had been murdered by Protestants.

Mr Curran wrote:

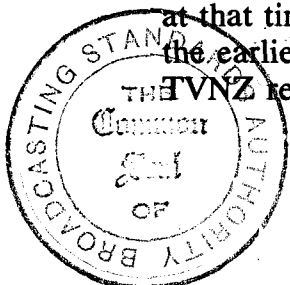
The point is, and its right at the heart of my complaint, was *Holmes* justified in keeping absolutely silent about the existence of the terrorist from the Loyalist/Protestant side and by doing so presenting a totally unbalanced and dishonest picture of the most tragic sectarian slaughter in Northern Ireland.

He also maintained that the visuals of the IRA gunmen were one-sided.

Citing from a variety of sources, Mr Curran emphasised that violence in Northern Ireland was the responsibility of both the Loyalists and the Republicans and argued that TVNZ should be advised by the Authority to improve its standards as many of its items about Northern Ireland made a mockery of the standards requiring honest and honourable journalism.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 11 May 1993 and TVNZ's response 8 June. TVNZ reported that its letter to Mr Curran dated 10 March carried the substance of its response. It emphasised that the item broadcast on 11 January was based on the best known facts at that time. Acknowledging that the drug reference might have been at odds with the earlier reports which blamed Tony Butler's death on the Ulster Freedom Fighters, TVNZ repeated the latest information which the item used was based on an



authoritative report carried on Britain's Sky network. It added that that source had also been alluded to in the New Zealand "Sunday Times".

TVNZ continued:

We believe that Mr Curran has an imperfect understanding of the role of reporters. In the immediate aftermath of a crime, reporters do not accept unquestioningly information from official police sources, although they might report these sources with suitable attribution. More often the real information comes through "off the record" briefings either from the police or from those directly involved. Sometimes people will provide information which contradicts official police statements - but do not themselves wish to be quoted. All these matters have to be checked and double-checked and are not broadcast or printed until the journalists involved are satisfied that the information they have is both credible and reliable. (Even then, subsequent revelations from other sources can see the story change again at a later date).

We believe most television viewers and newspaper readers accept and recognise that "facts" presented in developing stories will inevitably be subject to revision as more information unfolds.

Pointing out that the item on 19 January dealt essentially with the status on Danny Butler in New Zealand, not with events in Northern Ireland, TVNZ maintained that the report was accurate, fair and impartial.

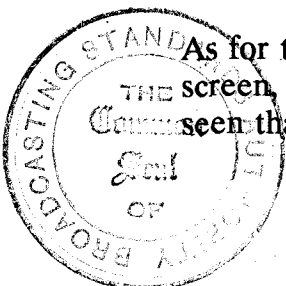
Mr Curran's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 30 June 1993 Mr Curran enclosed a copy of the Royal Ulster Constabulary's Annual Report for 1992 which reported that for the first time since 1976, Loyalist/Protestant terrorists killed more people in Northern Ireland than did Republican/Catholic terrorists (39 to 36). Those figures, Mr Curran emphasised, disproved the stance taken on Holmes which suggested by "omission and innuendo" that the only terrorists in Northern Ireland likely to kill Danny Butler were "from the Catholic side of the sectarian fence".

Disputing the accuracy and competency of TVNZ news presentation of events generally in Northern Ireland, Mr Curran wrote:

Time and again in recent months TVNZ has broadcast the claim that Holmes seeks out the facts and tells them straight. No way did it attempt to seek out the facts of sectarian strife in Ulster and the grave danger to Danny Butler, from republican and loyalist killers, especially as he had been branded an IRA man in Parliament in NZ.

As for the use of the three fleeting images of IRA gunmen flashed on the screen, may I ask you, have you ever, before or since, outside of advertising, seen that technique used in news items or current affairs programmes?



Further Correspondence

In a further letter to the Authority dated 9 July 1993, Mr Curran recounted some events dealt with in the item and observed that Tony Butler's death "surely was a sectarian killing".

He also referred to some recent reports on TVNZ dealing with events in Northern Ireland which, he said, demonstrated TVNZ's inability or unwillingness to report the Ulster Freedom Fighter's activities. He enclosed a newspaper report which he urged the Authority to read and to contrast its coverage to that given by TVNZ.

