

# Litmus Testing BSA Decisions

Broadcasting Standards Authority

June 2018



# Contents

Executive summary .....	3
1.1 Method .....	3
1.2 Main findings .....	3
Background and method.....	8
2.1 Background.....	8
2.2 Objectives .....	8
2.3 Target audience .....	8
2.4 Approach.....	8
2.5 Research process .....	9
2.6 Sample structure .....	10
2.7 Reporting.....	10
2.8 Timings .....	11
2.9 Personnel.....	11
2.10 Margin of error.....	11
Main findings.....	12
3.1 Television and radio viewing and listening.....	12
3.2 Broadcasting standards and the Broadcasting Standards Authority .....	13
3.2.1 Fairness Standard (and Freedom of Expression) .....	13
3.2.2 Balancing Freedom of Expression and Harm .....	16
3.3 Response to BSA decisions .....	19
3.3.1 The Block NZ: Villa Wars – BSA upheld the complaint .....	19
3.3.2 Story item on Unconscious Bias – BSA upheld complaint .....	24
3.3.3 Newshub item about Winston Peters – BSA did not uphold the complaint.....	28
3.3.4 Seven Sharp item about ‘herb detectives’ – BSA upheld the complaint.....	32
3.3.6 Is the BSA making the right decisions? .....	35
Appendix.....	37
4.1 Detailed findings by group .....	37
4.2 Focus group discussion guide and prompts.....	49
4.3 OOT process and questions .....	65

# Executive summary

## 1.1 Method

### Research objectives

As part of its statutory mandate, the Broadcasting Standards Authority (BSA) commissions research to inform decision making and the broadcasting standards system. Each year members of the public are invited to 'litmus test' BSA decisions on a chosen topic or standard. In previous years, five decisions have been tested but, due to the complex standard chosen – The Fairness Standard – this year, only four were tested. The BSA's target for performance is that 75% or more of the participants rank the tested decisions as acceptable, good or very good on a five-point scale, in terms of how well the reasoning is understood by the public and supports the decision outcomes.

The overall objective of this research was to determine whether decisions made by the Broadcasting Standards Authority (**BSA**) are reasonable reflections of the general public's current attitudes – more specifically:

- To understand public attitudes towards the Fairness Standard.
- To identify concerns about the tested broadcasts (if any) and whether the concerns raised in the corresponding complaints matched those spontaneously raised by participants.
- To ascertain whether the participants would have upheld the complaints.
- To examine individual and group responses to the BSA's actual decisions.
- To evaluate the BSA's communication of the decision.

### Approach

This research was qualitative in approach and included two qualitative methodologies:

- Four qualitative focus groups; two groups in Auckland (one of older and one of younger participants) and two in New Plymouth (one older and one younger). The groups included a mix of gender, ages, ethnicities, presence of children in the household and television viewing / radio listening habits.
- An Online Overtime Focus Group (OOT) was also conducted to provide a more robust total sample of 56 people on which to conduct some quasi-quantitative analysis. The OOT also included a mix of age, gender, presence of children and television viewing/radio listening habits, but with a greater emphasis on ethnic diversity and provincial/rural representation.

## 1.2 Main findings

### Overall response to BSA's decisions

Participants were shown four clips and asked to record, individually, their responses to key questions, before sharing them with the group. They were then provided with a written summary of the BSA decision and asked to rate the decision on a scale of 1-5, considering the reasoning given by the BSA and the outcome (1 being very poor and 5 being very good). The four clips were:

- The Block NZ: Villa Wars
- Story item on Unconscious Bias
- Newshub item about Winston Peters
- Seven Sharp story about 'herb detectives'.

For all four clips, most participants agreed the BSA had made a very good, good or acceptable decision.

For the three clips where the BSA **upheld the complaint** (Block NZ: Villa Wars, Unconscious Bias and 'herb detectives'):

- A clear majority of participants felt the complainants had been treated unfairly.
- A clear majority would have upheld the complaint.
- A clear majority (over 90% of participants) agreed the BSA had made a very good, good or an acceptable decision for all three clips.

**Note** - views were initially more mixed for The Block NZ: Villa Wars, where New Plymouth participants were not told that the tiler had asked not to appear and had not consented to appear in the programme, until after they had stated if they would have upheld the complaint or not. However, once participants understood all the facts, their views were aligned with other participants.

For the clip where the BSA **did not uphold the complaint** (Winston Peters):

- Participants were split in terms of whether they felt Mr Peters had been treated unfairly.

Nevertheless:

- A majority would not have upheld the complaint.
- 81% of participants agreed the BSA had made a very good, good or acceptable decision.

Overall, the findings from this research indicate that the BSA is making the right decisions from a technical perspective, but the responses from some participants suggest that they do not necessarily agree with some aspects of the Fairness Standard. This was primarily in the context of the Winston Peter's clip, where 19% of participants felt the BSA had made a poor decision, even though the guidelines state that:

*Generally, a consideration of what is fair will take into account .... The nature of the individual, for example, a public figure familiar with dealing with the media, as opposed to an ordinary person with little or no media experience ...*

They still believed that, despite being a public figure, Mr Peters had a basic right to privacy, respect and fairness. They were upset and angry at his treatment by the media, who disclosed personal information, harassed (**door stepped**) Mr Peters and inferred he was dishonest. They were also angered by the timing of the clip which was clearly meant to discredit Mr. Peters by **leaving a negative impression** of him during an election period.

Participants were more united in their criticism of what they viewed as light and insignificant sanctions or penalties for broadcasters who were found to have breached the Fairness Standard. They did not believe small fines or being made to apologise / admit the error were deterrents to future breaches.

Many also felt there should be some compensation for complainants, especially when their personal and / or business reputations had been sullied (although they were told the Broadcasting Act 1989 does not give the BSA the power to award this).

## Specific responses

### ▪ The Block NZ: Villa Wars – BSA upheld the complaint

Overall, the BSA's decision was a reasonable reflection of the research participants' current attitudes.

Once participants were aware that the tiler had not wanted or consented to appear on air and that he was seeking payment for past (not future) work, most agreed the complainant had been unfairly treated, that the complaint should have been upheld and that the BSA's decision was a good one.

Participants' main concerns and the parts of the clip which they believed triggered the complaint were focused on the one-sided nature of the commentary (the tiler was given no fair opportunity to comment), lack of consent, breach of privacy, the tiler being portrayed as dishonest and that his workmanship was poor. This all left a negative impression of the tiler and potential negative knock-on effects on his business.

- 63% of participants (34 out of 54) would have **upheld** the complaint.
- 94% of participants (51 out of 54) agreed the BSA had made a **very good, good or acceptable decision**. 80% (43 out of 54) of all participants agreed they had made a **very good or good decision**.

The few participants who did not agree with the decision, or who did not feel the clip had breached the standard, felt the tiler should take some responsibility for appearing on the show in the first place and that it was an insignificant matter.

### ▪ Story item on Unconscious Bias – BSA upheld the complaint

Overall, the BSA's decision was a reasonable reflection of the research participants' current attitudes.

While some participants were surprised that someone would take offence and complain about such a quick clip in a light-hearted item, most agreed the complainant had been unfairly treated, that the complaint should have been upheld and that the BSA's decision was a good one.

Participants' main concerns and the parts of the clip which they believed triggered the complaint were focused on airing footage of people without their knowledge or consent, illicit filming of people in public (without consent), potential breaches of privacy and confidentiality and misrepresenting people i.e. suggesting they were biased or that other people might be biased towards them.

- 71% of participants (39 out of 55) would have **upheld** the complaint.
- 91% of participants (51 out of 56) agreed the BSA had made a **very good, good or acceptable decision**. 59% (33 out of 56) of all participants agreed they had made a **very good or good decision**.

The few participants who did not agree with the decision, or who did not feel the clip had breached the standard, commented on the insignificant nature of the issue and that the decision included no sanctions on the broadcaster or apology or recompense to the complainant.

- [Newshub item about Winston Peters – BSA did not uphold the complaint](#)

**Overall, the BSA's decision was not a clear reflection of the research participants' current attitudes. Nearly half (47% or 26 out of 54) felt Mr. Peters had been treated unfairly and over a third (37% or 20 out of 54) would have upheld the complaint.**

**However, all things considered – assessing the clip in the context of the Fairness Standard and Guidelines and Balancing Freedom of Expression and Harm – most participants agreed the BSA had made a good decision.**

Participants' main concerns and the parts of the clip which they believed triggered the complaint were focused on insinuating Mr Peters was dishonest, not giving Mr Peters the right to reply, harassing and badgering him, using selective and carefully edited clips to support the story and releasing private and politically sensitive information at a key time during the election.

- In line with the BSA's decision, 61% (33 out of 54) participants would not have upheld the complaint.
- 81% of participants (44 out of 54) agreed the BSA had made a **very good, good or acceptable decision**. 44% (24 out of 54) of participants agreed they had made a **very good or good decision**.

The 19% (10 out of 54) participants who did not agree with the decision, or who did not feel the clip had breached the standard, felt that regardless of the fact Winston Peters is a public figure, he – and all New Zealanders – deserved the right to privacy, respect and fairness.

- [Seven Sharp story about 'Herb Detectives' – BSA upheld the complaint](#)

Participants' main concerns and the parts of the clip which they believed triggered the complaint were that it implied the Chinese lady was a thief, the Chinese lady did not give consent to appear on TV, the one-sided nature of the story, racial bias and stereotyping.

- 98% (53 out of 54) participants would have upheld the complaint.
- 93% (51 out of 55) participants agreed the BSA had made a **very good, good or acceptable decision**. 78% (43 out of 55) of participants agreed they had made a **very good or good decision**.

The 5% (3 out of 54) participants who did not agree with the decision, explained it was not because they did not think the Fairness Standard had been breached, but because they were upset at what they viewed as the BSA's weak response to the breach.

## Demographic and regional variations

Findings were consistent across all audiences ***from an analytical or evidence-based perspective***.

Participants were asked to base their feedback and decisions on the information provided in the Fairness Standards, balancing freedom of expression and harm, and the explanation of the BSA's findings. So, even though participants sometimes personally disagreed with a decision, most could

evaluate and respond to it, in the context of whether the clips had breached or complied with the standard.

There were no demonstrable/statistically significant variations across age, gender or regions (urban/provincial).

## Broadcasting standards and the Broadcasting Standards Authority

Almost all participants were aware of the BSA and most had a general idea of its role and responsibilities. Consensus was the BSA is an important organisation and that it has a difficult job to do in a rapidly changing technological environment and one where the public's attitudes also evolve and change.

None of the participants had made a complaint to the BSA, though some could recall occasions where they believed individuals had been treated unfairly.

## The Fairness Standard and Balancing Freedom of Expression and Harm

Participants had little specific knowledge or understanding of the Fairness Standard. However, when asked what Fairness might mean in a broadcasting context, general understanding was that it meant meeting the needs and representing the views and perspectives of all parties (viewers). It also meant balanced reporting, no discrimination, being transparent, not painting people in a negative light and giving people the right to respond.

Participants understood the notion or ideal of a 'balancing act' and appreciated the complex task the BSA has when making their decisions i.e. balancing freedom of expression and harm and overlaying this with the guidelines and specifications for the Fairness Standard. Participants also noted that some terminology was vague and open to interpretation (e.g. 'Public Interest' and Broadcaster and Public 'rights') and that different people/cultures have different views or standards as to what is, for example, acceptable, biased or humorous, which further added to the complexity of decision making.

# Background and method

## 2.1 Background

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## 2.2 Objectives

The overall objective of this research was to determine whether the BSA decisions are reasonable reflections of the general public's current attitudes – more specifically:

- To understand public attitudes towards the Fairness Standard.
- To identify concerns about the tested broadcasts (if any) and whether the concerns raised in the corresponding complaints matched those spontaneously raised by participants.
- To ascertain whether the participants would have upheld the complaints.
- To examine individual and group responses to the BSA's actual decisions.
- To evaluate the BSA's communication of the decision.

## 2.3 Target audience

The target audience for this research was the general public and included a mix of gender, location, ethnicities, income levels and life stages.

## 2.4 Approach

This research was qualitative in approach and included two qualitative methodologies.

Qualitative focus groups were chosen to enable us to use open-ended interviewing to explore and understand the attitudes, opinions, feelings, and behaviour of individuals or a group of individuals.

However, the **primary limitation** of qualitative research is that, unlike quantitative research, the findings are not statistically projectable to the population under study. This limitation is created by two facts: (1) recruiting is rarely completely representative; and (2) the very nature of qualitative research necessitates small sample sizes.

To (partially) address this, the focus groups were supplemented by an Online Overtime Focus Group (OOT), to provide more statistically robust findings on how well the general public understood and



supported the BSA decision outcomes (or not). While an OOT does not provide the same level of engagement and interaction as traditional focus groups, they are a cost-effective and timely way to include a wide range of geographically-spread participants. When the findings from the OOT (22 to 24 people answered all questions) are combined with the findings from the four focus groups (32 participants) this provides a more robust sample on which to conduct some quasi-quantitative analysis.

## 2.5 Research process

The discussion guides, materials, video clips and question areas were identified and developed in close collaboration between UMR and the BSA.

The full discussion guides for the face-to-face focus groups and the process and questions for the OOT are appended to this document. In summary, each session covered the following key areas:

- Introduction and warm up, including a summary of television / radio watched or listened to and avoided.
- Broadcasting standards (prompted and unprompted knowledge and understanding)
- Fairness Standard; understanding and perceptions of 'fairness' in a general and broadcasting context.
- Discussion of BSA's role of balancing freedom of expression, public interest and harm. A prompt (appended) was developed to help explain this complex task.
- Individual judgements: The Block NZ: Villa Wars, Story item on Unconscious Bias, Newshub item about Winston Peters and Seven Sharp story about 'herb detectives'.

Participants were shown the four clips (listed above) and asked to record, individually, their responses to the following questions, before sharing them with the group:

- What were your main concerns, if any, with the clip?
- What part(s) do you think triggered the complaint about fairness?
- Do you think the individual featured in the clip was treated unfairly?
- Thinking about freedom of expression, how valuable was this item? High or low value.
- Do you think the clip was in the public interest i.e. did the clip contain content of real concern and importance to the NZ public?
- Overall, do you think the harm caused to the individual outweighed the right to freedom of expression? Please explain.
- Do you think most people would agree with you? Or do you think you are different from most?
- If you were the BSA, would you have upheld this complaint? (i.e. do you think it breached the Fairness Standard?) Yes – I would have upheld the complaint – the standard was breached or No – I would not uphold the complaint – there was no breach.

Participants were then provided with a written summary of the BSA decision and asked to rate the decision on a scale of 1-5, considering the reasoning given by the BSA and the outcome – 1 being very poor and 5 being very good.

The OOT followed a similar, though slightly scaled down process.

## 2.6 Sample structure

The samples achieved are summarised in the tables following.

### ■ Four x face-to-face focus groups

Group	Location	Demographics	Other Specifications
1	Auckland	41+ years Mix Male/Female	All watched / listened to mainstream broadcast television and / or radio.
2	New Plymouth		
3	Auckland	Under 40 years Mix Male/Female	The groups included a mix of life stage, working status and those with and without children.
4	New Plymouth		

### ■ Online overtime focus group

Specification	N=25 Recruited to allow for drop outs/incompletes N=23 participated in the entire discussion and one participated for two days.	
Children in the household	10 x with children / 14 x without children	
Ethnicity	NZ European	11
	Maori	6
	Pacific Island	2
	Other European	5
Age	11 x 41+ / 13 x 18-40	
Gender	11 x Male / 13 x Female	
Working Status	10 x full time work / 4 x part time work / 3 x studying / 7 x non-working (retired/unemployed/parent)	
Location	Marlborough x 1 / Waikato x 5 / Wellington x 2 / Auckland x 6 / Northland x 1 / Otago x 2 / Canterbury x 1 / Manawatu x 1 / Gisborne x 1 / Hawkes Bay x 1 / Bay of Plenty x 2 / Taranaki x 1 Rural x 7 / Provincial x 8 / Urban x 9	

## 2.7 Reporting

This report contains the combined findings from the face-to-face **and** online overtime focus groups.

Tables containing summarised responses to all self-completion exercises are appended to this document.

## 2.8 Timings

The face-to-face focus groups were held during the weeks commencing 5 February 2018; Monday 5 February, New Plymouth and Tuesday 6 February, Auckland. The OOT was live over three days during the week commencing 19 March 2018.

## 2.9 Personnel

The focus groups were facilitated by Karen Connell – one of UMR's senior and experienced qualitative researchers. The OOT was overseen by Karen Connell and Thomas Butt. Alice Kan, Director of Government Research oversaw the research and peer reviewed all documentation.

## 2.10 Margin of error

The findings from this research are primarily qualitative in nature. The combined number of face-to-face focus group and online focus group participants was 56 (32 x face-to-face and 24 x online). The margin of error for a sample of n=50 for a general public audience is  $\pm 14\%$  at the 50% level i.e. *'For a figure of 50%, there are 95 chances in 100 that the maximum error will be plus or minus 14%'*.

Percentages, where used, are indicative only. Verbatim comments are used to support and explain these as appropriate.

# Main findings

## 3.1 Television and radio viewing and listening

These topics were included primarily as a warm-up or scene-setting exercise, not a comprehensive investigation of participants' television watching habits, or of their knowledge and understanding of the BSA and broadcasting standards. The findings in this initial section are, consequently, brief.

Findings generally replicated those in the 2017 report and are summarised below:

- Television watching habits varied widely, from those who were very selective (who planned, recorded and viewed only the programmes that interested them), to those who professed to watching anything.
- In some households, the television is on constantly; it is background noise. In others, television viewing is more strategic, and the TV is not turned on until a specific time or to watch a specific programme.
- TV viewing is still a group/family activity in some households, though technological advances can accommodate individual viewing preferences and choices; it is no longer necessary for all family members to watch the same programme at the same time. In some households, members may be watching multiple programmes on multiple devices simultaneously.
- Sports channels, news, crime shows, current affairs and documentaries were the most popular programmes for focus group participants, while reality television shows, shopping and 'gossip' shows were the least well liked. At the time of the research, My Kitchen Rules and Married at First Sight Australia were loved and hated in equal measure.

*Mainly watch channels 1, 2, and 3. Shortland St and house renovation programmes. The Block etc. (Female / Older / Provincial / Non-Working / No Children / NZ European)*

*Oh, I love watching The Chase with my Dad as well - we compete to see who can answer the most questions correctly ha-ha! (Female / Urban / Younger / Working / With Children / NZ European)*

*I enjoy watching a wide range of programmes including current affairs, game shows, documentaries, films and TV series. Enjoy the sci-fi / action / horror genres in particular. (Female / Older / Rural / Working / With Children / NZ European and NZ Māori)*

*Not a HUGE TV watcher but never miss Emmerdale on channel one. Watch a fair amount of the NRL League and never miss watching the Warriors on Sky Sports 2. I will sometimes watch Posh Porn on Vibe. Like to watch quite a few of the Real estate Programmes from Australia through to the English "A Place in the Sun". (Older / Male / Rural / Working / With Children / NZ European)*

- Viewers are also using a wide range of mediums to view and download content, from traditional platforms such as free-to-air television, to newer sources including Lightbox, TV on Demand, Amazon Prime, Netflix and YouTube.

*Normally watch lightbox - choose a series and then watch it from start to finish. Walking dead on TV on demand, (on my comp - wife is not fond of it). And rugby on prime, (RL also). I avoid any of the religious nonsense and all soaps. When watching TV in the lounge my wife's choices usually prevail, so game shows and crime drama prevail. (Male / Older / Provincial / Working / No Children / Pacific Islander and British)*

*We only have Lightbox, Netflix, amazon and TVNZ on demand. I watch for a couple of hours every night. I like the Good Doctor, Bates Motel, documentaries, Criminal Minds. I don't like reality TV very much. (Female / Younger/ Rural / Working / With Children / NZ European)*

## 3.2 Broadcasting standards and the Broadcasting Standards Authority

Again, findings from this research replicated to a large extent, those in 2017:

- There was a residual awareness of the Broadcasting Standards Authority and their role or purpose across all groups.
- Common understanding was that the BSA was there to oversee and consider complaints about broadcast television content. Radio was not mentioned spontaneously.
- All participants had seen the advertisements inviting viewers to write to the BSA to make a complaint, though none had done so.

When participants were read the following description about the BSA, this mainly confirmed their existing knowledge and perceptions, though most participants were unaware their first recourse was to the broadcaster in question or that complaints about breaches of privacy and election programmes can be made directly to the BSA.

**Broadcasters in New Zealand have codes of practice and are responsible for maintaining standards in their programmes. The Broadcasting Standards Authority (BSA) is an independent government agency that oversees New Zealand's broadcasting standards and provides the public with a free, independent complaints service. The way the complaints process works is that generally a person must complain to the broadcaster first, and then if they are not happy with the broadcaster's decision, they can have it reviewed by the BSA. The exceptions are privacy complaints and complaints about election programmes, which can be made directly to the BSA.**

Common misconceptions were that the BSA censors content or worked with the Censor to do so and that they are the first point of contact for all complaints.

However, participants were generally not that interested in the detail; suffice for most to know that the BSA existed and that there was a body overseeing standards in broadcasting. The BSA is viewed as a relevant and necessary organisation, though with an increasingly difficult job, given the wide and increasing range of media options the NZ public has access to.

### 3.2.1 The Fairness Standard (and Freedom of Expression)

An important consideration when examining participants' responses to the BSA decisions, was ensuring they had sufficient background knowledge and information about the Fairness Standard and that they understood that freedom of expression, public interest and harm are important considerations when the BSA is considering a fairness complaint.

Participants were told that "Broadcasting standards cover several different issues concerning what we watch on TV and listen to on the radio. During this panel / focus group, we will be covering just one of those standards – Fairness. The Fairness Standard says that 'Broadcasters should deal fairly with any person or organisation taking part or referred to in any broadcast.'"

In the focus groups, participants were asked what the word 'fairness' means to them in a broad or everyday context. General understanding of fairness was that it meant:

- Treating people equally; having the same standards for everyone. Not being one-sided or favouring one person or thing over another.
- Being unbiased and non-discriminatory by race, religion, gender etc.
- Not giving the wrong impression of someone or something, including not building up false hopes and expectations.
- Giving everyone an equal opportunity to air their views or their side of the story.
- Being balanced; considering all circumstances.
- Acting and dealing in good faith.

*Something that is fair across the board to everybody. (New Plymouth, general public, older, male)*

*If you are saying fair you could determine that in races, you could determine that in anything. Is it fair for Maori and Pakeha? (New Plymouth, general public, older, female)*

*It is perception based as well. What one person might think is fair another person might not. Something that somebody might not like or agree with the other three people might disagree with that. [So, it could be a bit blurred?] I think so yes. (New Plymouth, general public, younger, male)*

*Favouring one thing over another maybe. (New Plymouth, general public, younger, female)*

*What is fair to me may not be fair to you. You are not discriminating against anyone. That is being fair. On racial grounds or religious grounds. (Auckland, general public, older male)*

*Giving both parties an equal go in terms of whatever the issue is. The opportunity. (Auckland, general public, older, male)*

*Equal rights. Same standard for everybody. (Auckland, general public, younger, male)*

*You treat everyone the same but in substance it is recognising that people start from different positions and advantage and treating them accordingly to give people a step up to meet the same. (Auckland, general public, younger, female)*

Participants were then asked to think about what 'fairness' meant in a broadcasting context. While there were some similarities and areas of overlap, there was a range of views expressed. Overall, 'fairness' in broadcasting was assumed to mean:

- Meeting the needs and representing the views and perspectives of all parties; including broadcasting a range of content and programmes.
- Balanced reporting and commentary; giving equal time to opposite parties and peoples, including a fair representation of people, culture, races and language e.g. Te Reo.
- No discrimination or hate speech, racism, sexism etc.
- Being transparent, including during the filming and recording process and differentiating between news and opinions.
- Not painting someone in a negative light.
- Giving people the right and opportunity to respond.
- Freedom of speech (within reason).
- Not forcing opinions on others.
- Keeping people informed.

A range of programmes so that there is a fair chance that everybody is going to like something on. That it is not just all one genre. **(New Plymouth, general public, older, female)**

I guess if you are talking about a specific person or incident putting across both sides of the story instead of being biased one way or the other. It is fair throughout the programme. **(New Plymouth, general public, older, male)**

If they are meeting the needs of the majority of their viewers. **(New Plymouth, general public, younger, female)**

Is it fair to broadcast a certain subject at a certain time? **(New Plymouth, general public, younger, male)**

Freedom of speech. Within reason. [Who judges what reason is?] I think it is a more of a democracy situation and what society determines. [It might be quite difficult to judge that?] If they have censorship warnings and stuff like that there should be some leniency or leeway. **(Auckland, general public, younger, male)**

Participants spontaneously raised the difficulties of defining what is fair in that they felt it was a subjective term. They also questioned the logistics or challenges to allow or encourage freedom of expression, while giving everyone equal chance to put across their point of view, without causing hurt or offence to anyone.

I was discussing this the other day like how in today's world everyone wants free speech but there is a fine line as to when that becomes forcing an opinion down someone's throat and then it is harassment. So, you should be able to express what you want to say but you shouldn't have the right to make someone adopt your own opinion. **(Auckland, general public younger, female)**

[So, what does that mean in practise?] I think that would be very hard to enforce. I think of a lot of things I have seen over the years on television that were not really fair. Probably mainly interviews on news programmes or documentaries like 60 Minutes or 20/20 when quite obviously the journalist is very biased and has invited the person on to the show and will just shut them down. That is not fair and then that person gets portrayed quite badly. But I have never been bothered enough about it that I have ever wanted to complain. There is a lot of times when fairness is not happening particularly in those types of programmes. **(Auckland, general public, older, female)**

It is very subjective, especially today where we are much more acutely aware of people's rights and responsibilities and discrimination and trying to get fairness. So, unless you are prescribing what that means further it is hazy at times. What does it mean – equal amount of time. Does it mean a commentator or journalist that is totally unbiased – that is not possible. It is a very slippery slope. **(Auckland, general public, older, female)**

Participants could recall broadcasting incidents where they felt someone had been treated unfairly, though none had been moved to make a complaint.

I have seen it on some New Zealand reality shows where they have people portrayed as characters. They can make them look quite bad. **(Auckland, general public, older, female)**

I thought that renters programme was really unfair. There are a lot of terrible renters out there but there is also a lot of terrible landlords and they never showed that. **(Auckland, general public, older, female)**

All participants were then given or sent an information sheet summarising the Fairness Standard and Guidelines and asked to familiarise themselves with these and to keep it to hand when answering the questions about the clips (Prompt One Appended).

When asked if the information contained anything new, surprising or unexpected, several participants commented that it did not and that the Fairness Standard aligned with what they would have thought or expected.

Just as I thought it would be. Seems fair to me. **(Female / Older / Provincial / Non-Working / No Children / NZ European)**

Even though I have never read it before it aligns with what I believed broadcasting standards should adhere too. **(Female / Younger / Rural / Working / With Children / NZ European)**

A few participants expressed how pleased they were to learn that the Fairness Standard existed and stressed how important it was that this (and other) standards encouraged broadcasters to air more balanced content.



*The information seemed most applicable to news, documentary, current affairs shows and with this in mind I couldn't help but think that with the amount of advocacy journalism that occurs with journalists, producers and even entire channels where they want to push their own agendas vs simply stating the facts and letting the viewer form their own opinions such standards are critical though to date in my opinion very poorly enforced or followed. (Male / Older / Rural / Non-Working / With children / NZ Māori)*

*I didn't think there was really that many rules around what could be broadcast. I think it's surprising as I feel some people are often railroaded into saying certain things especially in those morning current affairs type programmes. (Younger / Female / Urban / Non-Working / With Children / NZ Māori and NZ European)*

*After reading the Fairness Standard and looking at the diagram I wasn't too surprised as I had a general idea of the guidelines. However, I was very pleased to see the guideline that **edited excerpts should fairly reflect the tenor of overall events or views expressed**. Personally, I get upset when people or things are misrepresented, and this guideline is necessary for broadcasts. What was new to me was the specification of child viewers in the harm section of the diagram and the section of "undue offence or distress" as it is very hard to pre-emptively know that your content will cross the line of information to offence. I wonder if harm to child viewers is a fair rule as a lot of news stories are distressing but need to be shown or expressed. (Female / Younger / Rural / Working / No Children / NZ Māori)*

Other participants, while pleased that Broadcasting Standards existed, did not feel the Fairness Standard went far enough, or that Broadcasters were inclined to take much notice of it (or they interpreted it to their own advantage). They also questioned how effective the sanctions were and if these discouraged broadcasters from breaching the standard in future.

*It all looks quite reasonable. Perhaps, a clause could be added, requiring the media not to misrepresent issues by leaving out important information. It is an easy way to manipulate public opinion and practices a lot in countries like China and Russia, where inconvenient information is left out. (Male / Older / Rural / Working / With Children / NZ and other European)*

*I think that is very interesting. There is a lot that I didn't realize was allowed in taking liberties with privacy as far as broadcasting goes. If that is the extent of the rules regarding broadcasting fairness standards, then I can see that some broadcasters would play fast and loose with the definition and extent of "justified by the public interest". However, at the same time it does allow for events that truly are in the public interest to be broadcast without fear of breaking any rules, as long as the correct and careful precautions are put in place when doing so. (Male / Younger / Urban / Working / No Children / NZ European)*

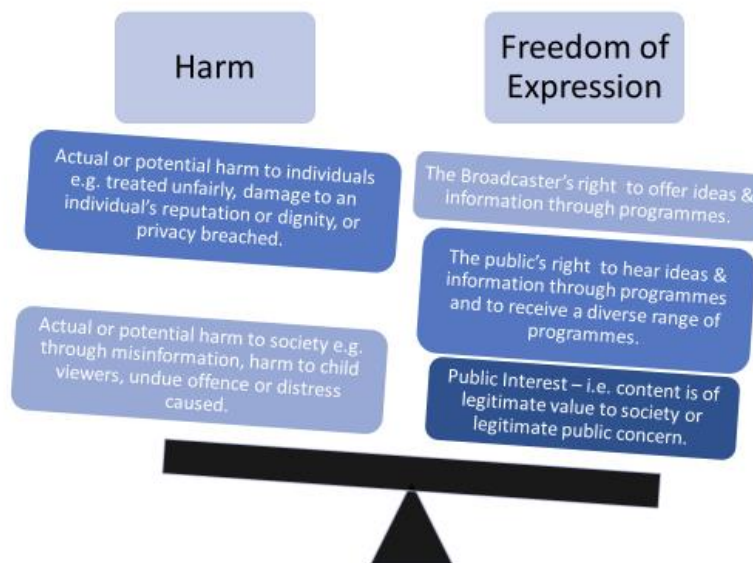
*With the "Shock Jock" tactics of many media broadcasters, I am now surprised having read the guidelines that there aren't more cases where a breach of the broadcasting standards case might be raised. Often, I feel its more for TV ratings than the public's best interest and often seems a damning and personal attack against individuals and attempt to discredit or politically influence. (Male / Older / Rural / Working / With Children / NZ European)*

### 3.2.2 Balancing Freedom of Expression and Harm

Participants were then told that ... *freedom of expression, public interest and harm are important considerations when the BSA is determining any complaint (including a fairness complaint). An important part of what the BSA does is balance the broadcaster's right to freedom of expression against any actual or potential harm that might be caused by a broadcast.* This was summarised visually in the following diagram and a copy given to each participant to read and refer to.



# Balancing Freedom of Expression and Harm



In general, participants understood the notion of a 'balancing act' and appreciated the complex task the BSA has balancing freedom of expression and harm at an overall level, overlaid with the guidelines for the Fairness Standard at a more specific level.

*I've heard about this before, so I wasn't too surprised. I do think it is a balancing act between what is and isn't okay to show because it's so subjective as to what is appropriate. (Female / Urban / Younger / Working / With Children / Other European)*

*Absolutely agree: it is a difficult balancing act for the broadcasting authorities. However, I do believe that, at the end of the day, the interest of the majority of viewers should prevail. As long as the information is presented in a professional and impartial manner, of course. There tends to be way too much 'sensation-seeking' and 'gossip-mongering' tendencies in NZ news channels of late (which is one of the reasons I'm seeking alternative news sources). (Female / Urban / Younger / Not Working / With Children / Other European)*

Several participants commented on the added complexity involved in interpreting some of the terms, for example, what is 'in the public interest' or of 'legitimate public concern' and wondered who decided on the parameters or what was meant by these. Participants felt that the 'rules' of freedom of expression differed according to who it was applied to. For example, while an artist can put out satirical pieces, a politician with the same viewpoint may be blocked during an election. They also wondered who decided who was in the right or wrong, and how, when countering Fairness with Freedom of Expression (or vice versa).

*I thought it was all pretty fair and common sense. I do wonder how you can decide what is deemed to be worthy of coming under the umbrella of public interest. As this is quite vague and leaves a lot down to interpretation. I was surprised how complex and detailed the standard was. It covered bits I hadn't really thought of. I was pleased the bit about not door-stepping people is in there. (Male / Younger / Provincial / Working / With Kids / NZ European)*

*I didn't realize there was so much to consider with freedom of speech and broadcasting. I think it's really important that we as a society do not stifle freedom of speech as a right of a free society just because what is said could be controversial. What is written didn't really surprise me, except how complicated it can be to be fair to everyone. (Younger / Female / Urban / Non-Working / With Children / NZ Māori and NZ European)*

*The first question is who decides what the level of public interest is. News outlets go for tabloid beat ups and use the 'public interest' argument when it is they who in the manner of how they report garnish public interest in the first place. These matters are decided in courts after the damage has been done. There are numerous instances where the media over step the bounds of fairness and due to the individuals' inability to challenge them, due to knowledge or financial*

*circumstances, nothing is done. A good standard to adhere to but utterly useless to protect the individual unless the individual has unlimited amounts of money to hire legal representation. (Male / Older / Provincial / Working / No Children / NZ European)*

However, while participants agreed that it was important to moderate extreme views, hate, discriminatory or biased speech etc., they did not want to be treated like children or to have freedom of expression silenced ....

*I don't not want to know; I want to make my own decisions. (Auckland, general public, younger, female)*

In summary participants agreed that balancing 'freedom of expression and harm' was a very fine line. Individuals and cultures have widely different views or standards as to what is acceptable, humorous or biased, which impacts on what is 'acceptable' within New Zealand's societal norms. Balancing these in decision making is challenging and complex for the BSA.

### 3.3 Response to BSA decisions

Participants were shown four clips and asked to record, individually, their responses to them before sharing them with the group.

Participants were then provided with a written summary of the BSA decision and asked to rate the decision on a scale of 1-5, considering the reasoning given by the BSA and the outcome – 1 being very poor and 5 being very good.

They were instructed to use the information about the Fairness Standard and Balancing Freedom of Expression and Harm to inform their decisions – and not just their own personal views or opinions. This generally worked well, though a few participants were unable to separate their own views or expectations of fairness and what penalties or sanctions they felt should be awarded to the broadcaster / complainant in their decision making.

The OOT followed a similar format.

The overall findings from the focus groups and OOT are recorded below. Breakdowns by group are included in the Appendix.

#### 3.3.1 The Block NZ: Villa Wars – BSA upheld the complaint

##### Key findings – Participants:

- Would have upheld the complaint.
- Felt the standard had been breached.
- Felt the BSA decision was very good/good.

##### ▪ The Clip

Rating	Verdict
Was the 'complainant' treated unfairly?	<ul style="list-style-type: none"><li>• 32 (58%) out of 55 participants felt the complainant had been treated unfairly, 17 (31%) did not think so and 6 (11%) were unsure.</li></ul>

##### Treated unfairly

*Yes. I agree that the tiler was treated unfairly. Unfortunately, steps that could have been taken by the broadcaster to ensure that the complainant's identity was kept private were not undertaken. (Female/ Provincial / Younger / Not Working / With Children / NZ Māori)*

*Absolutely, they were in breach of the contract, and they slagged him off without the opportunity for his comments. (Male / Older / Rural / Working / With Children / NZ European)*

*Yes. The clips failed to provide the tiler any opportunity to present the issues from his perspective, portrayed the tiler to be completely responsible for the issues and tried to buy into racial stereotypes with comments like "Temperamental European Tiler". These issues were then "heightened" with graphic overlays like AWOL etc. (Male / Older / Rural / Non-Working / With children / NZ Māori)*

## Was not treated unfairly

*I do not think the tiler was treated unfairly. He agreed to star on a show made for entertainment purposes. (Male / Younger / Provincial / Working / No Children / NZ European)*

*No, because he knew that he had been assigned to that particular job. He knew actually what was involved in the whole process. (Younger / Female / Provincial / Working / No Children / NZ European)*

*No, his request for full payment upfront was unreasonable, his request for anonymity on a reality TV show was unreasonable. I would presume he thought he had them (contestants) over a barrel and could demand full payment because money-bags TV would pay. (Male / Older / Provincial / Working / No Children / Pacific Islander and British)*

## Unsure

*I'm not sure, I think if he didn't want to be shown then those wishes should've been honored, but then he was being difficult by not being flexible with the payment and [not] coming in when he said he would. (Male / Younger / Provincial / Working / With Kids / NZ European)*

Rating	Verdict
Main concerns. (All participants)	<ul style="list-style-type: none"> <li>The commentary was one-sided, only portrayed the contestant's perspective and talked about the tiler behind his back.</li> <li>The tiler did not give his consent to be filmed or his telephone calls aired on TV; there was a breach of his privacy.</li> <li>The tiler was not given a fair opportunity to comment.</li> <li>The tiler was portrayed as dishonest; a thief.</li> <li>Contestants hinted at poor workmanship – “a few things need tidying up” – which left a negative impression of the tiler and had potential negative knock-on effects on his business.</li> </ul>
Parts of the clip which triggered the complaint about fairness (All participants)	<ul style="list-style-type: none"> <li>The tiler was referred to as 'AWOL' and a 'temperamental European' and as jeopardising the contestants' chances of success.</li> <li>There was poor communication and lack of clarity around contractual arrangements and agreements e.g. the payment regime.</li> </ul>
Thinking about freedom of expression, how valuable was this item? (Focus group participants)	<p><b>Low Value</b></p> <ul style="list-style-type: none"> <li>26 (out of 30) participants felt this item was low value, three high value and one medium value.</li> </ul>
Do you think the clip was in the public interest? (Focus group participants)	<p><b>No</b></p> <ul style="list-style-type: none"> <li>24 (out of 30) participants did not think this clip was in the public interest, five felt it was and one was unsure.</li> </ul>
Did the harm caused to the individual outweigh the right to freedom of expression? (Focus group participants)	<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>17 (out of 30) participants felt the harm caused to the individual outweighed the right to freedom of expression, 10 felt it did not and three were unsure.</li> </ul>
Would most people agree with you or are you different from most? (Focus group participants)	<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>17 (out of 31) participants felt most people would agree with them, four felt most people would disagree and nine were undecided.</li> </ul>

Would you have upheld or not upheld the complaint? (All participants)

#### Upheld/Breached

- 34 (out of 54) participants (63%) would have **upheld the complaint** if they had been the BSA.
- 19 (35%) would not have upheld it and one (2%) was unsure.

When asked why, in the BSA's shoes, they **would have upheld the complaint**, participants felt:

- The tiler's privacy had been breached e.g. his phone call was recorded and shown, as well as his face.
- He was portrayed in a bad light, as being dishonest and not fulfilling his contractual obligations.
- The programme did not give him a fair chance to reply and give his side of the story.
- He did not consent to appear on the programme.
- His personal and business reputation had, potentially, been damaged.

*Yes, I would have upheld the complaint. He was recorded on his phone unknowingly which is in breach of the standards and portrayed in a bad light. Although it is a tricky one as surely if you go on a reality TV show you're bound to end up on TV. (Female / Younger / Rural / Working / With Children / NZ European)*

*Yes - I would have upheld the complaint. From the supplied video clips, the show appears to have had minimal - nil interest in accuracy or fairness of reporting but rather generating compelling viewing despite any negative costs such an approach may have caused the tiler. (Male / Older / Rural / Non-Working / With children / NZ Māori)*

*Yes - I would have upheld the complaint - the standard was breached. Aside from tarnishing his reputation through potentially unfair editing, first and foremost he did not consent to being on the programme, yet he was still aired. (Female / Urban / Younger / Working / With Children / NZ European)*

*Yes, I would have upheld the complaint, once again assuming that [the tiler] made it clear that he did not want to be shown on the show, because I feel like he was depicted as the bad guy in the matter when he is just trying to run a business. More information would be required though. (Male / Younger / Urban / Working / No Children / NZ European)*

Those who **would not have upheld the complaint** felt:

- The tiler knew what he was getting himself in for and that it was unreasonable for him to expect his anonymity to be preserved working on a reality TV show.
- He acted unprofessionally.
- The matter was insignificant and would be quickly forgotten.

*No- Because he would have been informed, well before the broadcast of this show, everything would have been explained regarding the nature of the programme of what was involved. (Younger / Female / Provincial / Working / No Children / NZ European)*

*No, I would not have upheld the complaint. I would put into the category of an unfortunate side effect of reality TV. At the end of the day he knew he was involved in a TV show depicting the renovation of a building, which would due to the nature of the show require footage and audio of the people involved in the renovation. To say you agreed to take part in a TV show but didn't want your image etc. used simply doesn't add up. TV is by its nature an audio-visual medium. If you do not want to be portrayed - don't participate full stop. (Female / Older / Rural / Working / With Children / NZ European and NZ Māori)*

No, I don't think it was breached. He acted in an unprofessional manner, turn up to your job when you say you will... I understand the timelines we're changed but it's not right to abandon your job when you've committed to it and if it makes you look bad then you should've thought of that first. **(Female/ Urban / Younger/ Working / With Children / Other European)**

No, I would not uphold the complaint, as it is part of a TV programme and reality TV programmes soon get forgotten about. **(Female / Older / Rural / Non-Working / With Children / NZ European and NZ Māori)**

No, I don't think I would have upheld the complaint. There was a MINOR breach, but I feel it was a very insignificant and not serious enough to his reputation or personally damaging. I say this because we already have too much PC bullshit, and I think some people take life far too seriously. **(Older / Male / Rural / Working / With Children / NZ European)**

▪ The BSA Decision

Rating	Verdict
Rating BSA's decision on a scale of 1 to 5, where 1 means very poor and 5 means very good. (All participants)	<p><b>Very good/good decision</b></p> <ul style="list-style-type: none"> <li>94% of all participants (51 out of 54) agreed the BSA had made a very good, good or acceptable decision. (3+4+5)</li> <li>6% (3 participants) felt they had made a poor or very poor decision (1+2).</li> </ul>

Participants agreed this was a good decision, because the Fairness Standard was clearly breached on several issues, through primarily the tiler's lack of consent (and knowledge) to appear on the show, that the audience could have been left with a negative impression of him and critical comments aimed at the tiler (and his business).

Four - correct outcome, but did they not breach his privacy by putting him on the show in the first place, including a phone conversation on air he did not know was being recorded. Was he informed of this recording? I think he deserves compensation as I bet his business has suffered as a result of this rubbish airing. And \$1500... that is NOTHING for a breach... no wonder they breached for the TV ratings with that pathetic 'fine'. **(Younger / Female / Urban / Non-Working / With Children / NZ Maori and NZ European)**

Five - I am incredibly pleased that the BSA upheld the complaint and surprised, in all honesty. Sometimes it doesn't seem like things like this get taken very seriously in New Zealand, and this is a great example of legislation working how it should. **(Female / Urban / Younger / Working / With Children / NZ European)**

Five - I agree totally with the BSA views of how they came to their decision. As per my previous comments these shows are produced for drama and effect. The Block: Villa Wars has clearly done this by treating the complainant the way they did. **(Female / Older / Provincial / Working / With Children / NZ European and NZ Māori)**

Several participants agreed that the BSA made the right decision, but they felt the sanctions for broadcasters for breaching the standard were not tough enough.

I agree with the BSA's decision except for the penalties imposed onto [the broadcaster]. Because of the size of [the broadcaster], the amount of experience that they should have in this area the penalty should have been much more punitive (\$400,000+). Furthermore, the fact that the victim of their poor behaviour is unable to receive compensation for [the broadcaster]'s actions is grossly unfair and as a result justice has been unable to occur. **(Male / Older / Rural / Non-Working / With children / NZ Māori)**

I would rate it 3. Because I think the complainant should have been given an opportunity to explain in his own point of view. There was compensation paid to the Crown for privacy. But possibly they could have paid some compensation to

*the complainant for the work he had completed on the show. (Younger / Female / Provincial / Working / No Children / NZ European)*

*Five - I hadn't even considered some of the things they have brought up and they are all very fair points. Also, I think it is disgusting that he wasn't able to gain any compensation from this. (Male / Younger / Provincial / Working / With Kids / NZ European)*

Participants who did not think it was a good decision tended to be of the view that the tiler should take some responsibility for appearing on the show in the first place and that it was an insignificant matter.

*One - If you don't want to feature on reality TV, don't put your hand up to feature. It's as simple as that. It's obvious that some tradies love the TV time, but obviously this tiler didn't, so go to another site and work where there is no TV camera crew. (Female / Older / Rural / Non-Working / No Children / NZ European)*



### 3.3.2 Story item on Unconscious Bias – BSA upheld complaint

#### Key findings – Participants:

- Would have upheld the complaint.
- Felt the standard had been breached.
- Felt the BSA decision was very good/good.

#### ▪ The Clip

Rating	Verdict
Was the 'complainant' treated unfairly?	<ul style="list-style-type: none"> <li>• 38 out of 54 (70%) of participants felt the complainant had been treated unfairly, 12 (22%) did not think so and 4 (7%) were unsure.</li> </ul>

#### Treated unfairly

*Yes, it was unfair. I think by including and broadcasting the complainant's image without their knowledge left them open to possible judgement, which I feel has the potential to cause harm to an individual. (Female/ Provincial / Younger / Not Working / With Children / NZ Māori)*

*Yes - Their personal images were used in a commercial programme, without consent or payment and they were exploited and shown in an unfair light without the opportunity of comment. (Male / Older / Rural / Working / With Children / NZ European)*

*I did think the person was treated unfairly because without discussing bias with them the viewer is left to guess whether they are racist, sexist or biased against a religion. (Male / Older / Provincial / Working / No Children / NZ European)*

*These people were treated SO unfairly! They were singled out on TV based on the fact that they looked different. I don't think these people were properly informed of what the footage would be used for. (Younger / Male / Urban / Working / No Children / NZ European)*

#### Not treated unfairly

*I do not think anyone was treated unfairly. They were shown on TV, that is it. (Male / Younger / Urban / Working / No Children / NZ European)*

*NO, I don't think they were treated unfairly. I think if you can take offence so easily, I wonder how you can get along in life at all. (Older / Male / Rural / Working / With Children / NZ European)*



Rating	Verdict
Main concerns. (All participants)	<ul style="list-style-type: none"> <li>Zooming in on and freeze-framing unsuspecting people and airing this on television without their knowledge or consent.</li> </ul>
Parts of the clip which triggered the complaint about fairness. (All participants)	<ul style="list-style-type: none"> <li>Illicit recording/filming people in public without consent; people had no choice to participate (or not).</li> <li>Breach of privacy and confidentiality.</li> <li>Misrepresentation; being biased toward others or people being biased towards you is not a pleasant topic to be associated with.</li> </ul> <p><b>Note</b> – some interpreted the freeze-framed people as potentially being subject to bias (because of the way they looked), whereas others wondered if the clip was suggesting these people were biased.</p>
Thinking about freedom of expression, how valuable was this item? (Focus group participants)	<p><b>Low Value</b></p> <ul style="list-style-type: none"> <li>24 (out of 30) participants felt this item was low value, five high value and one medium value.</li> </ul>
Do you think the clip was in the public interest? (Focus group participants)	<p><b>No</b></p> <ul style="list-style-type: none"> <li>23 (out of 30) participants did not think this clip was in the public interest, four felt it was and three were unsure.</li> </ul>
Did the harm caused to the individual outweigh the right to freedom of expression? (Focus group participants)	<p><b>Split Response</b></p> <ul style="list-style-type: none"> <li>14 (out of 31) participants felt the harm caused to the individual outweighed the right to freedom of expression, 14 felt it did not and three were unsure.</li> </ul>
Would most people agree with you or are you different from most? (Focus group participants)	<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>23 (out of 31) participants felt most people would agree with them, two felt most people would disagree and six were unsure or thought there would be a mix of agreement and disagreement.</li> </ul>
Would you have upheld or not upheld the complaint? (All participants)	<p><b>Upheld/Breached</b></p> <ul style="list-style-type: none"> <li>39 (out of 55) participants (71%) would have <b>upheld the complaint</b> if they were the BSA.</li> <li>13 (24%) would not have upheld it and three (5%) were unsure.</li> </ul>

When asked why, in the BSA's shoes, they **would have upheld the complaint**, most participants felt the clip:

- Aired footage of people without their consent.
- Breached people's privacy.
- Associated people with a potentially unpleasant topic, either implying they were biased or that other people may be biased towards them.

*Yes - I would have upheld the complaint - the standard was breached. The non-interviewed had a reasonable expectation to be able to go about their daily business without being filmed and the manner of their footage was used by the production company was likely to cause distress. (Male / Older / Rural / Non-Working / With children / NZ Māori)*

*Yes, I would have upheld the complaint. Due to the controversial subject matter and by including the individual in the segment without their permission or comment on the subject, I feel it was unfair. (Female/ Provincial / Younger / Not Working / With Children / NZ Māori)*

*Upheld. To use a person's image when discussing a negative perception (racist, sexist or biased against a religion) without their permission or input is unfair and potentially highly prejudicial to them. It unfairly labels them with the person having a chance to clarify their beliefs or acknowledged bias. (Male / Older / Provincial / Working / No Children / NZ European)*

*Upheld as consent needed to be gained and they needed to be adequately informed of the level of participation. (Male / Younger / Provincial / Working / With Kids / NZ European)*

*Upheld. Yes, because the voiceover kind of put the words into the frozen images person's mouth. (Female / Older / Rural / Not Working / No Children / NZ European)*

Those who **would not have upheld the complaint** did not, personally, have any issue with the footage and/or felt it was fleeting and should not cause offence.

*I would not have upheld it. I just don't see that there was any issue with the footage shown. (Male / Younger / Urban / Working / No Children / NZ European)*

*No, I would not have upheld the complaint. And I'm probably wrong again :-) It's my bias against everything politically correct. Honestly if you can get offence from that. (Female / Older / Provincial / Working / With Children / NZ European and NZ Māori)*

## The BSA Decision

Rating	Verdict
Rating BSA's decision on a scale of 1 to 5, where 1 means very poor and 5 means very good  (All participants)	<b>Very good/good decision</b> <ul style="list-style-type: none"> <li>91% of all participants (51 out of 56) agreed the BSA had made a very good, good or acceptable decision. (3+4+5)</li> <li>7% (4 out of 56) felt the BSA had made a poor decision (1+2) and one person (2%) was unsure.</li> </ul>

Participants who agreed the BSA had made a good/very good decision, cited lack of prior consent, that the individuals were not adequately informed, they were given no opportunity to comment and the subject may have left the audience with a negative impression of the individuals i.e. either biased toward them or assuming they were biased.

*Five - I think they made the right call in this situation. They should have shown each individual the footage of them before they put it on TV and asked for their permission to use it. (Female / Younger / Rural / Working / With Children / NZ European)*

*Five. The judgement sounds totally fair. It all hinges on how much the person involved was told about the item, and how they were going to be depicted. (Male / Older / Rural / Working / With Children / NZ and other European)*

*Five - Correct decision as the words were put into the frozen person's mouth without them actually having a say one way or the other. (Female / Older / Rural / Not Working / No Children / NZ European)*

As for The Block NZ: Villa Wars, several participants agreed that the BSA made the right decision but felt the sanctions for broadcasters for breaching the standard were not tough enough.

*I believe the BSA's decision was correct however there should have been punitive damages and compensation awarded to the complainant as the result of their decision provides zero incentive for the production company to modify their behaviour and the victim simply gets an impression of justice. Overall decision, a one. (Male / Older / Rural / Not Working / With children / NZ Māori)*

*Three - Good that complaint upheld and no issue with no broadcast statement but feel some kind of penalty should be imposed. Even a small fine would reinforce the standard must be adhered to. (Female / Older / Rural / Working / With Children / NZ European and NZ Māori)*

*Three - Good on them for upholding her complaint. But also, a bit cowardly in that they didn't stand up further to the broadcasters. Just because they're a popular news segment doesn't mean they should be above the law. If they don't get penalized for doing such things what's to stop them doing it again? (Younger / Male / Urban / Working / No Children / NZ European)*

The small minority of participants who felt it was a poor decision commented on the insignificant nature of the issue and that the decision included no sanctions on the broadcaster or apology or recompense to the complainant.

*One - So, So, SO minor. Surely, we have more important things in this country to worry about. (Older / Male / Rural / Working / With Children / NZ European)*

*I would rate it one, being very poor. The complainant was unaware that she would be featured in the item. Didn't give her any opportunity to express her concerns, which outweighed her right to free expression. The broadcaster should have provided the complainant some form of reimbursement or apology for what had happened. (Younger / Female / Provincial / Working / No Children / NZ European)*

### 3.3.3 Newshub item about Winston Peters – BSA did not uphold the complaint

#### Key findings – Participants:

- Were split in terms of whether they felt Winston Peters had been treated unfairly. Nevertheless, they:
- Felt the clip complied with the standard.
- Felt the BSA decision was very good/good.

#### ▪ The Clip

Rating	Verdict
Was the 'complainant' treated unfairly?	<b>Mixed views</b> <ul style="list-style-type: none"> <li>• 26 out of 54 (48%) participants felt the complainant had been treated unfairly, 29 (54%) did not think so.</li> </ul>

#### Treated unfairly

*Of course! The information should have been private in the first place and he was completely disrespected, stalked and put out of context. (Female / Younger / Rural / Working / No Children / NZ Māori)*

*Yes, I do, he accepted the mistake, paid back the money and that should have been the end of it. He was harassed by the journalists, but that appears to be a journalist's job!! (Female / Older / Rural / Nonworking / No Children / NZ European)*

*Yes, he was treated unfairly. I also think the viewing public were treated unfairly given the bias and the inferences made before being advised that MSD did not think he had deliberately defrauded the Department. This was during an election campaign and it is important that the media are careful in the manner they report matters given that it may influence the way people would vote. Politicians are held to account and there is a right for the public to know that an overpayment had been made but the manner and bias of this reporting was not fair nor was it balanced. Not a Peters supporter so no bias in my view. (Male / Older / Provincial / Working / No Children / NZ European)*

*Yes, he was essentially bullied... I know he's a politician and should expect it to come with the job but don't keep harping on about it - he admitted to the mistake, fixed it, paid it back, move on. (Female / Urban / Younger/ Working / With Children / Other European)*

#### Not treated unfairly

*I do not think so. Although I think he's generally a good guy, I also think that he knows what to expect when anything happens that the news could run with, and he has to accept that and fight off the reporters while knowing it will all be shown on TV later on. Whether it was a mistake or not, he's a politician and is aware of the media and its ways. (Male / Younger / Urban / Working / No Children / NZ European)*

*No, I honestly do not. His own arrogance, rudeness and obvious hypocrisy did more damage than any potentially unfair or skewed portrayal anyway. (Female / Urban / Younger / Not Working / With Children / Other European)*

No, he got plenty of opportunities to say his piece. He never gives straight answers in interviews - always says exactly what he wants to say. (Male / Older / Rural / Working / With Children / NZ and other European)

Considering he is an experienced politician and there was clearly public interest in the story, I think he was treated fairly. (Male / Younger / Provincial / Working / No Children / NZ European)

Rating	Verdict
Main concerns. (All participants)	<ul style="list-style-type: none"> <li>• Inferring WP is dishonest, a cheat and lacking credibility; criminalisation of WP.</li> <li>• Talking about WP behind his back when he did not have the right to reply.</li> <li>• WP chased, badgered and hassled by the media.</li> </ul>
Parts of the clip which triggered the complaint about fairness. (All participants)	<ul style="list-style-type: none"> <li>• Constant and repetitive questioning e.g. how much was involved.</li> <li>• Using old and selective clips to support the story.</li> <li>• Releasing private and politically sensitive information at a key time during the election; political bias against WP.</li> <li>• A private issue which was remedied quickly.</li> </ul>
Thinking about freedom of expression, how valuable was this item? (Focus group participants)	<p><b>High Value</b></p> <ul style="list-style-type: none"> <li>• 18 (out of 31) participants felt this item was high value, 10 low value and three medium value or unsure.</li> </ul>
Do you think the clip was in the public interest? (Focus group participants)	<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>• 23 (out of 31) participants thought this clip was in the public interest, eight felt it was not.</li> </ul>
Did the harm caused to the individual outweigh the right to freedom of expression? (Focus group participants)	<p><b>No</b></p> <ul style="list-style-type: none"> <li>• 17 (out of 31) participants did not feel the harm caused to the individual outweighed the right to freedom of expression, 12 felt it did and one was unsure.</li> </ul>
Would most people agree with you or are you different from most? (Focus group participants)	<p><b>Yes – agree with me</b></p> <ul style="list-style-type: none"> <li>• 18 (out of 30) participants felt most people would agree with them, four felt most people would disagree and eight were unsure or thought there would be a mix of agreement and disagreement.</li> </ul>
Would you have upheld or not upheld the complaint? (All participants)	<p><b>No</b></p> <ul style="list-style-type: none"> <li>• 33 (out of 54) participants (61%) would <b>not have upheld the complaint</b> if they were the BSA.</li> <li>• 20 (37%) would have upheld it and one (2%) was unsure.</li> </ul>

When asked why, in the BSA's shoes, they **would have upheld the complaint**, participants felt that, despite Mr Peters being a politician and subject to different considerations than the general public, the clip inferred that he was dishonest and a liar. Participants felt it was a private matter and disliked how he was harassed by the media and not given the right to reply.

I definitely would have upheld this complaint - even if it wasn't from Peters himself it still affects his career and was heavily edited. I think that the news shows acted harshly and rudely towards Peters. (Female / Younger / Rural / Working / No Children / NZ Māori)

Yes- I would have upheld the complaint- the standard was breached. Why? Because this caused potential harm to Mr. Peters. As an individual he has the right to be treated with respect. He couldn't fully express his concerns over this matter

with the press making up their own mind with what had happened. **(Younger / Female / Provincial / Working / No Children / NZ European)**

Upheld. Clear harassment and violation of privacy. Peters clearly was not comfortable with being filmed, much less shown on TV. **(Younger / Male / Urban / Working / No Children / NZ European)**

Those who **would not have upheld the complaint** felt Mr Peters as a public figure should expect and be used to public scrutiny and that his reputation and political aspirations were not unduly affected by the clip.

Not upheld. Public person should be expected to be scrutinized by the media. The public deserve to know how honest, or not, they are. **(Female / Urban / Younger / Not Working / With Children / Other European)**

No. Mr. Peters comes out of it exactly the way he always operates. Nothing new there. **(Male / Older / Rural / Working / With Children / NZ and other European)**

No - I can't see any real breach of the fairness act. If it was someone who wasn't a public figure, there was no public interest and it was a person who had no experience with media I would probably sway the other way. **(Male / Younger / Provincial / Working / With Kids / NZ European)**

## ▪ The BSA Decision

Rating	Verdict
Rating BSA's decision on a scale of 1 to 5, where 1 means very poor and 5 means very good. (All participants)	<b>Very good/good decision</b> <ul style="list-style-type: none"><li>81% of all participants (44 out of 54) agreed the BSA had made a very good, good or acceptable decision. (3+4+5)</li><li>19% (10 out of 54) agreed the BSA had made a very poor or a poor decision. (1+2)</li></ul>

Participants who agreed the BSA's **decision was good or very good** felt the information was in the public interest and that Winston Peters' status as a public figure, used to dealing with the media, meant he should expect to be treated like this, especially given his past interactions with the media.

Five - Agree with the BSA's decision 100%. All of the explanatory points given by the BSA I agree with. **(Female / Urban / Younger / Not Working / With Children / Other European)**

Five - Peters is a public figure and this story was of interest to the public. **(Male / Younger / Provincial / Working / No Children / NZ European)**

Five - I totally agree, it's in the best interests of the public they divulged that information. **(Male / Older / Rural / Working / With Children / NZ and other European)**

Five - There was nothing there that Winston Peters couldn't have expected, especially on election year. **(Male / Younger / Urban / Working / No Children / NZ European)**

Other participants, while agreeing the BSA's decision was correct, felt it was more an acceptable than a good one, mainly because they felt some sympathy for Winston Peters, whose personal and political reputation could have been damaged by the clip.

*I suppose a three - I still believe that the news shows heavily edited the interview to the point that even if he did make comment it could have been cut out. Also, he was clearly door stepped but being a politician, I guess he could have expected scrutiny for tiny mistakes. (Female / Younger / Rural / Working / No Children / NZ Māori)*

*I would rate three. BSA's Decision was right in some ways but the authority didn't take any responsibility that this could indeed harm Mr. Peters' Career. This then created **negative impression** of the individual. Which in turn mentioned about Mr. Peters' personal life which is no one else's concern. So, in this case broadcaster should have shown discretion and sensitivity in this matter. (Younger / Female / Provincial / Working / No Children / NZ European)*

**Those who rated the BSA's decision poor or very poor felt that, regardless of the fact Winston Peters is a public figure, he – and all New Zealanders – deserved the right to privacy, respect and fairness.**

*One - and I was right! "The threshold for finding unfairness in relation to public figures, such as politicians, is higher than, for example, a member of the public who is not familiar with dealing with media" - I really don't understand this. Sure, politicians have had media training and are more able to express themselves concisely on camera etc. but they're still humans. They still have a right to privacy, to decency and just being a politician (in an election year) should not come with the requisites that you have to put up with your name being slurred left, right and centre. I do not see how this was a matter of public interest at all. (Female / Urban / Younger / Working / With Children / NZ European)*

*One - Regardless of the politics involved, anyone should have the right to fairness. Where are the media when the Joe or Josephine Bloggs in our society KNOWINGLY accept welfare benefits (for example), by claiming a solo parent benefit when they are in a relationship, ACC payments when they would be able to work. (Female / Older / Provincial / Working / With Children / NZ European and NZ Māori)*

*One - Once again I've not picked it right. I get it being an election year and Peters being a politician but all the innuendo in the reporting wasn't fair. If this had been a politician from the National Party, it wouldn't have made the news. What flabbergasts me is the previous two being upheld AND it's OK to basically call someone dishonest and a crook, even when it's so obvious this story was withheld till election time. I just guess fairness depends on who you are in this country. (Older / Male / Rural / Working / With Children / NZ European)*



### 3.3.4 Seven Sharp item about ‘herb detectives’ – BSA upheld the complaint

#### Key findings – Participants:

- Would have upheld the complaint.
- Felt the standard had been breached.
- Felt the BSA decision was very good/good.

#### ▪ The Clip

Rating	Verdict
Was the ‘complainant’ treated unfairly?	<b>Yes</b> <ul style="list-style-type: none"> <li>• 49 out of 54 (91%) participants felt the complainant had been treated unfairly. Five (9%) did not think so.</li> </ul>

#### Treated unfairly

*Yes. By the show’s own later correction, she had no association with the investigative story however by inferring it was made to appear that she was. (Male / Older / Rural / Non-Working / With children / NZ Maori)*

*Definitely: she should not have been implicated without any credible evidence (other than obvious racist stereotyping) and she was exploited without being able to defend herself. (Female / Urban / Younger / Not Working / With Children / Other European)*

*I think the woman was treated unfairly. Not one bit of evidence linking her to the man who was photographed apart from the fact they are both Asian. (Male / Older / Provincial / Working / No Children / NZ European)*

*Yes definitely. She is there minding her own business, selling her mint and automatically it is portrayed that she is selling stolen mint because "it looks the same as my mint". Doesn't all mint look the same? (Female / Older / Rural / Nonworking / No Children / NZ European)*

*Yes - all but stating she was in cahoots with the actual thief, no form of rebuttal provided to her and this done after she stated her English was not good so could not be expected to pick up on the gist of the item. (Male / Older / Provincial / Working / No Children / Pacific Islander and British)*

#### Not treated unfairly

*No, I don't think the woman was being treated unfairly, but being filmed without permission would be the only niggle I would have over the whole clip. (Female / Older / Rural / Non-Working / With Children / NZ European and NZ Māori)*

*No, the lead up was all about an Asian man, however, a woman was shown on the clip. (Female / Older / General Public / Auckland)*

*No, the culprit was caught on camera and they didn’t show his face. (Female / Older / General Public / Auckland)*



Rating	Verdict
Main concerns. (All participants)	<ul style="list-style-type: none"> <li>• Inferring / implying the Chinese lady was a herb thief; innocent person accused on TV.</li> <li>• Chinese lady did not give consent to appear on TV.</li> <li>• A one-sided story; the Chinese lady did not speak English, so was unable to understand what was going on or reply in her defence.</li> <li>• Picking on someone with no media experience.</li> <li>• Racial bias and stereotyping; suggesting all Asian cultures are thieves.</li> <li>• Forcing the connection between the thief and the Chinese lady; 'Asian gentleman' / looks like my mint.</li> </ul>
Parts of the clip which triggered the complaint about fairness. (All participants)	
Thinking about freedom of expression, how valuable was this item? (Focus group participants)	<b>Low Value</b> <ul style="list-style-type: none"> <li>• All participants (32) felt this clip was low value.</li> </ul>
Do you think the clip was in the public interest? (Focus group participants)	<b>No</b> <ul style="list-style-type: none"> <li>• 24 (out of 32) participants did not think this clip was in the public interest, seven felt it was and one was unsure.</li> </ul>
Did the harm caused to the individual outweigh the right to freedom of expression? (Focus group participants)	<b>Yes</b> <ul style="list-style-type: none"> <li>• 26 (out of 31) participants felt the harm caused to the individual outweighed the right to freedom of expression, four felt it did not and one was unsure.</li> </ul>
Would most people agree with you or are you different from most? (Focus group participants)	<b>Yes – agree with me</b> <ul style="list-style-type: none"> <li>• 26 (out of 31) participants felt most people would agree with them, one felt most people would disagree and four were unsure or thought there would be a mix of agreement and disagreement.</li> </ul>
Would you have upheld or not upheld the complaint? (All participants)	<b>Yes</b> <ul style="list-style-type: none"> <li>• 53 (out of 54) participants (98%) would <b>have upheld the complaint</b> if they were the BSA.</li> <li>• One participant would not have upheld it.</li> </ul>

When asked why, in the BSA's shoes, they **would have upheld the complaint**, most participants felt the clip was racist, inferred the Chinese lady was a thief and, as the lady did not speak English, she could neither understand the tone/nature of the item nor reply in her defence.

*I think I would have upheld the complaint as one would assume that she is part of the thief taking of herbs, and maybe she wasn't, and it was from her own herb garden. (Female / Older / Rural / Non-Working / With Children / NZ European and NZ Māori)*

*Upheld - How dare the broadcasters speak to her, which automatically makes the viewer think she is in the wrong. Poor lady. (Female / Older / Rural / Not Working / No Children / NZ European)*

*Yes - I would have upheld the complaint - the standard was breached because they were implying that the Chinese woman was selling stolen herbs. I felt the woman should not have been exploited, humiliated or unfairly identified. (Younger / Female / Provincial / Working / No Children / NZ European)*

*Yes - The story implied she has was selling the stolen herbs. She was not given a fair chance to respond and it seems as if she wasn't informed of her participation or that consent was gained. (Male / Younger / General Public / Auckland)*

▪ The BSA Decision

Rating	Verdict
Rating BSA's decision on a scale of 1 to 5, where 1 means very poor and 5 means very good. (All participants)	<p><b>Very good/good decision</b></p> <ul style="list-style-type: none"> <li>93% of all participants (51 out of 55) agreed the BSA had made a very good, good or acceptable decision. (3+4+5)</li> <li>5% (3 out of 54) agreed the BSA had made a very poor or a poor decision (1+2) and one participant didn't know.</li> </ul>

Participants felt the BSA had made a **good/very good decision** because:

- The audience may have been left with an unfair impression of the lady i.e. potentially a thief.
- She was not informed of the nature of her participation.
- She was not given the opportunity (nor able) to comment and consent was not obtained.
- Also, her reputation may have been sullied at the marketplace and in the wider community.

*Five - definitely the right decision. The poor lady was obviously in the wrong place at the wrong time. She is innocent, and Seven Sharp are totally in the wrong. Go BSA!!!! (Female / Older / Rural / Nonworking / No Children / NZ European)*

*Very good. (5) as it was showing and assuming that the woman was part of the thieving and maybe she wasn't. (Female / Older / Rural / Non-Working / With Children / NZ European and NZ Māori)*

*Five - very good decision. I agree that the apology was not enough to remedy the breach and am glad that the complaint didn't get overturned. I'm glad that the BSA had the same views that the woman couldn't properly stand up for herself. I feel sorry for the poor woman; her dignity was tarnished unfairly. (Female / Younger / Rural / Working / No Children / NZ Māori)*

*Five - Apology was in a language complainant could understand and was comprehensive. (Female / Older / Provincial / Not Working / No Children / NZ European)*

As with previous clips, several participants agreed that the BSA made the right decision but felt the sanctions for broadcasters for breaching the standard were not tough enough and that the Chinese lady should have been compensated in some way.

*Three - Acceptable, I feel sad for this woman, I hope they go and buy all her herbs each week for being mean! (Younger / Female / Urban / Non-Working / With Children / NZ Māori and NZ European)*

*Three - Although the apology came late there was no financial penalty imposed on the broadcaster. It is only when such actions start costing broadcasters money that they would take seriously their obligation to treat people fairly. The clips I have seen over the last 3 days are part of the reason I will not watch the infotainment dressed up as news on [TV]. (Male / Older / Provincial / Working / No Children / NZ European)*

A few participants rated the BSA decision as poor/very poor; not because they did not think the Fairness Standard had been breached, but because they were upset at what they viewed as the BSA's weak response to the breach.

*Two - The reporters and the directors should be forced to apologize to the lady. Separately they all participated in the false accusation and all benefited from it (wages / salary or acclaim / local fame). (Male / Older / Provincial / Working / No Children / Pacific Islander and British)*

*Two - correct decision but penalty was far too light. (Female / Older / Rural / Working / With Children / NZ European and NZ Māori)*

### 3.3.5 Is the BSA making the right decisions?

When participants were asked if they felt the BSA was generally making the right decisions, the consensus across nearly all participants was 'yes they are'.

*Generally, I think the decisions are good ones. While I disagree with the Peters decision the other decisions do provide a good explanation of the issue of fairness and do provide a moral victory for the complainant. (Male / Older / Provincial / Working / No Children / NZ European)*

*Yes, I feel confident that the BSA are indeed making the correct decisions when it comes to the issues of fairness. (Female / Provincial / Younger / Not Working / With Children / NZ Māori)*

*Yes, I definitely think the BSA is doing an excellent job. (Female / Older / Provincial / Not Working / No Children / NZ European)*

*Based on these stories, it certainly does, as all decisions seem balanced and fair to both sides of the dispute. (Male / Older / Rural / Working / With Children / NZ and other European)*

*I think the BSA generally makes the right decision to the point where I trust them. From the examples provided I believe that they are handling things well, with the slight exception of politicians not having quite the same rights as regular citizens. That aside I think they are doing well. (Female / Younger / Rural / Working / No Children / NZ Māori)*

*Yes, I think in all instances I agreed with the ruling. They are making the right decisions on the issue of fairness. (Male / Older / Rural / Working / With Children / NZ European)*

The findings in this survey suggest that the BSA's decision making generally aligns with the Fairness Standard and the New Zealand public's expectations (once they are provided with the relevant facts and information). However, there was some suggestion that there are wider issues to consider than whether the BSA's decisions are correct. Specifically, some participants were of the view that, while the decisions were right based on the Fairness Standard the BSA is working with, the standard itself might need to be reassessed going forward.

*Based on these examples yes, I do feel that they are making the correct judgements, however, seem to be extremely restricted by law around the penalties that they can impose which is creating a situation where justice is unable to be properly served. (Male / Older / Rural / Non-Working / With children / NZ Māori)*

*I do; however, I feel that in all of these the penalties have been extremely light. That does not incentivize in my view an improvement of standards as an apology is free. If they wish to ensure that the quality of broadcasting I am able to access as a kiwi is strong then, they need to issue harsher penalties to insure quality from the outset instead of being an ambulance at the bottom of the cliff when things go wrong, with the simple purpose of asking people to apologise. As a kiwi I expect more from my broadcasters and their regulatory body. (Male / Urban / Younger / Working / With Children / NZ and Other European)*

In this context, the issue of adequate sanctions or penalties was also raised. Participants viewed the penalties enforced as far too light, without legs and unlikely to deter the broadcasters from breaking the Fairness or other Standards, in the future. Some participants wanted financial compensation to the complainants themselves (noting, however, that the BSA does not currently have the power under the Broadcasting Act 1989 to award compensation for fairness breaches) and, if this was not possible, sincere apologies.

*Yes, decisions seem good, in fact I have agreed with them all. But as per my last comment there is absolutely no teeth behind the decisions. (Male / Younger / Provincial / Working / With Kids / NZ European)*

*They make decisions which I would agree with, however I think stronger punishments for infringements are required. (Younger / Female / Urban / Not Working / With Children / NZ Māori and NZ European)*

*Generally, correct but perhaps a review of the penalties being dished out would be a good idea. Some of the remedies seem far too light to actually encourage a change in broadcaster behaviour. (Female / Older / Rural / Working / With Children / NZ European and NZ Māori)*

*Yes - getting it right as far as I can see they are adhering to the guidelines so cannot fault their decisions. I think there is scope for any involved with a piece to have to make amends, (apology written/oral), not necessary to show it maybe just note that they have done it. The presenters by their nature are rather glib and can seem to trivialize the retraction, if it was added that so and so involved have made separate apologies, seems that may show "genuine" remorse (personal theory - guilty are only sorry when caught). (Male / Older / Provincial / Working / No Children / Pacific Islander and British)*

*However, the consequences for the breaches are clearly too light. The penalties imposed, if they are at all, are not punitive and the decision alone is not enough of a deterrence to the broadcasters. A decision alone does nothing to modify behaviour. The only way the broadcasters and journalists would act more responsibly is if there is a significant financial penalty if they report in an unfair or unbalanced manner. (Male / Older / Provincial / Working / No Children / NZ European)*

Several participants felt the BSA was making the right decisions in terms of adhering to the letter of the law but did always make the right decisions 'ethically' or based on common sense. This view was primarily in response to the Winston Peters' clip, whereby some participants were upset by the way a senior politician was treated by New Zealand media. And, by a couple of participants who felt some of the clips were so trivial, they should not have been subject to a complaint.

*They probably do but I don't think some of the reasons for making a complaint are really justified. I kind of think people should just move on and not worry too much. I was expecting there to be really poor examples of behaviour whereas these examples felt very much in a grey area. (Female/ Urban / Younger/ Working / With Children / Other European)*

*I also am curious how the broadcasters are reprimanded for being unfair. What do they have to do to rectify the situation? How do they stop them from being unfair in the future? (Female/ Urban / Younger/ Working / With Children / Other European)*

*Well seeing as I only got ONE right, NO, I think they made over the top decisions in the first two cases. PC comes to mind. Then they let [one broadcaster] do a politically biased beat up of Winston Peters and that's ok. The last one, herb thief was a good example of the BSA showing common sense. Don't know about the rest though. (Female / Older / Provincial / Working / With Children / NZ European and NZ Māori)*

# Appendix

## 4.1 Detailed findings by group

### ■ The Block NZ: Villa Wars

Question / Participants	Younger - Auckland	Older - Auckland	Younger - New Plymouth	Older - New Plymouth	Online Overtime Focus Group	Overall
<b>Complainant treated unfairly</b>	Yes – 4 No – 4	Yes 3 No – 2 DK – 3	Yes – 6 No – 2	Yes – 3 No – 3 DK – 1	Yes – 16 No – 6 DK – 2	Yes – 32 (58%) No – 17 (31%) DK – 6 (11%)
<b>Thinking about freedom expression, how valuable was this item?</b>	High – 0 Low – 8	High – 2 Low – 6	High – 1 Low – 6	High – 0 Medium – 1 Low – 6	NA	High – 3 Low – 26 Medium – 1
<b>Do you think the clip was in the public interest?</b>	Yes – 1 No – 7	Yes – 2 No – 5 Maybe – 1	Yes – 2 No – 5	Yes – 0 No – 7	NA	Yes – 5 No – 24 Maybe – 1
<b>Do you think the harm caused to the individual outweighed the right to freedom of expression?</b>	Yes – 5 No – 2 Unsure – 1	Yes – 4 No – 3 Unsure – 1	Yes – 3 No – 4	Yes – 5 No – 1 Unsure – 1	NA	Yes – 17 No – 10 Unsure – 3
<b>Do you think most people would agree with you?</b>	Agree – 7 Disagree – 1	Agree – 4 Unsure/Mix – 4	Agree – 3 Disagree – 1 Unsure/Mix – 3	Agree – 3 Disagree – 2 Unsure/Mix – 2	NA	Agree – 17 Disagree – 4 Unsure/Mix - 9

**The Block: Villa Wars**

**Overall - Most would have upheld the complaint**

<p><b>Younger Auckland</b></p> <p>Yes – 7</p> <p>No – 1</p>	<p><b>Older Auckland</b></p> <p>Yes – 6</p> <p>No – 1</p> <p>Unsure – 1</p>	<p><b>Overall (n=54)</b></p> <p><b>Yes – 34 (63%)</b></p> <p><b>No – 19 (35%)</b></p> <p><b>Don't Know – 1 (2%)</b></p>
<p><b>Younger New Plymouth</b></p> <p>Yes – 4</p> <p>No – 3</p>	<p><b>Older New Plymouth</b></p> <p>Yes – 2</p> <p>No – 5</p>	
<p><b>Online Focus Group</b></p> <p>Yes – 15</p> <p>No – 9</p>		

**The Block: Villa Wars**

**Overall - Strong majority agreed the BSA decision was a good / very good one**

<p><b>Younger Auckland</b> Good/Very Good – 8</p>	<p><b>Older Auckland</b> Good/Very Good – 6 Acceptable – 2</p>	<p><b>Overall (n=54)</b> <b>Good/Very Good – 38 (70%)</b> <b>Acceptable – 13 (24%)</b> <b>Poor – 3 (6%)</b></p>
<p><b>Younger New Plymouth</b> Good/Very Good – 5 Acceptable – 2</p>	<p><b>Older New Plymouth</b> Good/Very Good – 5 Acceptable – 1 Poor/Very Poor – 1</p>	
<p><b>Online Focus Group</b> Good/Very Good – 14 Acceptable – 8 Poor/Very Poor – 2</p>		

■ Story item about unconscious bias

Question / Participants	Younger - Auckland	Older - Auckland	Younger - New Plymouth	Older - New Plymouth	Online Overtime Focus Group	Overall
<b>Complainant treated unfairly</b>	Yes – 6 No – 2	Yes – 5 No – 1 Unsure – 2	Yes – 5 No – 1 Unsure – 1	Yes – 2 No – 5	Yes – 20 No – 3 Unsure – 1	Yes – 38 (70%) No – 12 (22%) Unsure – 4 (7%)
<b>Thinking about freedom expression, how valuable was this item?</b>	High – 1 Medium – 1 Low – 6	High – 0 Low – 8	High – 1 Low – 6	High – 3 Low – 4	NA	High – 5 Low – 24 Medium – 1
<b>Do you think the clip was in the public interest?</b>	Yes – 2 No – 6	Yes – 0 No – 6 Maybe – 2	Yes – 1 No – 6	Yes – 1 No – 5 Maybe – 1	NA	Yes – 4 No – 23 Maybe – 3
<b>Do you think the harm caused to the individual outweighed the right to freedom of expression?</b>	Yes – 4 No – 4	Yes – 3 No – 4 Maybe – 1	Yes – 4 No – 3 Maybe – 1	Yes – 3 No – 3 Unsure – 1	NA	Yes – 14 No – 14 Maybe – 3
<b>Do you think most people would agree with you?</b>	Agree – 7 Mix / Unsure – 1	Agree – 6 Disagree – 1 Mix / Unsure – 1	Agree – 4 Mix / Unsure – 4	Agree – 6 Disagree – 1	NA	Agree – 23 Disagree – 2 Mix/Unsure – 6



<b>Unconscious Bias</b>		
<b>Overall - Most would have upheld the complaint</b>		
<b>Younger Auckland</b> Yes – 6 No – 2	<b>Older Auckland</b> Yes – 3 No – 3 DK – 2	<b>Overall (n=55)</b> <b>Yes – 39 (71%)</b> <b>No – 13 (24%)</b> <b>DK – 3 (5%)</b>
<b>Younger New Plymouth</b> Yes – 5 No – 3	<b>Older New Plymouth</b> Yes – 5 No – 2	
<b>Online Focus Group</b> Yes – 20 No – 3 DK – 1		

## Unconscious Bias

**Overall - Majority agreed the BSA decision was a good / very good one**

<b>Younger Auckland</b> Good/Very Good – 8	<b>Older Auckland</b> Good/Very Good – 2 Acceptable – 6	<b>Overall (n=56)</b> <b>Good/Very Good – 33 (59%)</b> <b>Acceptable – 18 (32%)</b> <b>Poor – 4 (7%)</b> <b>DK – 1 (2%)</b>
<b>Younger New Plymouth</b> Good/Very Good – 6 Poor – 1 Unsure – 1	<b>Older New Plymouth</b> Good/Very Good – 5 Acceptable – 3	
<b>Online Focus Group</b> Good/Very Good – 12 Acceptable – 9 Poor – 3		

■ Newshub item about Winston Peters

Question / Participants	Younger - Auckland	Older - Auckland	Younger - New Plymouth	Older - New Plymouth	Online Overtime Focus Group	Overall
<b>Complainant treated unfairly</b>	Yes – 2 No – 6	Yes – 3 No – 5	Yes – 4 No – 3	Yes – 3 No – 5	Yes – 14 No – 10	Yes – 26 (47%) No – 29 (53%)
<b>Thinking about freedom expression, how valuable was this item?</b>	High – 5 Low – 2 Unsure – 1	High – 3 Low – 4 Unsure / Medium – 1	High – 3 Low – 4	High – 7 Unsure / Medium – 1	NA	High – 18 Low – 10 Unsure / Medium – 3
<b>Do you think the clip was in the public interest?</b>	Yes – 5 No – 3	Yes – 6 No – 2	Yes – 6 No – 1	Yes – 6 No – 2	NA	Yes – 23 No – 8
<b>Do you think the harm caused to the individual outweighed the right to freedom of expression?</b>	Yes – 2 No – 6	Yes – 3 No – 4 Unsure – 1	Yes – 5 No – 2	Yes – 2 No – 5	NA	Yes – 12 No – 17 Unsure – 1
<b>Do you think most people would agree with you?</b>	Agree – 5 Disagree – 1 Mix / Unsure – 2	Agree – 3 Mix / Unsure – 5	Agree – 5 Disagree – 1 Mix / Unsure – 1	Agree – 5 Disagree – 2	NZ	Agree – 18 Disagree – 4 Mix / Unsure - 8

**Winston Peters**

**Overall - Most would not have upheld the complaint**

<b>Younger Auckland</b> Yes – 2 No – 6	<b>Older Auckland</b> Yes – 2 No – 6	<b>Overall (n=54)</b> <b>Yes – 20 (37%)</b> <b>No – 33 (61%)</b> <b>DK – 1 (2%)</b>
<b>Younger New Plymouth</b> Yes – 5 No – 2	<b>Older New Plymouth</b> Yes – 1 No – 6	
<b>Online Focus Group</b> Yes – 10 No – 13 DK – 1		

**Winston Peters**

**Overall - Majority agreed the BSA decision was a good / very good or an acceptable one, though a sizable minority disagreed**

<p><b>Younger Auckland</b>          Good/Very Good – 7          Poor/Very Poor – 1</p>	<p><b>Older Auckland</b>          Good/Very Good – 5          Acceptable – 3</p>	<p><b>Overall (n=54)</b>  <b>Good/Very Good – 31 (57%)</b>  <b>Acceptable – 13 (24%)</b>  <b>Poor – 10 (19%)</b></p>
<p><b>Younger New Plymouth</b>          Good/Very Good – 1          Acceptable – 3          Poor/Very Poor – 3</p>	<p><b>Older New Plymouth</b>          Good/Very Good – 5          Acceptable – 2</p>	
<p><b>Online Focus Group</b>          Good/Very Good – 13          Acceptable – 5          Poor – 6</p>		

■ Seven Sharp item about ‘herb detectives’

Question / Participants	Younger - Auckland	Older - Auckland	Younger - New Plymouth	Older - New Plymouth	Online Overtime Focus Group	Overall
<b>Complainant treated unfairly</b>	Yes – 8	Yes – 5 No – 3	Yes – 7	Yes – 7 No – 1	Yes – 22 No – 1	Yes – 49 (91%) No – 5 (9%)
<b>Thinking about freedom expression, how valuable was this item?</b>	Low – 8	Low – 8	Low – 8	Low – 8	NA	High – 0 Low – 32
<b>Do you think the clip was in the public interest?</b>	Yes – 4 No – 4	Yes – 1 No – 6 Unsure – 1	Yes – 1 No – 7	Yes – 1 No – 7	NA	Yes – 7 No – 24 Unsure – 1
<b>Do you think the harm caused to the individual outweighed the right to freedom of expression?</b>	Yes – 7 No – 1	Yes – 6 No – 2	Yes – 6 No – 0 Unsure – 1	Yes – 7 No – 1	NA	Yes – 26 No – 4 Unsure – 1
<b>Do you think most people would agree with you?</b>	Agree – 8	Agree – 5 Unsure – 3	Agree – 6 Unsure – 1	Agree – 7 Disagree – 1	NA	Agree – 26 Disagree – 1 Unsure – 4

## Herb Detectives

Overall – Nearly all would have upheld the complaint

<b>Younger Auckland</b> Yes – 8	<b>Older Auckland</b> Yes – 8	<b>Overall (n=54)</b> Yes – 53 (98%) No – 1 (2%)
<b>Younger New Plymouth</b> Yes – 6 No – 1	<b>Older New Plymouth</b> Yes – 8	
<b>Online Focus Group</b> Yes – 23 No – 0		

### Herb Detectives

Overall – Almost all agreed the BSA decision was a good / very good or an acceptable one

<p><b>Younger Auckland</b>          Good/Very Good – 7          Acceptable – 1</p>	<p><b>Older Auckland</b>          Good/Very Good – 7          Acceptable – 1</p>	<p><b>Overall (n=55)</b>  <b>Good/Very Good – 43 (78%)</b>  <b>Acceptable – 8 (15%)</b>  <b>Poor – 3 (5%)</b>  <b>Unsure – 1 (2%)</b></p>
<p><b>Younger New Plymouth</b>          Good/Very Good – 5          Acceptable – 2          Unsure – 1</p>	<p><b>Older New Plymouth</b>          Good/Very Good – 8</p>	
<p><b>Online Focus Group</b>          Good/Very Good – 16          Acceptable – 4          Poor – 3</p>		



## 4.2 Focus group discussion guide and prompts

### 1. Introduction and warm up [10 minutes]

- Welcome and Introduction by moderator; thank participants for attending;
- Explanation of what qualitative research is i.e. it is about understanding not measuring, there are no rights or wrongs and everyone's opinion is equally valid. It is important that everyone participates;
- Explain the purpose of the research i.e. understanding broadcasting standards with focus on television.
- Confidentiality issues; explain how the information will be used. Consent to record the session;
- Housekeeping; cell phones, toilets, fire exits, refreshments, timing etc.
- Individual introductions:
  - First name, household, what are you watching on TV now, and what programmes/channels do you avoid and why?

### 2. Broadcasting Standards / BSA [10 minutes]

- Have you heard of the Broadcasting Standards Authority or 'broadcasting standards'?
- What do you know about them?

Read explanation [**ALSO WRITE ON THE WHITE BOARD / FLIP CHART / SCREEN**]

*Broadcasters in New Zealand have codes of practice and are responsible for maintaining standards in their programmes. The Broadcasting Standards Authority (BSA) is an independent government agency that oversees New Zealand's broadcasting standards and provides the public with a free, independent complaints service. The way the complaints process works is that generally a person must complain to the broadcaster first, and then if they are not happy with the broadcaster's decision, they can have it reviewed by the BSA. The exceptions are privacy complaints and complaints about election programmes, which can be made directly to the BSA.*

- Was there anything new for you in this explanation?

### 3. Fairness Standard (and Freedom of Expression) [15 minutes]

**Facilitator to explain - Broadcasting Standards cover several different issues concerning what we watch on TV or listen to on the radio. In our discussion today, we'll be covering just ONE of those standards – the Fairness standard.**

- When I say the word **fairness**, what does this mean to you?  
(Brainstorm as a group onto the whiteboard)
- Now, what does it mean to you in the context of broadcasting?  
(Important to tease out if participants think there are different 'rules' / expectations / perceptions around fairness in general and fairness in a broadcasting context.)

Facilitator explain, the Fairness Standard says that ... *"Broadcasters should deal **fairly** with any person or organisation taking part or referred to in any broadcast."*

- What do you think the standard means in practice?
- Can you think of any times when you have seen / heard something (an individual or an organisation) unfairly referred to or treated unfairly in a broadcast?

**Now let's go through this standard and discuss what it covers.**

***Hand out information sheet and go through each point as a group (Prompt One - Appended).***

**(This will be pinned up on the wall and/ or on the screen, so participants can refer to it and not have too many pieces of paper to shuffle around.)**

- Is there anything surprising here? Is this what you would expect?
- Is there anything that doesn't make sense? Is there anything which is unclear or confusing?
- How does this compare with what we talked about earlier i.e. what you understood fairness to be (generally and in the context of broadcasting?).

(Moderator - Identify and summarise areas of commonality and differences.)

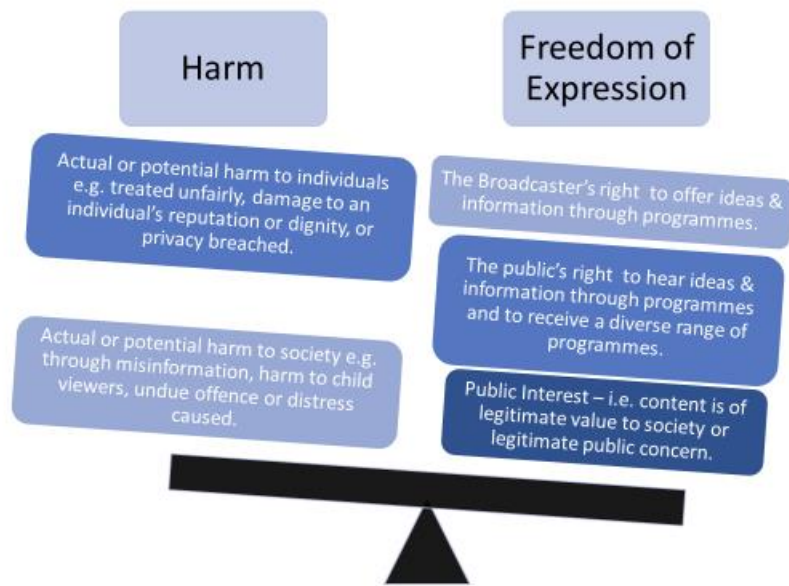
- What are the kind of things that would prompt people to make a complaint about a programme not being consistent with the Fairness standard?

#### 3.A Balancing freedom of expression, public interest, and harm

**Facilitator to explain ... freedom of expression, public interest and harm are important considerations when the BSA is determining any complaint (including a fairness complaint). An important part of what the BSA does is balance the broadcaster's right to freedom of expression against any actual or potential harm that might be caused by a broadcast ... as summarised in this diagram.**

***Facilitator to introduce and explain diagram (see Prompt Two below and attached – this will be pinned up / visible for participants to refer to when reviewing the clips.***

# Balancing Freedom of Expression and Harm



- Check the diagram makes sense and if anything is confusing.
- What do you think 'freedom of expression' and 'in the public interest' mean in practice? Any examples you can think of?
- And, how might these be difficult to reconcile with *"Broadcasters dealing **fairly** with any person or organisation taking part or referred to in any broadcast."*

(It is important that participants can differentiate between their own ideas of fairness and the Fairness Standard when reviewing the clips.)

#### 4. Individual judgements (n=4) [C. 6=70-75 minutes – 15-20 minutes per clip]

***Clips will be shown in a rotated order throughout the groups to avoid order bias. Each clip will be shown, discussed and rated in turn before moving on to the next clip.***

***Hand out booklet of self-completion sheets for all clips i.e. containing Prompts Three, Four and Five for each clip. Ask participants not to look ahead***

Explain that, regardless of their own views and opinions of what fairness is, we need them to consider the clip and answer the questions based on the **Fairness Standard** and to balance freedom of expression and public interest, with potential harm caused by treating someone unfairly i.e. pretend they are the BSA and must decide based on the Fairness Standard and guidelines, not their personal views.

The facilitator will introduce each clip by reading sufficient information to frame it, before playing each of the four clips (rotated order) and leaving time for participants to write down their initial thoughts and answers before discussing them with the group.

❖ ***Ask Participants to turn to the Self Completion Sheet for first clip (Prompt Three - Appended).***

❖ ***Show first clip (May need to show twice if time allows)***

❖ ***When participants have seen the clip, and recorded their answers on the self-completion sheet, discuss the following self-completion questions as a group.***

- What were your main concerns, if any, with the clip?
- What part(s) do you think triggered the complaint about Fairness?
- Do you think the individual/s featured in the clip was/were treated unfairly? Did the programme create a negative impression of them or have the potential to adversely affect them?
- Thinking about freedom of expression, how valuable was this item? High value? Low value Prompt - value of entertainment, exploring an important topic?
- Do you think the clip was in the public interest i.e. did the clip contain content the NZ public needed to know?
- Overall, do you think the harm caused to the individual outweighed the right to freedom of expression?
- Do you think most people would agree with you? Or do you think you are different from most?
- If you were the BSA, would you have upheld this complaint? (i.e. do you think it breached the Fairness Standard?)? Why / why not?
- Is there anything which might have changed your decision (unprompted). For example, would your decision have been different if:
  - You felt the individual had been given a reasonable opportunity to comment or their comments were adequately presented in the programme?
  - It had been a public / known figure or organisation as opposed to an ordinary person with no media experience?

- Critical comments were / were not aimed at the individual in their business/professional life, vs their personal life.
- The broadcast had public significance and was valuable in terms of free speech?
- The individual wasn't identified (e.g. blurred, not named)? Standard requires that they participate or are referred to.

## **Additional Points to cover for each clip (if not raised spontaneously)**

### **Tiler on *The Block NZ: Villa Wars***

- Do you think he was given a reasonable chance to respond, in the programme?
- If you were a tradie on a reality TV show like *The Block*, what would you expect from the programme makers in terms of how they treated you? (e.g. would you expect to be asked for consent, would you expect to be told which episodes you would be on and in what context)
- How is reality TV different to other programme genres, e.g. a news item? (broadcaster emphasised pace and telling the story – authority said all participants should still be treated fairly)

### **Story item on unconscious bias**

- How would you feel about being filmed on a public street and then shown on TV?
- Would you expect to be: told prior to broadcast? Asked for consent? Why/why not
- What do you think was the purpose/objective in showing the individuals?  
(Broadcaster argued the point was that everyone is biased, rather than suggesting these individuals have characteristics that people may hold bias against)
- Would you have a different view if the images were just of crowds on the street (i.e. without visual effects, singling anyone out)?
- What if the individuals were shown in an item on a different topic, would the individual feel differently? e.g.
  - obesity
  - great fashion sense

### **Newshub item about Winston Peters**

- Was there public interest in the item?
- Did Winston Peters come across in a negative light?
- Was he given a reasonable opportunity to comment? Was his position adequately presented in the item?
- Does it make a difference that he is a public figure/politician? Are his rights as an individual the same or different?
- What if he was being questioned about his personal life or personal attributes (vs professional capacity as a politician), would your view be different?

### **Herb Thief on *Seven Sharp***

- Was a negative impression created of the woman at the market? Why/why not
- Do you think there are cultural considerations that should be considered? Prompt – language barrier, respect in her community.
- What are your thoughts on the 'correction' *Seven Sharp* broadcast? What effect did that have? What other action should the broadcaster have taken?

- The broadcaster agreed in this case that there was a breach – how does that affect your views on the clip (if at all)?

## Rating and discussion of the BSA’s decision

❖ **Ask Participant to turn to the BSA decisions relating to the clip in question – Prompt Four – Appended – and read it. Explain, this sheet tells you what the complaint on this clip was, the actual BSA decision and the key reasons the BSA gave for the decision reached.**

- Initial response; Do you agree with the outcome?
- How clear and easy to understand is the BSA’s decision and the reasoning provided for the decision? (Keeping in mind this is only a summary)
- What, if any, were the similarities and differences between the BSA’s and your own decision?
- Do you think this decision and the reasons reflect your attitude and the attitudes of today’s society? Why? Why not?

**I’d now like you to rate the BSA’s decision and reasoning on a scale of 1-5, where 1 means the decision was very poor and 5 means the decision was very good, using Prompt Five.**

❖ **Ask Participant to turn to self-completion rating sheet relating to the clip in question – Prompt Five – Appended**

(Participant to read out their score and how they came to that score)

Moderator to summarise all participants’ scores on whiteboard

- Did the BSA make the right decision and did they explain this decision in a way which is easily understood? If not, what can be improved?
- Having heard from others in the group, do you want to change your score?

## ***(Repeat for remaining three clips)***

- What do you think about ‘Orders’ – where the complaints were upheld, did the BSA do enough to remedy the breach? Is publishing the decision enough? NB no ability to award costs for fairness breach (only privacy).
- Having seen all these clips and the BSA decisions, are there any other comments you want to make about the Fairness standard generally?
- Any suggestions you would like to give to the BSA?

## If Time Allows ...

- What is watched online and how

- Whether parents/caregivers use any tools to manage viewing (e.g. parental locks, time bands, classifications, electronic programme guide (EPG), warnings)
- Has anyone ever made a complaint or gone to the BSA website to get information?
- IF YES explore experience of the process.

**Thank you and close**

## ■ PROMPT ONE - FAIRNESS STANDARD AND GUIDELINES

**Fairness Standard: Broadcasters should deal fairly with any person or organisation taking part or referred to in any broadcast.**

The purpose of this standard is to ensure fair treatment of those featured or referred to in programmes, to protect their dignity and reputation. Individuals have the right to expect they will be dealt with justly and fairly and protected from unwarranted damage.

The objective in assessing a fairness complaint, is to weigh broadcasters' right to freedom of expression against the right of individuals (and organisations) to be treated fairly

The level of public interest in a broadcast is important. In certain circumstances even if potential harm to an individual might arise, the public interest can outweigh the harm to justify the expression being acceptable i.e. the broadcaster is disseminating information to audiences which is in the public interest.

Generally, a consideration of what is fair will take into account:

- Whether the audience would have been left with an unfairly **negative impression** of the individual.
- Whether an individual taking part or referred to in a programme was **adequately informed** of the nature of their participation.
- Whether **informed consent** was required and/or obtained.
- Whether the individual was given a **reasonable opportunity to comment**, and whether their comments were adequately presented in the programme.
- The nature of the individual, for example, a **public figure** familiar with dealing with the media, as opposed to an **ordinary person** with little or no media experience.
- Whether any critical comments were aimed at the participant in their **business or professional life**, or their **personal life**.
- The **public interest** in the broadcast and its value in terms of free speech.



## ■ FAIRNESS STANDARD AND GUIDELINES

**Broadcasters should deal fairly with any person or organisation taking part or referred to in any broadcast.**

### **Guidelines:**

11a A consideration of what is fair will **depend on the nature of the programme** (e.g., news and current affairs, factual, dramatic, comedic or satirical). Context should also be considered, for example, the public significance of the broadcast.

11b **Participants and contributors should be informed, before a broadcast, of the nature of the programme and their proposed contribution**, except where justified in the public interest, or where their participation is minor in the context of the programme.

11c **Whether informed consent was required or has been obtained from a participant or a contributor** may be a relevant consideration in determining whether that participant or contributor was treated fairly.

11d If a person or organisation referred to or portrayed in a broadcast might be adversely affected, that **person or organisation should usually be given a fair and reasonable opportunity to comment for the programme, before the broadcast**. What is 'fair and reasonable' will depend on the circumstances.

11e **Door-stepping an individual or organisation as a means of obtaining comment will normally be unfair**, unless all legitimate and reasonable methods of obtaining comment have been exhausted.

11f **Edited excerpts should fairly reflect the tenor of the overall events or views expressed.**

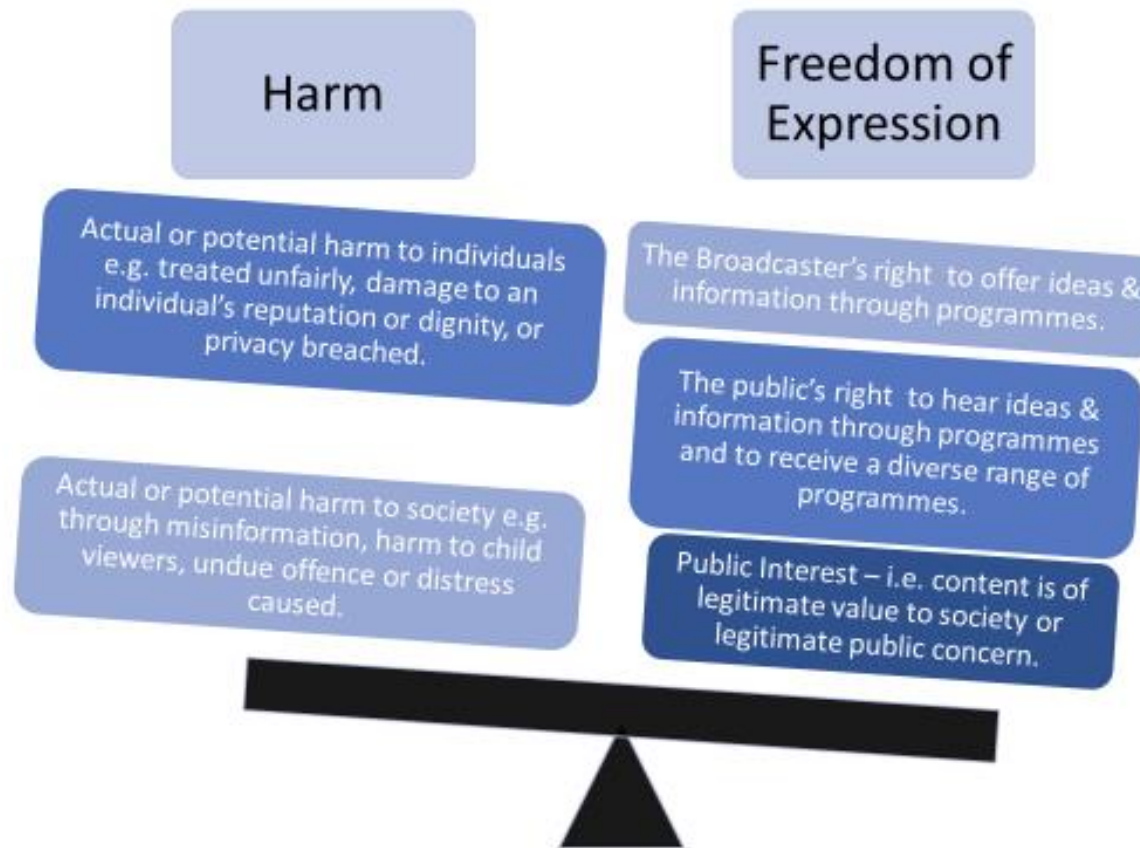
11g **Broadcasters must not broadcast information obtained by misrepresentation or deception** (including by hidden recording device), except where justified by the public interest.

11h Individuals, and particularly children and young people, featured in a programme **should not be exploited, humiliated or unfairly identified.**

11i Where programmes deal with distressing circumstances (e.g., grief and bereavement) **broadcasters should show discretion and sensitivity.**

■ PROMPT TWO – BALANCING FREEDOM OF EXPRESSION AND HARM

# Balancing Freedom of Expression and Harm



■ **PROMPT THREE - INDIVIDUAL JUDGEMENTS - SELF COMPLETION SHEET**

<b>INDIVIDUAL JUDGEMENTS - SELF COMPLETION SHEETS</b>	
<b>(Note – The same sheet was used for each clip)</b>	
What were your main concerns, if any, with the clip?	
What part(s) do you think triggered the complaint about Fairness?	
Do you think the individual featured in the clip was treated unfairly? Please explain.	
Thinking about freedom of expression, how valuable was this item?	High value ____ Low value ____
Do you think the clip was in the public interest i.e. did the clip contain content of real concern and importance to the NZ public? Please explain.	
Overall, do you think the harm caused to the individual outweighed the right to freedom of expression? Please explain.	
Do you think most people would agree with you? Or do you think you are different from most?	
If you were the BSA, would you have upheld this complaint? (i.e. do you think it breached the Fairness Standard?)	Yes – I would have upheld the complaint – the standard was breached  No – I would not uphold the complaint – there was no breach

## ■ PROMPT FOUR – LITMUS TESTING DECISION SUMMARIES: FAIRNESS STANDARD, 2018

**Key: Yellow** = Moderator to read out for participants, to introduce clip

### **Tiler on The Block NZ: Villa Wars**

#### *The programme*

- The Block NZ is a reality TV programme in which four teams participate in a house renovating competition.
- The complainant is a tiler and did work for one of the teams.
- The complainant said he made it clear he did not want to be shown on the programme and that by including the footage of him that it did along with voiceover and other special effects, the broadcaster treated him unfairly.

#### *The BSA decision*

- **The BSA upheld the complaint** that the complainant was treated unfairly for the following key reasons.
- The episode created a negative impression of the complainant and his work ethic, through:
  - a graphic reading 'AWOL' stamped across his image
  - a reference to him as a 'temperamental European tiler'
  - numerous references to the fact he did not 'show up' at the site, as well as to him being 'an hour late' and to 'alarm bells' going off
  - the contestant's comment that they wanted the complainant to do some 'tidy-ups' before they would pay him, which suggested they were not satisfied with the standard of his earlier work
  - a strong suggestion that the complainant wanted to be paid upfront in advance before completing the work – when actually the complainant was seeking payment for work he had already completed. This impression was supported by comments from the contestant, the recorded conversation between them and comments from the site foreman
- The broadcaster and the production company were not able to provide evidence showing the complainant was informed he would feature prominently or at all in the episode, that the theme of the episode would be 'tradie troubles', and that he would be portrayed as 'temperamental' and 'AWOL' (**Guideline 11b**).
- The complainant was not given an opportunity to comment on the way he would be portrayed in the broadcast, because he did not know he was going to feature prominently or at all, or the angle that would be taken (**Guideline 11d**).
- In reality television, the 'story' and pace of filming cannot be prioritised over fairness to participants, particularly when the individual said they did not want to be featured. The complainant should have been given a reasonable opportunity to comment and defend himself, or for his identify to be effectively masked.
- Overall, the Authority found the potential harm caused to the complainant, through the unfair treatment of him, outweighed the right to freedom of expression.
- The Authority ordered the broadcaster to pay \$1500 costs to the Crown. It could not order compensation to the complainant. (This is only available for a breach of privacy).

## Story item on Unconscious Bias

### *The programme*

- An item on Story explored the issue of unconscious bias. The introduction to the item featured footage of members of the public walking down the street, including the complainant.
- As the camera focused on these individuals, the footage was frozen, the background around the individual faded to black and white (leaving the person in colour), and the image of the individual zoomed in, along with a sound effect, as though they were 'popping out' of the background image.
- During this segment, the reporter said in voiceover, 'Deny it all you like – everyone's biased in some way'.

### *The BSA decision*

- **The BSA upheld the complaint** that the complainant was treated unfairly for the following key reasons.
- The BSA acknowledged that the complainant was filmed in a public place. Generally, broadcasters are able to film or broadcast generic footage of individuals or crowds in public places.
- However, the complainant was not simply a passer-by in the background of the shot. The effects applied to the complainant's image effectively singled her out, meaning she was not simply 'a face in the crowd'.
- The segment highlighted individuals and implicitly invited viewers to judge those individuals based on their appearance and individual characteristics.
- The effect of this was that the complainant was linked to a sensitive subject matter, which had the potential to cause hurt.
- The complainant was unaware that she would be featured in the item in such a way and had no opportunity to comment (**Guidelines 11b and 11d**). This was unfair.
- Overall, the Authority found the potential harm to the complainant, in terms of the unfair treatment of her, outweighed the right to freedom of expression.
- The Authority did not make any order against the broadcaster, noting the decision provided guidance to broadcasters and it did not want to compound the harm to the complainant by drawing further attention to the matter through a broadcast statement.

## **Newshub item about Winston Peters**

### *The programme*

- An item on Newshub discussed revelations that the pension of New Zealand First Leader, Rt Hon Winston Peters, had been overpaid for up to seven years. The item was broadcast on 28 August 2017, during the election period.
- The item included excerpts of a phone interview with Mr Peters, details about Mr Peters' press release on the issue and subsequent comments made by Mr Peters about the overpayments.

### *The BSA decision*

- **The BSA did not uphold the complaint** that Mr Peters was treated unfairly for the following key reasons.
- The threshold for finding unfairness in relation to public figures, such as politicians, is higher than, for example, a member of the public who is not familiar with dealing with media.
- As the leader of a political party and a candidate during an election year, Mr Peters could expect to be subject to robust scrutiny and political analysis – the item carried a high level of public interest (**Guideline 11a**).
- The reporter's questions and comments in this item did not go beyond what Mr Peters could reasonably expect during an election period.
- Mr Peters was given a reasonable opportunity to put forward his point of view on the issue through the inclusion of his phone interview with the political reporter (**Guideline 11d**), his press release and subsequent public comments.
- Overall, the Authority found the right to freedom of expression outweighed the alleged harm to Mr Peters.

## **Seven Sharp** item about 'herb detectives'

### *The programme*

- Seven Sharp featured a story about two local residents, labelled 'herb detectives', who were determined to track down the man they believed was responsible for stealing their herbs.
- The reporter and the 'herb detectives' visited the local market looking for the alleged thief and spoke to a local Chinese woman who was selling herbs.
- The reporter asked the woman where her herbs were from, and one of the residents said, 'It looked very much like my mint.'
- The following week, *Seven Sharp* broadcast a clarification, saying they were not suggesting the woman the reporter spoke to was selling stolen herbs.

### *The BSA Decision*

- **The BSA upheld the complaint** that the complainant – the woman at the market – was treated unfairly for the following key reasons.
- The broadcaster also acknowledged the complainant was treated unfairly and upheld her complaint – however the BSA found the broadcaster did not do enough to remedy the breach.
- The complainant was an innocent bystander and had no relation to the focus of the story.
- There was no reason for implying that she was involved in the theft, or evidence linking her to the missing herbs.
- The item clearly had the potential to be particularly damaging to the complainant's reputation in her local community, and her livelihood.
- Due to her limited English, the complainant was unable to meaningfully respond to the reporter's questions or defend herself.
- The potential harm to the complainant in terms of the unfair treatment of her outweighed the right to freedom of expression.
- The Authority acknowledged that the broadcaster attempted to remedy the breach of standards, including by broadcasting a correction several days after the item. However, it would have been straightforward for the correction to also include an apology to the complainant, which would have addressed her concerns and helped to restore her dignity.
- The Authority found that no order was warranted, as the decision publicly notified the breach of standards and in this sense, would hopefully assist to repair any damage to the complainant's reputation.
- (The Authority also issued a media release on the decision, in both English and the complainant's preferred language, Mandarin.)

■ PROMPT FIVE: RATING OF BSA DECISIONS - SELF-COMPLETION SHEET

**E.g., The Block NZ: Villa Wars**

On a scale of 1 to 5, where 1 means the BSA's decision was very poor and 5 means the decision was very good, how would you rate the BSA's decision for the **The Block NZ: Villa Wars** complaint?

1	2	3	4	5
Very Poor	Poor	Acceptable	Good	Very Good



## 4.3 OOT process and questions

BSA LITMUS TEST RESEARCH – ONLINE FOCUS GROUP – PROCESS AND QUESTIONS - FINAL	
Day / Date	Action
W/C 12 <sup>th</sup> March	Recruitment
Monday 19 <sup>th</sup> March Welcome Email	<p>Dear (Name)</p> <p>Thank you for agreeing to participate in this online panel. We value your input and hope you find the experience interesting. Below is some information you will need before you begin.</p> <p><b>Process</b></p> <ul style="list-style-type: none"> <li>◦ Please log in twice a day to check if new questions have been added and /or to comment on other people’s contributions.</li> <li>◦ Your log in details are: <ul style="list-style-type: none"> <li>❖ Login –</li> <li>❖ Password -</li> </ul> </li> <li>◦ The survey will be live from Wednesday 21<sup>st</sup> to Friday 23<sup>rd</sup> March 2018.</li> <li>◦ We will add new questions and information each morning and afternoon on each of these three days, but you will only be able to see them once you have completed the previous questions.</li> <li>◦ You need to answer all questions in the order they appear.</li> <li>◦ You will be able to see and comment on what other people have said once you have completed each question.</li> <li>◦ Please keep your comments polite though, even if you strongly disagree with what other people have said.</li> <li>◦ We will be sending you links to television clips on all three days, so you will need to have <b>sound</b> on your device.</li> </ul> <p><b>The Survey – Information you need before starting the panel</b></p> <p>We are doing this research on behalf of the Broadcasting Standards Authority (BSA). Below is a brief description of the BSA and its role.</p> <p><i>Broadcasters in New Zealand must comply with broadcasting codes of practice and are responsible for maintaining standards in their programmes (on TV or radio). The Broadcasting Standards Authority (BSA) is an independent Crown entity that oversees New Zealand’s broadcasting standards and provides the public with a free, independent complaints service. The way the complaints process works is that generally if a person believes a programme on TV or radio has breached broadcasting standards, they must complain to the broadcaster first, and then if they are not happy with the broadcaster’s decision, they can have it reviewed by the BSA. The exceptions are privacy complaints and complaints about election programmes, which can be made directly to the BSA.</i></p> <p>Broadcasting standards cover several different issues concerning what we watch on TV or listen to on the radio. During this panel, we will be covering just ONE of those standards – <b>Fairness</b>. The Fairness Standard says that ... “Broadcasters should</p>

*deal fairly with any person or organisation taking part or referred to in any broadcast.”* I have attached some information about this standard for you to read before the panel starts and to have available to refer to during the panel.

You also need to understand that freedom of expression, public interest and harm are important considerations when the BSA is considering a **fairness** complaint. An important part of what the BSA does is to balance the broadcaster's right to freedom of expression against any actual or potential harm that might be caused by a broadcast. I have attached a diagram with the heading 'Balancing Freedom of Expression and Harm' which explains this.

**All the clips we send you have been subject to a complaint** to the Broadcasting Standards Authority, meaning a viewer believed the clip breached the Fairness Standard.

I know this is a lot to take in, so it would be helpful if you could print off the documents (if you have a printer) or keep them open on your screen to refer to.

Finally, **please respond to this email to confirm you have received it** and the attachments and that you can log in. There won't be any questions for you to answer yet – we just want to iron out any problems before we start.

Thank you again; we look forward to your input.

Kind regards, Karen - **UMR Moderator**

<p>Wednesday 21<sup>st</sup> March a.m.</p>	<p>Opening Questions</p> <ol style="list-style-type: none"> <li><i>Please briefly describe your TV watching habits including what programmes / channels you typically watch and if there are any programmes or channels you avoid.</i></li> <li><i>Looking at the information about the Fairness Standard and the diagram explaining Balancing Freedom of Expression and Harm we have sent you, what are your thoughts or comments? What, if anything, was new or surprising to you?</i></li> </ol>
<p>Wednesday 21<sup>st</sup> March p.m.</p>	<p><b>Email participants the link to Clip One – The Block NZ: Villa Wars - with the following instructions:</b></p> <p>Please watch the attached video clip from <b>an episode of the television series The Block NZ: Villa Wars</b> all the way through. You may want to view it twice in case you miss anything the first time.</p> <ul style="list-style-type: none"> <li><b>The Block NZ</b> is a reality TV programme in which four teams participate in a house renovating competition.</li> <li>The complainant is a tiler and did work for one of the teams.</li> <li>The complainant - the tiler - said he made it clear he did not want to be shown on the programme and that by including the footage of him that it did, along with voiceover and other special effects, the broadcaster treated him unfairly.</li> </ul> <p>Please refer to the information provided about the <b>Fairness Standard</b> and the diagram explaining Balancing Freedom of Expression and Harm when answering the following questions.</p> <p><b>Thinking about what you have learned about the Fairness Standard:</b></p> <ol style="list-style-type: none"> <li><b><i>What were your main concerns, if any, with the clip?</i></b></li> </ol>

4. *What part/s of the clip do you think triggered the complaint?*
5. *Do you think the tiler was treated unfairly? Please explain your answer.*
6. *If you had been the BSA, would you have upheld the complaint (i.e. do you think it breached the Fairness Standard?)*

*Yes - I would have upheld the complaint - the standard was breached.*

*No – I would not uphold the complaint - there was no breach.*

*Please write in Upheld or Not Upheld and explain your answer.*

Once participant has answered Question 6, reveal the BSA decision.

**The BSA Decision:**

**The BSA upheld the complaint** that the complainant was treated unfairly for the following key reasons.

- The episode created a negative impression of the complainant and his work ethic, through:
  - a graphic reading 'AWOL' stamped across his image
  - a reference to him as a 'temperamental European tiler'
  - numerous references to the fact he did not 'show up' at the site, as well as to him being 'an hour late' and to 'alarm bells' going off
  - the contestant's comment that they wanted the complainant to do some 'tidy-ups' before they would pay him, which suggested they were not satisfied with the standard of his earlier work
  - a strong suggestion that the complainant wanted to be paid upfront in advance before completing the work – when actually the complainant was seeking payment for work he had already completed. This impression was supported by comments from the contestant, the recorded conversation between them and comments from the site foreman
- The broadcaster and the production company were not able to provide evidence showing the complainant was informed he would feature prominently or at all in the episode, that the theme of the episode would be 'tradie troubles', and that he would be portrayed as 'temperamental' and 'AWOL' (**Guideline 11b**).
- The complainant was not given an opportunity to comment on the way he would be portrayed in the broadcast, because he did not know he was going to feature prominently or at all, or the angle that would be taken (**Guideline 11d**).
- In reality television, the 'story' and pace of filming cannot be prioritised over fairness to participants, particularly when the individual said they did not want to be featured. The complainant should have been given a reasonable opportunity to comment and defend himself, or for his identity to be effectively masked.
- Overall, the Authority found the potential harm caused to the complainant, through the unfair treatment of him, outweighed the right to freedom of expression.

- The Authority ordered the broadcaster to pay \$1500 costs to the Crown. It could not order compensation to the complainant. (This is only available for a breach of privacy).
7. ***On a scale of 1-5 where 1 means the BSA's decision was very poor, 3 means it was acceptable and 5 means the BSA's decision was very good, how would you rate the BSA's decision for The Block NZ: Villa Wars. Please write in a number between 1 and 5.***
  8. ***Please explain your rating.***

Thursday 22 March  
a.m.

Send participants a link to Clip Two – Unconscious Bias - with the following instructions:

**Please watch the attached video clip from a Story item on Unconscious Bias all the way through. You may want to view it twice in case you miss anything the first time.**

- **An item on Story explored the issue of unconscious bias. The introduction to the item featured footage of members of the public walking down the street.**
- **As the camera focused on these individuals, the footage was frozen, the background around the individual faded to black and white (leaving the person in colour), and the image of the individual zoomed in, along with a sound effect, as though they were ‘popping out’ of the background image.**
- **The complainant was one of these people and not one of the people who spoke on camera.**
- **During this segment, the reporter said in voiceover, ‘Deny it all you like – everyone’s biased in some way’**

**Please refer to the information provided about the Fairness Standard and the diagram explaining Balancing Freedom of Expression and Harm when answering the following questions.**

*Thinking about what you have learned about the Fairness Standard:*

9. *What were your main concerns, if any, with the clip?*
10. *What part/s of the clip do you think triggered the complaint?*
11. *Do you think the complainant – one of the people zoomed in on, but who did not speak - was treated unfairly? Please explain your answer.*
12. *If you had been the BSA, would you have upheld the complaint (i.e. do you think it breached the Fairness Standard?)*

*Yes - I would have upheld the complaint - the standard was breached.*

*No – I would not uphold the complaint - there was no breach.*

*Please write in Upheld or Not Upheld and explain your answer.*

Once participant has answered Question 12, reveal the BSA decision.

The BSA Decision:

The BSA upheld the complaint **that the complainant was treated unfairly for the following key reasons:**

- **The BSA acknowledged that the complainant was filmed in a public place. Generally, broadcasters are able to film or broadcast generic footage of individuals or crowds in public places.**
- **However, the complainant was not simply a passer-by in the background of the shot. The effects applied to the complainant’s image effectively singled her out, meaning she was not simply ‘a face in the crowd’.**
- **The segment highlighted individuals and implicitly invited viewers to judge those individuals based on their appearance and individual characteristics.**

	<ul style="list-style-type: none"> <li>• <b>The effect of this was that the complainant was linked to a sensitive subject matter, which had the potential to cause hurt.</b></li> <li>• <b>The complainant was unaware that she would be featured in the item in such a way and had no opportunity to comment (Guidelines 11b and 11d). This was unfair.</b></li> <li>• <b>Overall, the Authority found the potential harm to the complainant, in terms of the unfair treatment of her, outweighed the right to freedom of expression.</b></li> <li>• <b>The Authority did not make any order against the broadcaster, noting the decision provided guidance to broadcasters and it did not want to compound the harm to the complainant by drawing further attention to the matter through a broadcast statement.</b></li> </ul> <p><b>13. On a scale of 1-5 where 1 means the BSA's decision was very poor, 3 means it was acceptable and 5 means the BSA's decision was very good, how would you rate the BSA's decision for the Story Item on Unconscious Bias. Please write in a number between 1 and 5.</b></p> <p><b>14. Please explain your rating.</b></p>
<p>Thursday 22nd March p.m.</p>	<p><b>Send participants a link to Clip Three – Winston Peters - with the following instructions:</b></p> <p>Please watch the attached video clip from a <b>Newshub</b> item about <b>Winston Peters</b>. You may want to view it twice in case you miss anything the first time.</p> <p><i>The programme:</i></p> <ul style="list-style-type: none"> <li>• An item on <b>Newshub</b> discussed revelations that the pension of New Zealand First Leader, Rt. Hon Winston Peters, had been overpaid for up to seven years. The item was broadcast on 28 August 2017, during the election period.</li> <li>• The item included excerpts of a phone interview with Mr. Peters, details about Mr. Peters' press release on the issue and subsequent comments made by Mr. Peters about the overpayments.</li> <li>• A member of the public made the complaint, not Winston Peters himself.</li> </ul> <p>Please refer to the information provided about the <b>Fairness Standard</b> and the diagram explaining Balancing Freedom of Expression and Harm when answering the following questions.</p> <p><b>Thinking about what you have learned about the Fairness Standard:</b></p> <p><b>15. What were your main concerns, if any, with the clip?</b></p> <p><b>16. What part/s of the clip do you think triggered the complaint?</b></p> <p><b>17. Do you think Winston Peters was treated unfairly? Please explain your answer.</b></p> <p><b>18. If you had been the BSA, would you have upheld the complaint (i.e. do you think it breached the Fairness Standard?)</b></p> <p style="text-align: center;"><b>Yes - I would have upheld the complaint - the standard was breached.</b></p> <p style="text-align: center;"><b>No – I would not uphold the complaint - there was no breach.</b></p>

*Please write in Upheld or Not Upheld and explain your answer.*

**Once participant has answered Question 18, reveal the BSA decision.**

**The BSA Decision:**

**The BSA did not uphold the complaint** that Mr. Peters was treated unfairly for the following key reasons.

- The threshold for finding unfairness in relation to public figures, such as politicians, is higher than, for example, a member of the public who is not familiar with dealing with media.
- As the leader of a political party and a candidate during an election year, Mr. Peters could expect to be subject to robust scrutiny and political analysis – the item carried a high level of public interest (**Guideline 11a**).
- The reporter's questions and comments in this item did not go beyond what Mr. Peters could reasonably expect during an election period.
- Mr. Peters was given a reasonable opportunity to put forward his point of view on the issue through the inclusion of his phone interview with the political reporter (**Guideline 11d**), his press release and subsequent public comments.
- Overall, the Authority found the right to freedom of expression outweighed the alleged harm to Mr. Peters.

**19. On a scale of 1-5 where 1 means the BSA's decision was very poor, 3 means it was acceptable and 5 means the BSA's decision was very good, how would you rate the BSA's decision for The Newshub item about Winston Peters?  
Please write in a number between 1 and 5.**

**20. Please explain your rating.**

Friday 23<sup>rd</sup> March  
a.m.

Email participants a link to Clip Four – Herb Thief - with the following instructions:

**Please watch the attached video clip from a Seven Sharp item about a Herb Thief. You may want to view it twice in case you miss anything the first time.**

***The programme***

- Seven Sharp featured a story about two local residents, labelled ‘herb detectives’, who were determined to track down the man they believed was responsible for stealing their herbs.
- The reporter and the ‘herb detectives’ visited the local market looking for the alleged thief and spoke to a local Chinese woman who was selling herbs.
- The reporter asked the woman where her herbs were from, and one of the residents said, ‘It looked very much like my mint.’
- The woman at the market complained that this broadcast was unfair.
- The following week, *Seven Sharp* broadcast a clarification, saying they were not suggesting the woman the reporter spoke to was selling stolen herbs.

**Please refer to the information provided about the Fairness Standard and the diagram explaining Balancing Freedom of Expression and Harm when answering the following questions.**

*Thinking about what you have learned about the Fairness Standard:*

**21.** *What were your main concerns, if any, with the clip?*

**22.** *What part/s of the clip do you think triggered the complaint?*

**23.** *Do you think the complainant – the woman at the market- was treated unfairly? Please explain your answer.*

**24.** *If you had been the BSA, would you have upheld the complaint (i.e. do you think it breached the Fairness Standard?)*

*Yes - I would have upheld the complaint - the standard was breached.*

*No – I would not uphold the complaint - there was no breach.*

*Please write in Upheld or Not Upheld and explain your answer.*

Once participant has answered Question 24, reveal the BSA decision.

The BSA Decision:

The BSA upheld the complaint **that the complainant – the woman at the market – was treated unfairly for the following key reasons.**

- **The broadcaster also acknowledged the complainant was treated unfairly and upheld her complaint – however the BSA found the broadcaster did not do enough to remedy the breach.**



- The complainant was an innocent bystander and had no relation to the focus of the story.
  - There was no reason for implying that she was involved in the theft, or evidence linking her to the missing herbs.
  - The item clearly had the potential to be particularly damaging to the complainant’s reputation in her local community, and her livelihood.
  - Due to her limited English, the complainant was unable to meaningfully respond to the reporter’s questions or defend herself.
  - The potential harm to the complainant in terms of the unfair treatment of her outweighed the right to freedom of expression.
  - The Authority acknowledged that the broadcaster attempted to remedy the breach of standards, including by broadcasting a correction several days after the item. However, it would have been straightforward for the correction to also include an apology to the complainant, which would have addressed her concerns and helped to restore her dignity.
  - The Authority found that no order was warranted, as the decision publicly notified the breach of standards and in this sense, would hopefully assist to repair any damage to the complainant’s reputation.
  - (The Authority also issued a media release on the decision, in both English and the complainant’s preferred language, Mandarin.)
  - The BSA ordered the broadcaster to pay a fine of \$1,500 costs to the Crown.
25. On a scale of 1-5 where 1 means the BSA’s decision was very poor, 3 means it was acceptable and 5 means the BSA’s decision was very good, how would you rate the BSA’s decision for The Seven Sharp Item about the Herb Thief? Please write in a number between 1 and 5.
26. Please explain your rating.

Friday 23<sup>rd</sup> March  
p.m.

**Final questions and Wrap Up**

Now you have seen which complaints the BSA upheld and which complaints they did not uphold and the reasons for their decisions.

**27. In your view, do you think the BSA is generally making the right decisions on the issue of fairness?**

**28. Please explain your answer.**

Thank you for taking part; your time and feedback is much appreciated.

We hope you have found the panel interesting.

If you have any other comments or feedback about broadcasting standards generally or the Fairness Standard specifically, please enter them below.