

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 29/93

Dated the 29th day of March 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

FEMALE IMAGES AND  
REPRESENTATION IN SPORT  
TASKFORCE (FIRST)

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

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

DECISION

Introduction

Six items of sports news were broadcast on *One Network News* on 1 September 1992. Four referred to male sport and lasted 276 seconds, one to mixed sport of 31 seconds and one to women's sport of 38 seconds. Of the time given to sports stories, the proportions were 80%, 9% and 11%.

FIRST complained to Television New Zealand Ltd, as the broadcaster, that given that at least half the population of New Zealand were women, its news was not objective. Rather, it argued, the news was biased. Furthermore, it maintained, the unequal portrayal of news sport between men's and women's sports denigrated women and discriminated against them.

Arguing that news coverage was apportioned on the basis of news value and that the statistical breakdown was largely irrelevant, TVNZ declined to uphold the complaint. Dissatisfied with TVNZ's response, FIRST referred its complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



## Decision

The members of the Authority have viewed the sports news broadcast as part of *One Network News* for the evenings 31 August - 4 September 1992. They have also read the correspondence (summarised in the Appendix). The representatives of FIRST argued that oral submissions would complement the written material. The Authority invited the parties to meet for the purposes of hearing informal submissions and discussion but as TVNZ declined to participate, the Authority believed that little if any further advantage would be gained by hearing further formal submissions, particularly as the written material was comprehensive. Accordingly, the Authority has followed its usual practice and determined the complaint without a formal hearing.

## **The Complaint**

FIRST complained to TVNZ that as only a small proportion of the time given to sports news on *One Network News* reported women's sports, the broadcaster showed a lack of objectivity and balance contrary to standard 12 of the Television Code of Broadcasting Practice. Women's sport was contrasted with men's sports and mixed sports and, on 1 September 1992, FIRST stated that coverage of women's sport amounted to only 11% of the time given to sports items. Further, FIRST argued that the broadcast breached standard 26 of the same Code as the imbalance in selection and presentation of news items was likely to encourage discrimination against women in such areas as sports sponsorship and sport funding.

FIRST explained that the week selected to examine the coverage of women's sport was not typical. It was atypical in that the provincial netball championships (a women's sport) were taking place.

Standards 12 and 26 of the Television Code read:

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

In its response to FIRST, TVNZ maintained:



Coverage is apportioned on the basis of news value.

Pointing out that both men and women might be interested in all sport, TVNZ argued that the sports news met the requirements to be accurate, objective and impartial and it did not accept that lack of gender balance led to discrimination contrary to standard 26.

When referring the complaint to the Authority, FIRST maintained that TVNZ, by relying on "professional news judgment", exonerated itself from any discriminatory news practice and, indeed, that that argument totally prevented any questioning of TVNZ's "so-called" professional news judgment. It concluded the referral with the following summary:

The complaint does not seek to improve a "community image". We seek accuracy, objectivity and impartiality (none of which exclude professional news judgment exercised honestly) and we seek redress for discrimination about women's sport. We ask that our complaint be taken literally. The fact [that TVNZ's Complaints] Committee resorts only to rugby analogies, and is willing to read into our complaint so much that is not there, underscores our complaint. We do not believe that our complaint has been addressed satisfactorily and consider the TV One News programmes complained of breach the Code of Broadcasting Practice in relation to news coverage of women's sport.

In its response, TVNZ emphasised:

The decision on what goes into a news programme has to be made on news judgement and news judgement alone.

Accepting FIRST's arguments, it continued, would result in a quota system and, it repeated, it was television's task to report news stories - not to make more people interested in watching women's sport.

### **The Ruling**

The Authority first examined the question whether the complaint was a programming matter or a standards issue. If the former, the Authority would be precluded from investigating it as it has interpreted the provisions of the Broadcasting Act to exclude it from exercising any jurisdiction about programming matters. However, it decided that although there is an aspect of programming involved in the complaint, there is also an aspect of standards. Specifically, s.21(1)(e)(iv) of the Act provides that the Authority shall have a role in developing codes of broadcasting practice in relation to:

- (iv) Safeguards against the portrayal of persons in programmes in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or occupational status or as a consequence of legitimate expression of religious, cultural or political beliefs.

That requirement is encapsulated in standard 26 of the Television Code which was cited



by FIRST in its complaint. Although FIRST's complaint raised both programming and standards questions, the Authority concluded that there was a sufficient aspect of it which involved broadcasting standards for the Authority to consider whether or not it should determine the complaint.

The Authority then observed that as both sides of the debate had considerable merit and as the complaint was neither solely a standards issue nor a matter of editorial judgment, the issues raised by the complaint were complex indeed. Nevertheless, it proceeded to examine the arguments advanced by the complainant and the broadcaster and its comments on them are reported below.

On the one hand, the Authority sympathised with TVNZ's statement, although denied by FIRST, that upholding the complaint could well impose a quota in effect on news items. Furthermore, the quota would not necessarily apply only to women's sport. A quota could also be applied to news about other issues - women's or otherwise.

On the other hand, the Authority agreed with FIRST that TVNZ should be challenged on its assumption that gender is irrelevant to sports news. The Authority accepted FIRST's broad philosophical point about sport, and consequently sports news, that gender is relevant to both participation and spectator interest. Furthermore on a practical level, as FIRST argued, television coverage of a particular sport is highly relevant to sponsorship and other financial support.

The Authority also noted that FIRST did not give examples of women's sport which had suffered because of lack of television coverage. Nor were examples given of women's sports events for the first week of September which were not covered, or for that matter, a comparison of the sports excluded when categorised by the sex of the participants. Netball was referred to but it is already one of the four major sports covered by TVNZ.

The Authority did not doubt, taking into account the statistics supplied, that FIRST's specific complaint regarding the comparative lack of television coverage given to women's sport was true. Nor did it doubt that participation in and the development of women's sport suffered by receiving less than 50% coverage on the television sports news. However, the Authority also acknowledged TVNZ's argument that its role, as with all news including sport, was to reflect community interests and that its role was not, for example, to adopt a proactive role in fostering the development of a particular sport.

Nevertheless, the Authority observed and TVNZ implicitly acknowledged that television coverage of Australian rugby league had probably fostered the participation in and media coverage of that particular (male) sport.

Finally, the Authority accepted FIRST's allegation that "professional news judgment" might be merely a facade for conventional attitudes and a shelter behind which those lacking innovation might hide. "News judgment" was not a defence which had to be accepted without challenge.

Having presented the arguments about whether the complaint raised broadcasting standards or programming issues, and acknowledging that the standards matters raised



involved editorial decisions which were inextricably entangled with the broadcast of any particular item, the Authority reached the following conclusion.

FIRST has a number of substantive arguments which all broadcasters should take into account when reviewing editorial decisions about the news value of the items to be or not to be broadcast. The arguments about the imbalance of the coverage of women's sports which are well-documented overseas include the lack of sufficient highly visible role models, the lack of awareness of opportunities, the lack of encouragement to participate, and the lack of sponsorship and other financial support. However, because of the overlap between news judgment, which is the broadcaster's responsibility, and broadcasting standards, a shared responsibility between the Authority and the broadcaster, the Authority believed that it was inappropriate to determine this complaint.

After giving consideration to issuing an Advisory Opinion to all broadcasters about the need to exercise news judgment about any sports item in a way which does not attract and provide grounds for complaints about the lack of objectivity or the promotion of discrimination, the Authority decided to defer issuing an Opinion at this time. The Authority believed that by making this complaint, along with the other actions taken in bringing issues to the notice of broadcasters, FIRST has ensured that broadcasters will continue to assess their own performance in this area and, if need be, increase the amount of women's sport coverage.

**For the reasons set forth above, the Authority declines in all the circumstances under s.11(b) of the Broadcasting Act to determine FIRST's complaint that Television New Zealand Ltd's coverage of women's sport for the week 31 August - 4 September 1992 breached standards 12 and 26 of the Television Code of Broadcasting Practice.**

In view of the importance of the issue raised by this complaint, the Authority acknowledges that this conclusion is not entirely satisfactory. The Authority has made a concerted effort to reach a substantive decision on the complaint. However, the Broadcasting Act 1989 which incorporates a philosophy about broadcasting and sets out the Authority's functions and responsibilities provides the Authority with neither effective power nor a clear mandate to deal with the complaint.

Despite the statutory lacuna, the Authority does not intend to suggest an amendment which would affect the Act's philosophy. Instead, it believes that it is an issue to which a commercial or social response on the broadcasters' part is more appropriate rather than a regulatory one by the legislature. Furthermore, the Authority suggests that the complainant give consideration to advancing its case by approaching substantial and influential funding organisations which are also concerned with achieving social objectives.

Signed for and on behalf of the Authority

*Fain Gallaway*  
 Fain Gallaway  
 Chairperson  
 29 March 1993



## Appendix

### FIRST's Complaint to Television New Zealand Limited

Ms Judy McGregor of Palmerston North and Ms Pamela Harvey of Wellington, on behalf of Female Images and Representation in Sport Taskforce (FIRST), complained to Television New Zealand Ltd about TV1's *One Network News* broadcast at 6.00pm on Tuesday 1 September 1992.

They pointed out that six items of sports news were broadcast during the programme, four of which referred to male sport and one each to mixed sport and female sport. Timed in seconds the stories amounted to 276, 31 and 38 seconds respectively which translated into time proportions of 80%, 9% and 11%.

Referring to TVNZ's promotional material which maintained that TV1's news hour provided all the news a New Zealander needed to know, they argued the entire programme had to comply with the broadcasting standard which requires that news be presented accurately, objectively and impartially. They also said that the broadcast complained about occurred during the week of the New Zealand netball championship and noted that netball had a large following measured in terms of participation. Although at least half of New Zealand's population were women, they wrote:

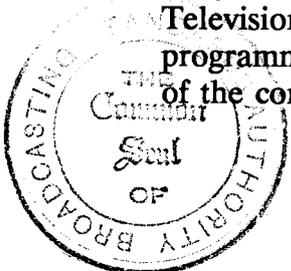
By giving women 11% of sports news coverage when a major event of national interest to them is in progress, presents an opposite or different view of reality.

Accepting that bias in the selection of news by way of omission was a reality, they argued that TVNZ's news showed a lack of objectivity and balance when coverage of women's sport amounted to only 11% of the time given to sports news.

The complainants referred to an earlier Authority decision (No: 18/90) where it was accepted that in rare circumstances the non-broadcast of an item could amount to a breach of standards. Taking into account, first, the high degree of credibility TVNZ ascribed to its news, and secondly, that their research showed that the coverage of women's sport on 1 September was not out of step with the average, the complainants argued:

The bias in favour of men's sports stories, and the considerably lower percentage of women's sports stories does not accurately represent the actual situation in New Zealand considering population, sports participation rates, audience appeal or the availability of topical, newsworthy stories available for selection and presentation according to journalistic convention.

They also complained that the coverage of women's sport breached standard 26 of the Television Code of Broadcasting Practice which prohibits the broadcast of programmes which encourage the denigration of, or discrimination against, a section of the community on account of sex.



Arguing that TVNZ's portrayal of women's sport was less equal, less newsworthy and less significant than its portrayal of men's sport, the complainants maintained that the imbalance was likely to encourage discrimination against women in the area of sports sponsorship and funding. Further, as the media image of sports women fostered self-esteem and positive role models for young women, the inferior status accorded women's sport by TVNZ was likely to denigrate women. The complaint concluded:

The programme standard uses the words "is likely to encourage" which imposes a higher standard of duty on broadcasters. Biased selection of sports on One Network News on 1 September 1992 in favour of male sport is likely to encourage denigration of, and discrimination against, women in the community.

### TVNZ's Response to the Formal Complaint

TVNZ advised Ms Judy McGregor of FIRST of its Complaints Committee's decision in a letter dated 7 October 1992.

It started by noting that the complaint omitted any reference to professional news judgment which, it said, applied to all branches of the news media. It continued:

In the view of the Committee, no news outlet can possibly apportion its coverage on the basis of gender - or for that matter on the basis of race, occupation, religious affinity, sexual orientation or any other similar criteria.

Coverage is apportioned on the basis of news value.

Arguing that the exercise of news judgment meant the selection of items with the greatest relevance to the greatest number of people and, contrary to an implication in the complaint, TVNZ said that both men and women were interested in all sports whether they be rugby or netball. The public interest in the netball championships had been acknowledged by coverage in the news each evening during the week. TVNZ then described the statistical breakdown as irrelevant, adding that, with all news, impact was not measured by duration or column inches.

With regard to the requirement for accurate, objective and impartial news, TVNZ maintained that its main sports news of 1 September met that standard.

Similarly, TVNZ did not accept the complaint that lack of gender balance led to discrimination. Declining to uphold the complaint, it added:

The Committee noted your belief that media image is important in fostering self esteem and your implication that Television New Zealand News and Current Affairs has a role in changing the image of women's sport. With respect, it is the view of the Complaints Committee that social engineering is not the responsibility of news media outlets - whose role is to reflect the community in which they operate. News bulletins report, they do not



campaign.

### FIRST's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 2 November 1992 Ms McGregor on FIRST's behalf referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

FIRST's letter made the following points:

- 1) The complaint referred to TV1's news coverage at 6.00pm on 31 August - 4 September whereas TVNZ dealt with sports coverage generally.
- 2) A quota system had not been advocated. Rather, FIRST argued that TVNZ's "so-called professional news judgment" did not accept women's sport as newsworthy as men's and, consequently, its news discriminated against and denigrated women. FIRST objected to TVNZ's subjective analysis "of so-called professional news judgment of what is newsworthy". Moreover, arguing that TVNZ had ridiculed the complaint, it recorded:

What we object to is TV1's subjective analysis of so-called professional news judgment of what is newsworthy. Taken to its logical conclusion TV1's exoneration of its discriminatory news practices would mean that their so-called professional news judgment can never be questioned.

- 3) Disagreeing that the complaint had suggested that women had no interest in news stories about rugby and rugby league, FIRST said that TVNZ's news judgment exhibited a perception that women were less newsworthy than men and, accordingly, the news was unbalanced.
- 4) FIRST described as "not true" TVNZ's claim of due prominence for netball during the week of 31 August - 4 September. The statistics were relevant, FIRST added, to show a continuing pattern of "faulty news judgment leading to bias and discrimination". "Discrimination" was then defined, following the United Nations Convention for the Elimination of all forms of Discrimination Against Women, as a "distinction, exclusion or restriction" and thus, FIRST insisted, TVNZ's gender imbalance was discriminating.
- 5) FIRST disagreed strongly with TVNZ's contention that an item's duration was of no significance in assessing its impact. Referring to the practices in other media as evidence, FIRST said that those practices showed the inappropriateness of TVNZ's arguments.
- 6) In regard to TVNZ's statement that news judgment meant publishing "those stories having the greatest interest to the greatest number of people", FIRST said ratings in fact measured the least disliked programme broadcast at any particular time. The crude audience measures available, FIRST continued, did



not allow TVNZ to state with authority that it had selected "those stories having the greatest interest to the greatest number of people". Moreover, and as crude as they were, the ratings supported the case for more coverage of netball. A piece of Australian research was attached which showed that 7 out of 10 viewers (evenly split between men and women) wanted more women's sport on television.

- 7) Questioning how TVNZ reached its conclusions about some of its alleged beliefs, FIRST stated that it did not ascribe a social engineering function to TV1's news. Furthermore, it noted, TVNZ did not fulfil its self-defined role as reflecting the community as its news did not acknowledge women's sport in terms of participation or interest levels.
- 8) FIRST concluded with the following summary:

The complaint does not seek to improve a "community image". We seek accuracy, objectivity and impartiality (none of which exclude professional news judgment exercised honestly) and we seek redress for discrimination about women's sport. We ask that our complaint be taken literally. The fact the [Complaints] Committee resorts only to rugby analogies, and is willing to read into our complaint so much that is not there, underscores our complaint. We do not believe that our complaint has been addressed satisfactorily and consider the TV One News programmes complained of breach the Code of Broadcasting Practice in relation to news coverage of women's sport.

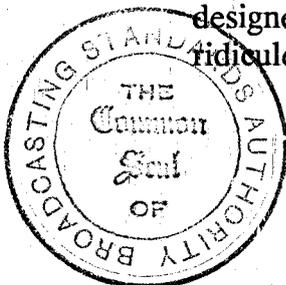
In the completed Complaint Referral Form received from Ms McGregor on FIRST's behalf, she wrote:

We believe that oral submissions will supplement and complement the complaint as lodged.

#### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 20 November 1992 and TVNZ's reply, dated 21 December, dealt with the eight issues raised by FIRST when it referred the complaint to the Authority.

- 1) Contrary to FIRST's allegation, TVNZ said that it had dealt with news coverage - not with sports coverage generally.
- 2) Arguing that to accept the complaint under standard 26 would result in a quota system, TVNZ noted that the reference to such a process was designed to illustrate its impracticality rather than as an exercise in ridicule. It continued:



The decision on what goes into a news programme has to be

made on news judgement and news judgement alone.

3), 4) and 5)

*One Network News*, TVNZ maintained, had given due prominence to the netball championships. Newsworthiness, not statistics, was the basis for selecting an item and, TVNZ continued:

We consider news value to relate to what the media organisation perceives to be that which has the greatest interest to the greatest number of people. Thus, in sports news, news value tends to reflect the major sports of the society which is served by that organisation.

The major sports are quite clear. In the United States they are football, baseball and basketball. In England they could be identified as soccer and cricket. In New Zealand we believe few would dispute that rugby, league, cricket and to a lesser extent, netball are the major sports.

Television New Zealand did not make that selection - it simply reflects a public interest in those sports which, with the possible exception of league, has existed since before television began.

Outside of these major sports, TVNZ argued, news value tended to arise from individual performances and Susan Devoy was cited as an example of that practice.

6) Arguing that television, unlike many other media organisations, was able to assess public interest in sport with considerable accuracy, TVNZ recorded some ratings for various sports programmes. It wrote:

Professional news judgement reflects such interest levels and it remains our view that the news coverage accorded the Netball championships was appropriate to the level of interest.

7) TVNZ stated:

We contest the view of the complainants that duration is a test of newsworthiness. Despite the complainants' assertions to the contrary our research shows that in a newspaper the longest items are found consistently on the feature pages - yet rarely are they the most significant. We enclose samples from the sports pages of the "The New Zealand Herald" where the lead item is not always that which takes up the most space. We also give examples from the sports pages where there are several leads - something a television news bulletin is unable to do.



- 8) TVNZ concluded by observing, first, that it was not a task of a news service to make more people interested in watching women's sport, and:

Second, we believe the complaint is addressed to the wrong people. They are blaming the media for the indisputable fact that the sports which attract the greatest public interest in New Zealand are primarily male sports.

Television New Zealand reports news stories - in whatever field they occur.

### **FIRST's Final Comment to the Authority**

When asked to comment on TVNZ's response, in a letter received on 18 January 1993, Judy McGregor on FIRST's behalf made six points.

- 1) TVNZ, it was argued, continued to refer to general sports programmes when the principle - the greatest interest to the greatest number of people - might be relevant. To apply that principle to news, however, would mean, first, that the lowest common denominator prevailed, and secondly, that the broadcast might not meet the broadcasting standard that news be presented accurately, objectively and impartially.
- 2) FIRST had never proposed the introduction of a quota system.
- 3) By using the news judgment alone as the standard for news, FIRST argued, TVNZ was falling short of its statutory responsibilities. By only presenting information about netball during the week in question, TVNZ had failed to comply with its responsibility to present news accurately and objectively.
- 4) FIRST questioned the validity of ratings as they only measured what was watched from the available choice. If rugby, rugby league and cricket were the only sports shown in quantity, the data would inevitably perpetuate the status quo.
- 5) Pointing out that newspaper and magazines did not lead with fillers, FIRST maintained its argument that duration was relevant to newsworthiness.
- 6) FIRST concluded:

TVNZ seems to be suggesting our complaint is political and irrelevant. Our complaint relates to specific news programmes and is lodged against specific clauses in the code of practice. TVNZ has declined to provide any answer to our complaint in



relation to Clause 26 People Considerations relating to denigration of women. We ask that the complaints be considered in the context of the statutory requirements of broadcasters.

Referring to the number of participants, FIRST observed that TVNZ had acknowledged the high numbers who played netball but had again emphasised news value - as measured by wide public interest - as the relevant criterion.

### Further Correspondence

In view of the complex issues raised by this complaint, the Authority proposed to the parties that an informal roundtable discussion be held to allow them to elaborate on their points of view.

Whereas Ms McGregor was prepared to participate on FIRST's behalf, TVNZ declined to do so. It advised the Authority in a letter dated 4 February 1993 that its position was summed up in its letter of 21 December to the Authority when it wrote:

The decision on what goes into a news programme has to be made on news judgement and news judgement alone.

TVNZ also questioned whether the Broadcasting Act allowed the informal nature of the discussion which had been proposed.

