

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 18/90

Dated the 5th day of October 1990

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

BRUCE BEETHAM

of Marton

(on behalf of Social Credit - NZ)

Broadcaster

TV3 NETWORK SERVICES
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

Introduction

On 10 July Mr Bruce Beetham, Leader of Social Credit - NZ, made a formal complaint to TV3 Network Services Ltd concerning its failure to cover Social Credit's Alternative Budget - the Beetham Budget - on its 3 National News bulletin broadcast at 6.30 pm the previous evening. Mr Beetham was dissatisfied with TV3's subsequent decision not to uphold his complaint and referred the matter to the Authority for investigation and review.

Mr Beetham's Complaint to TV3

In his letter of Tuesday 10 July (which he faxed to TV3), Mr Beetham stated that he had posted Social Credit's Alternative Budget to TV3 on Thursday 5 July, under embargo until 12.00 noon on Monday 9 July, and asserted that it would have arrived in TV3's Auckland newsroom "in plenty of time to be used" on the 3 National News bulletin at 6.30 pm on the previous evening, Monday 9 July. That particular news bulletin gave "significant coverage" to the alternative budget released by the New Labour Party but "totally ignored" the Beetham Budget. The net result, in Mr Beetham's view, was a breach of Programme Standards 6, 12 and 16 of the Codes of Broadcasting Practice for Television.



Unless TV3 remedied matters "in an appropriate way" on its 3 National News bulletin at 6.30 pm that evening (i.e. Tuesday, 10 July), Mr Beetham would seek a High Court injunction to restrain TV3 from broadcasting any further press releases from the National, Labour or New Labour Parties until it gave an appropriate proportion of prime news time to other Parties for their policy releases.

In a further letter dated 27 July, Mr Beetham reiterated that he could not accept that his letter of 10 July took 5 days to reach TV3's news desk. Mr Beetham said that he "will neither accept nor be fobbed off with such a pathetic, feeble and intelligence-insulting excuse" and stated that he expected his complaint to be heard by TV3's Complaints Committee.

TV3's Response to Mr Beetham

In three separate letters, TV3 responded to Mr Beetham's complaint.

In its letter of 24 July, the broadcaster stated that the arrival of Mr Beetham's Budget in the TV3 Auckland newsroom late on the afternoon of 10 July had been preceded by the arrival of Mr Beetham's faxed letter of complaint of the same date which had been responded to by fax on the same day by TV3's Director of News and Current Affairs.

TV3's letter went on to make the point that in view of the late arrival of the press release (a day later than its embargo date) and its coverage on other media between the embargo release and time of delivery to TV3's Auckland newsroom, it was deemed to be of insufficient news value for inclusion in TV3's 3 National News bulletin at 6.30 pm on 10 July. Mr Beetham was informed that "election campaign coverage on TV3 news bulletins will be on a news value basis, but at all times TV3 will strive for editorial balance. In order for this to happen, your co-operation in making available details of possible items for inclusion in TV3 news bulletins as promptly as possible would be appreciated". The letter concluded by repeating information contained in an earlier letter (dated 10 July) concerning the Auckland and Wellington numbers to which faxed press releases could be sent.

On 17 August, TV3 wrote to Mr Beetham to advise him of the decision of its Complaints Committee on his complaint. The letter began by quoting the relevant programme standards as follows:

In the preparation and presentation of programmes, broadcasters are required:

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

...

A television news and current affairs service should take account of the following points:

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



16. No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcasters should aim to present all significant sides in as fair a way as possible, and this can be done only by judging every case on its merits.

Challenging Mr Beetham's assertion that his Alternative Budget would have arrived in plenty of time to be used in the 6.30 pm news bulletin on 9 July, TV3 repeated the statements in its letter of 24 July concerning the late arrival of the press release and its coverage on other media, factors which had resulted in its having been deemed to be of insufficient news value for inclusion in TV3's 3 National News bulletin at 6.30pm on 10 July 1990.

The letter concluded with the statement that the Complaints Committee did not believe that the news department's decision not to cover Social Credit's Alternative Budget, for the reasons outlined, had breached programme standards 6, 12 or 16.

The Referral of Mr Beetham's Complaint to the Broadcasting Standards Authority

Mr Beetham considered TV3's response "untenable" and referred the matter to the Authority. He considered that the reasons given for the decision were "weak, pathetic and lacking in credibility". Mr Beetham also noted that he had decided against taking the High Court action he had earlier contemplated.

Mr Beetham's complaint was passed to TV3 for comment on 14 September.

TV3's Response to the Authority

In a letter dated 19 September, TV3 contended that it in no way breached Standards 6, 12 and 16 of the Television Programme Codes.

That Mr Beetham's policy statement was not covered in TV3's news bulletins "relates directly to the fact that TV3 did not receive Social Credit's embargoed release until a day after its release. TV3 operates a news organisation and believes the failure of Social Credit to ensure that its media statement was delivered on the day of release is a matter for Social Credit to address - not TV3".

The letter continues:

1. Social Credit failed to communicate its press release to TV3 in a time period adequate for it to be treated as news by TV3. Events which occur the previous day are normally covered the previous night.
2. As it was dated material and deemed no longer to be news, TV3 was discharged of any obligation to run it.

The worth of the story had lost additional merit because some media had



already run stories, having received the release earlier than TV3.

Even if Mr Beetham's release had arrived on the day of intended release, there are no guarantees that Social Credit's budget statement would have been covered. Each story is measured on its significance and merit (Broadcasting Codes of Practice Section [Standard] 16) and weighed in the context of other news available on any given day.

However, we believe this is not at issue on this occasion, because the event had faded in significance by the time Three National News was notified.

Therefore questions of balance, impartiality and fairness do not arise as alleged by Mr Beetham.

The complaint is a reflection of the inability of Mr Beetham's party to communicate in an efficient manner with Three National News, rather than Three National News' obligations to meet Broadcasting Codes of Practice criteria relating to balance, impartiality and fairness.

Mr Beetham's Final Comment

Mr Beetham was given the opportunity to comment upon TV3's response and did so, in a letter dated 24 September, as follows:

The only comment I have to make is that it is laughable that TV3 should try to paint me as someone unable to communicate with the media in time. I have been in the business of media relations for nearly 20 years, and I do know that it doesn't take 5 days for material posted from Marton to arrive on a desk in Auckland despite the occasional inefficiencies of NZ Post.

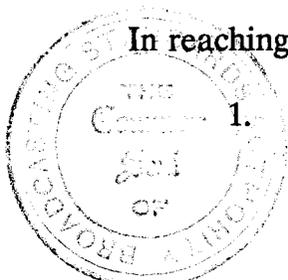
Decision

While Mr Beetham has asked the Authority to investigate whether TV3's decision on his complaint was tenable - and whether the reasoning behind the decision was, as he put it, "weak, pathetic and lacking in credibility" - the Authority's consideration of these issues has necessarily been carried out in the context of the alleged breaches of Standards 6, 12 and 16 of the Television Programme Codes (quoted earlier), the three Standards relied upon in Mr Beetham's original complaint to TV3.

After careful deliberation, the Authority is not persuaded that TV3 breached all or any of these standards in deciding not to give news coverage to Mr Beetham's Alternative Budget.

In reaching this conclusion, the Authority took note of the following:

1. The lack of any evidence that Mr Beetham's Budget was received by TV3



in time for it to have been considered, on its merits, for inclusion in the 6.30 pm 3 National News bulletin on Monday, 9 July.

In the absence of any such evidence, the Authority accepts TV3's statement that the Beetham Budget arrived in its newsroom late on the afternoon of the following day, Tuesday 10 July, more than a full day after its time of embargo.

2. The well known journalistic convention to report as news only that which is new or topical.

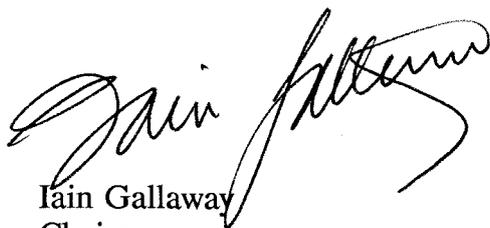
In TV3's judgement, the arrival of the Beetham Budget well after its embargo time, and after it had been covered in other branches of the media, meant that it was dated material and lacking in news value when it reached TV3's newsroom. The Authority sees no reason to question TV3's assessment that, in the circumstances, it was of insufficient news value for inclusion in its 3 National News bulletin at 6.30 pm on 10 July.

3. The fact that it is only in rare circumstances that the non-broadcast of a programme or an item within a programme will give rise to a breach of the Standards included in the Television Programme Codes.

The decision not to broadcast an item concerning the Beetham Budget in the 6.30 pm 3 National News bulletin on Tuesday, 10 July could give rise to a breach of Standards 6 and 16, and of section 4(1)(d) of the Act, if the material were capable of being considered to constitute a significant point of view on a controversial public issue and its inclusion deemed necessary in the interests of preserving balance, impartiality and fairness. Clearly, TV3 did not consider that to have been the case on Tuesday 10 July. While, within the Authority, there was some support for the view that the material met these criteria and should have been broadcast, it was decided - by a majority vote - that, on the evidence before the Authority, the Beetham Budget did not meet these criteria and its inclusion in the bulletin of 10 July was not necessary in order to preserve balance, impartiality and fairness.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson

October 1990

