

the date on which the complaint would be considered. Indeed, the Corporation did not respond, apart from an acknowledgement of the complaint, until after Dr Ehrhardt wrote again to the Secretary on the 9th of February. Dr Ehrhardt's complaint in this respect is upheld.

In doing so the Tribunal must point out that the complainant himself impaired the likelihood of justice being done through his taking so long to lodge a formal complaint. His letters of objection began on 18 August 1977, and on 7 October he was advised that if he was not satisfied he should lodge a formal complaint with the Broadcasting Corporation. He chose not to do so until 13 December when he wrote requesting full details of how to do that. It is surprising, in view of his opposition to the news and current affairs programmes involving abortion, that he did not see fit to formalise his complaint months earlier.

Regardless of this we might be forgiven for wondering whether Dr Ehrhardt was as ignorant of procedure as he makes out. He was aware of the existence of the Broadcasting Tribunal, having appeared before it in Dunedin as a witness called by a complainant in November 1977. He had access then to the acting Registrar who was with the Tribunal at its sitting in Dunedin.

Furthermore the complainant in that case was a Dunedin solicitor, who was fully conversant with the procedure. It is difficult to imagine Dr Ehrhardt as his witness not discussing with the solicitor how a complaint could be lodged.

The Tribunal was disappointed in the inability of Radio New Zealand to produce any recordings and its failure to find in its filing systems a number of the news bulletins and scripts complained about.

In the absence of a complete record of the abortion material broadcast during the period, it is difficult to judge the merit of the allegations of bias and of failure to make reasonable efforts to present significant points of view within the period of current interest.

The complainant usually wrote letters of complaint promptly after hearing broadcasts, which he considered biased or unbalanced, yet Radio New Zealand was unable to produce any sound recordings or transcripts of current affairs programmes and other programmes which, because of the extent of comment broadcast, might have been expected to generate complaints. The head of news and current affairs Mr G. W. Harte, said that written copies of a number of the items were missing; that a new computerised system made them harder to locate and that an office shift resulted in some being lost. At the hearing Mr Harte supplied the bulk of the abortion news items broadcast on December 14, 15, 16, 19, 20, and 22, 1977. These were an overwhelming number of items about which Dr Ehrhardt had not complained.

Nevertheless the complainant's case has suffered seriously because of the unavailability of confirmed details of many of the broadcasts he complained of.

Mr Harte took the attitude that there was no need to keep items in question until a formal complaint had been lodged and pointed out the difficulty of keeping a large number of tape recordings for any considerable length of time in case they were needed.

The rules of broadcasting, in force at the time of the programmes complained about, provided that television stations should hold for 14 days sound recordings of current affairs and news programmes and all other local programmes of the magazine interview and commentary type which involved free expression of opinion on matters of public interest and controversy. For radio, the requirement was to hold for 14 days after broadcast, a recording of all talk-back and open-line programmes only.

Mr Harte was in the position of having to assert that Radio New Zealand considered it had provided a proper balance of programmes over a period, but he was unable to produce specific evidence to support the assertion.

The rules approved in May 1978 repeat this latter requirement for radio and provide:

"When a formal or serious complaint is made about a programme, stations must ensure that all relevant recordings, scripts or other programme information are held until the complaint has been finally dealt with."

Under the rules an obligation is placed on warrant holders to give the Tribunal such information as it shall require from time to time on any particular programme or on programmes generally.

Consideration should be given by the Rules Committee to a provision in respect of news and current affairs programmes that some minimum period of retention should apply and that retention should continue in circumstances such as the one under present consideration.

Dr Ehrhardt's second complaint related to section 24 (1) (d). The Tribunal has come to the following conclusions:

1. It is impossible to determine the complaint because of the lack of information.

2. We are not satisfied that Dr Ehrhardt's information makes out a prima facie case or that it can be elevated above the level of an allegation. Dr Ehrhardt himself admits to a subjective attitude and indeed has sought in his correspondence a bias from broadcasters in favour of his point of view.

3. We accept Mr Harte's contention that while Dr Ehrhardt is concerned with abortion, as an issue, some of the complaints related to the reporting of events. Those programmes must be judged on a basis of news reporting of events concerning the issue.

4. On the December days above-mentioned the news items broadcast included a large number of abortion related items about which there was no complaint from Dr Ehrhardt. For example on 14 December at least 24 items on abortion were broadcast and only one from that day figured in the complainant's case.

5. Thus his sample was a selective one on which to generalise an allegation of bias.

With regard to the complaint under section 24 (1) (e) Dr Ehrhardt pressed the view that following a *Checkpoint* programme (in respect of which the Director-General of Radio New Zealand has admitted that there were some grounds for his complaint) no subsequent programme was unbalanced the other way. We do not accept this contention as desirable or valid. The Act does not require it.

In respect of a later programme about which we have no detail he did accept that there was a balanced treatment. Radio New Zealand has demonstrated that the items complained of are a somewhat small selection of those actually broadcast on the general topic. It was not possible to accept that any bias which might appear in the sample could be extrapolated to apply to the coverage overall.

Radio New Zealand makes no attempt to present a balance of views on the issue on a daily basis or in the reporting of parliamentary debates to present summaries of the argument at predictable times. The Tribunal accepts the principle of reporting news as it is made and achieving a balance of the views in the community over a longer period. To achieve balance within a news bulletin would be largely impracticable given the exigencies of radio news and undesirable in that the non-availability of contrary opinions could result in the suppression of news or comment.

However, the Tribunal would expect those holding editorial responsibility to keep the overall impact of news and current affairs broadcasts on controversial issues under review with a concern to ensure an adequate reflection of community attitudes.

The Tribunal had the assertion of Radio New Zealand that such a balance was maintained and some evidence in the form of subsequently submitted transcripts, that at least following Dr Ehrhardt's stated intention to complain, anti-abortion arguments were put quite often in a full day's news rather than selected bulletins was followed.

Again the absence of transcripts of the recorded news interviews and current affairs programmes was particularly frustrating. The Tribunal had a copy of a letter from the Director-General of Radio New Zealand to Dr Ehrhardt of 31 August 1977 admitting there was some grounds for his complaint with regard to *Checkpoint* of 19 August. However, the Tribunal cannot make a decision on the overall charge of bias because of insufficient evidence from the complainant and from Radio New Zealand.

In the case of the alleged breaches of section 24 (1) (f) the bulk of items concerned were available for our perusal. In most cases these were reports of events in the community and the Tribunal does not feel that the items quoted were an incitement against law and order. Mr Harte has admitted that he was "not enamoured" of an unsourced report that "six women in the Waikato are undergoing a month's training to become illegal abortionists, and they say when they've learnt the skill they will pass it on to others." He did not believe that stories of this kind could generally be broadcast but claimed that his organisation must find perfection just beyond reach. As no specific details were given on which a listener might take action the item, as broadcast, cannot be held to disregard "the maintenance of law and order".

General

It should not be thought that this Tribunal will, in every case where a person decides to complain about every programme on a topic over a long period, embark on a detailed examination of every broadcast under complaint, nor that it will require the Corporation to retrieve every piece of information and broadcast on that topic.

However, in the present case where complaints had been steadily lodged during the period in question, and the Director-General made aware of the details of the complaints, it appeared justified to us to require Radio New Zealand to submit to us the items complained about and if they wished to