

Astons Ltd. was concerned that the suggestion was clearly made on the programme:

- (1) That they had been paid \$95 for repairs and adjustments to the set which proved ineffectual.
- (2) That they had handed over the set in what they had believed was good order and condition when it was not in such a condition.
- (3) That they had proceeded with repairs which had not been authorised by Mr Lyle.
- (4) That they were not competent to do the work they endeavoured to carry out.
- (5) That the failures in the set that occurred while it was in their care were their fault or the fault of their employees.

They were also concerned that there had been no disclosure that they had lent Mr Lyle a black and white set for free use while his set was in their workshop and that he had refused to return it.

The dispute between Mr Lyle and Astons Ltd. is now before the Small Claims Tribunal. For that reason the decision has been made but may not be released until after the Tribunal has dealt with the claims and counter-claims so that any publicity given to this decision will not prejudice those proceedings.

It is, however, important to note that this Tribunal is not dealing with exactly the same matter. The Broadcasting Tribunal is only concerned with the way in which Mr Lyle's dispute with Astons Ltd. was portrayed on television and whether or not that portrayal was a fair and accurate one.

We had the benefit of Mr Lyle's giving evidence to us on some matters relating to the circumstances in which he was interviewed and the comments he made on the programme. We emphasise that the Tribunal has not investigated and does not adjudicate upon his dispute with Astons Ltd.

It does appear, however, that the programme did less than justice to Astons in a number of respects.

First, Mr Lyle stated on the programme that he had paid \$95. In fact he handed a cheque for \$95 to Astons Ltd. but stopped payment. There is a dispute whether he did this immediately or the following day—about which we are not concerned. The important point as far as the programme was concerned, was that he had never paid the \$95.

Yet Mr Lyle was allowed to state three times on the programme without correction that he had paid his money, twice coupled with remarks about the condition of the set when he received it back.

Mr Monaghan agrees with the Tribunal that if the producer had been aware that payment on the cheque had been stopped, a correcting or qualifying statement should have been given on the programme to that effect.

The Tribunal considers it impossible that in the course of the long conversation with Mr Aston Mr McDonald did not become aware that that cheque had been stopped.

It is important in this programme that steps be immediately taken to correct statements which complainants may make, and which are known to programme people to be incorrect. It should not be left to the person or company complained about to have to correct the point as this may in itself leave some doubt in the minds of the viewers as to whose assertion is correct.

We consider this to be a serious fault and to justify the upholding of the complaint in part.

Mr Lyle's explanation for giving this totally wrong impression on the programme was that he had been requested to give a condensed version of the facts.

This also was the reason he gave to the Tribunal for giving the impression that, when he collected the set, Astons Ltd. considered that they had properly repaired and adjusted the set. This was not in fact the position. Mr Lyle admits that he took the set away in disgust and annoyance despite the request by Mr Fish for him to leave it until later in the day for a colour fault to be corrected. He had been invited in to see the set switched on after work had been done on it, and had then not been prepared to leave it there any longer. However on *Fair Go* he gave a distinct impression that Astons Ltd. had claimed to have repaired and adjusted a set which proved to be in worse condition than when he sent it in.

He also agreed that his statement that he had not authorised repairs to the extent of \$95 was misleading. This also should have been corrected on the programme. He had himself supplied parts for repairs which arose after failure of the power supply on two occasions. This kind of failure, according to Astons Ltd., is likely to occur in sets without warning and had nothing to do with the work they were doing on the tuning of the set. We are not in a position to confirm this.

But we do consider their viewpoint should have been given and it should have been clearly confirmed that Mr Lyle did later, while the set was in their control, authorise further repairs to be carried out.

If all these facts had been made clear by the programme they may have had some influence on the viewer's willingness

to accept Mr Lyle's statements about the competence of Astons. Rather as it occurred, the viewer was invited to believe the man he could see, while the refutation was given by studio characters reciting statements recorded during a research officer's long telephone conversation.

Furthermore the existence of the replacement set which had been given to Mr Lyle and his refusal to return it to Astons were not aired although they bore on the reasonableness of Mr Lyle's complaints about Astons.

There are real dangers in trial by television. The dilemma of someone such as Mr Aston (who would not present such a forthright and determined figure as his dissatisfied customer) is a real one. Whether to agree to be taken from his work for a day to go to Wellington to appear in strange surroundings to defend his company in front of the skilled television interviewer whose eyebrow raising may mean more to the audience than anything said in the programme; to realise that only the complainant, for economy of time, is pre-filmed and edited to be concise; or to stay away and hear one's words recited unconvincingly by a studio panel. Only at the studio will it be possible to see exactly what the viewers are going to be told. Will he be quick-witted enough to deal in a minute or two with his side of the argument.

In the present instance Mr Lyle was not available to go to Wellington because he did not want to leave his small business unattended. He was however filmed and his side of the story presented on the programme.

Mr Aston was thought to be unwilling to go to Wellington and therefore it behove the programme makers to decide whether they would afford a similar "privilege" to Mr Aston or whether to take abundant care to ensure that his side of the case was fully presented in his absence.

The Tribunal is not satisfied that a full version of the facts available to *Fair Go* was presented and while the Tribunal hesitates to say that the programme lacked impartiality it is certainly clear to the Tribunal that it lacked accuracy and completeness.

Care must be taken by this programme to ensure that personal participation in a "trial" by television is not forced upon individuals (or companies) by the fear that failure to appear in person will lead to less than adequate treatment of that side of the dispute.

There are three matters arising out of this complaint which the Tribunal feels obliged to comment upon:

- (1) There was 3 months delay from the time of the programme to the lodging of a complaint with Television One. There were further delays which were not the fault of Television One or the Corporation, before the Corporation could finally deal with the complaint on 14 September 1978.

The matter came before the Tribunal for hearing nearly a year after the original programme. Serious consideration was given by the Tribunal as to whether it should decide not to determine the complaint because of the delay by Astons Ltd.

Explanations were given that the cause lay with solicitors. It does appear that time was wasted by threatening defamation proceedings which they had no intention of bringing against the Corporation. Not only was the recollection of witnesses affected by the delay but some records were no longer available.

It may be that this Tribunal will decide not to determine complaints if they have not been lodged promptly after the programme, particularly where the complainant is the only person affected.

- (2) The Tribunal has once again to mention its concern at the Corporation's policy regarding the retention of records relating to programmes. We had the benefit of a video tape which had quite properly been retained. However, we were told that other records, papers, and tape recordings were disposed of in March 1978, after the complaint had been received by Television One. It was said to be due to a lack of communication.

We suggest, that care be taken not to discard materials relating to such a programme too early. (We accept there may be a need to remove them from a working area). Our remarks about keeping proper records of conversations and confirming arrangements in writing will mean little if the Corporation fails to keep those records after complaints are received.

- (3) The Corporation declined to decide whether or not the complaint against Television One was justified in whole or in part. Unlike the Tribunal, the Corporation appears to have no power by statute to decide not to investigate a complaint nor can it avoid having to determine whether or not it is justified.

We do not accept that it is necessary to have the power to administer oaths and conduct a hearing in