

broadcasting scene in Auckland for several years and his reputation is well-known. In getting involved in this programme the Committee feels that Mr Cullimore should have expected this type of reaction from Mr Bickerstaff having regard to the nature of the programme and in particular having regard to Mr Cullimore's attitude to the *Tucker's Turf Analysis* feature. The Committee has come to the conclusion that the language while border-line was within the context of the programme concerned and it concludes that there was no breach of the Radio Standards and Rules and in particular Rule 1.1 (b) the rule in point, which provides that broadcasters are required "to take into consideration currently accepted norms of decency and taste and language and behaviour bearing in mind the context in which any language or behaviour occurs".

Secondly, Mr Cullimore complains about a breach of an agreement by Radio Pacific . . . to allow him time to (as he puts it) "balance the programme". It appears from the information before the Committee that Radio Pacific did indeed agree to allow Mr Cullimore to put forward his comments on the programme and it appears that this agreement was subsequently not adhered to by Radio Pacific The Committee as a consequence concluded that Radio Pacific . . . appears to have been in breach of Rule 1.1 (e) of the General Standards of Radio Standards and Rules in that in this respect it did not "deal justly and fairly with (Mr Cullimore)" in that once having agreed to allow Mr Cullimore to take part in the programme it should have honoured that agreement to allow Mr Cullimore to present another point of view. There appears to have been no valid reason why Radio Pacific . . . could not have honoured that agreement.

The third point raised by Mr Cullimore is that he considers there was deliberate censure of him by Radio Pacific preventing him from providing a balance to the programme and the Committee has come to the conclusion from the information before it that if indeed Mr Bickerstaff did threaten to cut Mr Cullimore off if he continued to ring about the *Tucker's Turf Analysis* programme then indeed Radio Pacific was again in breach of the fair treatment rule namely Rule 1.1 (e) of the Radio Standards and Rules as such an attitude by Radio Pacific . . . would amount to censure by selection if it indeed occurred.

The fourth part of Mr Cullimore's complaint refers to his allegation that Radio Pacific . . . was in breach of section 95 (1) (c) of The Broadcasting Act 1976, in that private radio stations in maintaining standards generally acceptable to the community in their programmes in particular have to have regard to "the accurate and impartial gathering and presentation of news according to recognised standards of objective journalism". The Committee has carefully considered Mr Cullimore's allegations under this heading but it cannot find any clear evidence that Radio Pacific . . . was in breach of that part of The Broadcasting Act. Mr Cullimore in particular appears to make two particular points and the first one concerns Radio Pacific's assurance in its letter to the Broadcasting Tribunal of the 27th May 1980, that it cancelled the *Tucker's Turf Analysis* programme as soon as it heard that a complaint had been lodged with the Department of Internal Affairs. Mr Cullimore maintains that it did not in fact do this but continued to run the programme for a few more days. The Committee on this point finds that it was up to Radio Pacific as to when and if it abandoned the programme called *Tucker's Turf Analysis*. The Committee accepts Radio Pacific's assurances that it did indeed take steps to halt the programme when it heard that the programme was being investigated by the Internal Affairs Department and the fact that the programme may have continued for a few more days after that does not seem to be of any great significance. The second point that Mr Cullimore makes seems to refer to the use by Radio Pacific . . . of the word "report" rather than the word "investigation". Mr Cullimore complains that Radio Pacific should have used the word "investigation" rather than the word "report" in their news broadcasts and that in downgrading the matter to a report rather than an investigation (by Internal Affairs) it was not keeping up to recognised standards of objective journalism. After considering the matter the Committee has come to the conclusion that either word was appropriate to describing the part being played by Internal Affairs after Mr Cullimore lodged his complaint. Indeed if Mr Cullimore again looks at Mr Highet's letter to him of the 5th March 1980, he will see that Mr Highet uses both the word "investigation" and the word "report". It appears that the Minister himself may have inadvertently confused the issue by using both words in his correspondence but in any event the Committee considers that what was involved here was really a play on words and of no real significance in the overall context of this matter.

One further observation should be made in that Mr Cullimore in his complaint often describes the *Tucker's Turf Analysis* programme as being illegal and further that he was

obtaining a "legal ruling" from the Minister of Internal Affairs. It is of course not possible for the Minister of Internal Affairs to give a legal ruling—this can only be done by a Court of competent jurisdiction. All that the Minister of Internal Affairs could do, and this he did, was to seek an opinion from his Department and that opinion showed that the *Tucker's Turf Analysis* programme probably did not constitute a legal lottery because it was not conducted for an authorised purpose as defined in section 2 of The Gaming and Lotteries Act 1977. As the Minister quite rightly pointed out in his letter to Mr Cullimore of the 5th May 1980, Radio Pacific would have been quite within its rights to seek other advice on the legality of the scheme and even indeed seek a Court ruling as to whether the scheme was in fact illegal.

Finally, Mr Cullimore also complains that Radio Pacific was in breach of section 95 (1) (f) of The Broadcasting Act 1976, in that it did not have regard to "the privacy of the individual", and in particular during a talk-back programme of 18 March 1980, in a discussion between Mr Bickerstaff and Mr Tucker, there was reference to the name "Cullimore". This is confirmed in the letter from Radio Pacific to the Broadcasting Tribunal of the 27th May 1980, and the Committee finds that even though probably inadvertent on Mr Tucker's part such a reference to Mr Cullimore by name was indeed a breach of that provision of the Act. Although Mr Tucker may not perhaps have the experience of Mr Bickerstaff in broadcasting he still, nevertheless, has had considerable experience in this area and should not have referred to Mr Cullimore by name at a time when the *Tucker's Turf Analysis* programme was under investigation by the Department of Internal Affairs as to its legality.

In conclusion therefore, the Committee does find that Radio Pacific was in breach of Rule 1.1 (e) of The Radio Standards and Rules in that it did not deal justly and fairly with Mr Cullimore being a person taking part in the talk-back programme concerned, in that despite its apparent previous agreement to do so it did not allow him to take part in the programme to present a different point of view, and it appears that Mr Cullimore may subsequently have been prevented from taking part in the programme by being cut-off by Mr Bickerstaff when contact was made with the station by Mr Cullimore.

Finally, Radio Pacific was in breach of The Broadcasting Act, section 95 (1) (f) in that reference to the name "Cullimore" was made in a broadcast at a time when the legality of the *Tucker's Turf Analysis* programme was under investigation and Mr Cullimore was the complainant involved, such reference being also made without Mr Cullimore's prior approval.

The Committee in terms of section 91 (3) Broadcasting Act 1976, recommends to Radio Pacific that it write a letter of apology to Mr Cullimore covering the three areas where it considers Radio Pacific was in breach of the Radio Standards and Rules and/or The Broadcasting Act 1976, a copy of such letter of apology to be furnished to the Committee for its records.

The Committee would like to make some final observations:

Firstly, it considers that if Radio Pacific had perhaps been a little more responsive and sensitive in its attitude to Mr Cullimore at an earlier stage then perhaps the matter may have concluded without Committee getting involved, and in this regard the tone of Mr Dryden's letter to Mr Cullimore of 5 March 1980, and in particular the first paragraph was not helpful. Clearly Mr Cullimore had made his point when the programme was abandoned and perhaps Radio Pacific could have been a little more gracious in the loss of its programme in the circumstances.

Secondly, it should be made clear to Mr Cullimore that this Committee being an administrative tribunal does not have any power to award damages. Section 91 of The Broadcasting Act sets out what action the Committee can take on any complaint it receives, and as will be seen that section limits the Committee to making recommendations on receiving and deciding a complaint either to the Broadcasting Tribunal and/or to the parties concerned in the complaint.

H. W. I. HAMMOND, Chairman.

The Films Censorship Board of Review

Messrs A. B. Beatson, D.J. (chairman), Mrs M. Cole, Mrs U. M. Ewert, Mrs V. A. Forbes, Mr B. S. G. Lambert and Dr J. M. Priestley.

Date of Review: 20 June 1980.

DECISION OF THE FILMS CENSORSHIP BOARD OF REVIEW

PURSUANT to section 82 of the Cinematograph Films Act 1976, Twentieth Century Fox Film Corporation Ltd. applied for a review of the feature film *Shame of the Jungle* which had