

The tribunal faced a particular difficulty in this matter in that the complainant's allegations were so generalised that it would have been impossible for the tribunal to have considered the complaint carefully without watching and listening to many hours of broadcast material over a period of some years, if the material still existed.

The original complaint, which is what the complainant is entitled to refer to the tribunal, does not refer to any specific programme and in the complaint to the tribunal the dates and times of broadcast are marked "not applicable".

The tribunal cannot possibly consider complaints that are not based on specific broadcasts to which reference can be made.

The tribunal therefore has no option but to rule that this complaint will not be determined by the tribunal.

The tribunal can only observe that if the complainant is still concerned about the performance of the corporation he should lodge complaints about specific coverage (as others have done) and then set out his complaints about it.

The tribunal has decided to request the BCNZ to retain copies of coverage of South Africa in news and current affairs programmes for a period of not less than 6 months from the date of broadcast, and to retain all material in respect of any programme about which it receives a formal complaint until 2 months after the complaint is dealt with by the corporation. If a complaint is referred to the tribunal the material should be retained until the decision of the tribunal on the complaint.

The tribunal considers the question of retention of copies of television news and current affairs programmes ought to be reviewed by the Rules Committee.

Co-opted Members

The tribunal co-opted Messrs Tauroa and Stephenson. They took part in the deliberations of the tribunal but the decision, in accordance with the Act, is that of the permanent members.

Signed for the tribunal:

B. H. SLANE, Chairman.

Decision No. 5/87

COM 2/87

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of a complaint by CHRISTOPHER JOHN MUNN of Paremata, engineering officer:

WARRANT HOLDER—BCNZ (TVNZ)

Chairman: B. H. Slane.

Members: Ann E. Wilson and Robert Boyd-Bell

Dated the 18th day of March 1987.

RULING

MR Munn complained by letter dated 28 November 1986 about the corporate promotional programmes telecast by TVNZ on Sundays.

His complaint was rejected as informal by the corporation which stated that the "information statements" were drawing viewers' and listeners' attention to the breadth of material available to the public through the BCNZ's radio and television services. They did not constitute advertisements within the meaning of the Broadcasting Act and could therefore be played on Sundays without being in conflict with the provisions of the warrants. The corporation said they were promotions, in the same category as "trailers" for forthcoming programmes, and did not count for commercial content.

On 8 January 1987 Mr Munn referred his complaint to the Broadcasting Tribunal disputing the claim that the promotions were not advertising, claiming that promotion of radio services in competition with private radio, and promoting the *New Zealand Listener* which competed with other printed media constituted advertising which was forbidden on Sundays.

The corporation repeated its arguments to the tribunal stating it did not consider it had a case to answer.

The Broadcasting Act defines an advertising programme (an advertisement) as "a programme or part of a programme intended to promote the interests of any person, or to promote any product or service for the commercial advantage of any person, and for which, in either case, payment is made, whether in money or otherwise".

Mr Munn's argument was that the promotional programmes did in fact promote the interests of a person and they did promote a service to the commercial advantage of a person, the BCNZ.

Mr Munn argued that the cost of the promotional campaign must be covered by income generated by the BCNZ's commercial activities or licence fees. As such this cost must be viewed as a debit and classified under the terms of the Act as "payment made in money or otherwise".

Ruling

It is not necessary for a product or service to be advertised for there to be an advertisement under the Act. The role of corporate advertising is set out in "Television and Corporate Advertising" published by TVNZ Sales and Marketing in September 1983.

In this case the tribunal finds that it has no jurisdiction to deal with the complaint because the broadcast material in question is not an advertisement. No payment is made to the BCNZ since the BCNZ is itself the "advertiser".

The warrant holder is the BCNZ and the BCNZ is the proprietor of the services being "advertised" or promoted and therefore there is no payment possible in money or otherwise.

Any other finding would make all manner of promotional programme material and announcements advertisements.

Observations

We make no comment on the material now complained about because the tribunal's ruling means that it has not embarked on consideration of the complaint itself.

The tribunal does nevertheless observe that, apart from promoting their own broadcast programmes, warrant holders should be cautious about broadcasting material in the nature of corporate advertising or a commercial for their other business activities at a time when, by warrant condition and by statute, television is to be kept advertisement free.

It may be appropriate for the Rules Committee to consider a rule should any abuse of the position of a warrant holder become evident. We do not suggest any such abuse has occurred.

The ruling of the tribunal is that there is no valid complaint it has jurisdiction to consider since the programme complained of was not an advertisement as defined by the Broadcasting Act.

Signed for the tribunal:

B. H. SLANE, Chairman.

Notice Declaring Old Man's Beard (*Clematis vitalba*) a Class B Noxious Plant (No. 4023; Ag. 12/10/18/6)

1. Pursuant to section 19 of the Noxious Plants Act 1978, the Noxious Plants Council hereby declares old man's beard (*Clematis vitalba*) to be a Class B noxious plant in that part of New Zealand lying within the boundaries of the following District Noxious Plants Authorities: Westland and that part of the Buller Catchment lying within Waimea.

2. This notice shall come into effect on the day after its notification in the *Gazette*.

Dated at Wellington this 31st day of March 1987.

J. L. RANDALL,
Secretary, Noxious Plants Council.

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Notice Revoking Classification of Old Man's Beard (*Clematis vitalba*) as a Class B Noxious Plant (No. 4024; Ag. 12/10/18/6)

1. The notice declaring old man's beard (*Clematis vitalba*) a Class B noxious plant in that part of New Zealand lying within the boundaries of Inangahua and Tauranga District Noxious Plants Authorities, published in the *New Zealand Gazette* on 19 June 1986, No. 93, page 2572 is hereby revoked.

2. This notice shall come into effect on the day after the date of notification in the *Gazette*.

Dated at Wellington this 31st day of March 1987.

J. L. RANDALL,
Secretary, Noxious Plants Council.

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Notice Declaring *Egeria* (*Egeria densa*) a Class B Noxious Plant (No. 4025; Ag. 12/10/18/6)

1. Pursuant to section 19 of the Noxious Plants Act 1978, the Noxious Plants Council hereby declares *egeria* (*Egeria densa*) to be a Class B noxious plant in that part of New Zealand lying within the boundaries of the Marlborough District Noxious Plants Authority.