

has seriously addressed. It is clearly part of the national debate surrounding New Zealanders' continuing strong identification with the game.

To rule that provocative expression of that sentiment, based on a specific incident widely reported, in a satirical radio programme breached standards of good taste and decency would be to artificially constrain that debate and impose a very narrow view of "good taste".

The Tribunal does not consider that Mr Jensen's sense of humour, or lack of it, constitutes grounds for ruling that the programme was in breach of the Act.

#### *Decision*

The complaint is not upheld.

#### *Co-opted Members*

Judge P. J. Trapski and R. M. Carter were co-opted as persons whose qualifications or experience were likely to be of assistance to the Tribunal in dealing with the complaint. They took part in the consideration of the complaint and the deliberations of the Tribunal but the decision is that of the permanent members.

Signed for the Tribunal.

B. H. SLANE, Chairman.  
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Decision No. 9/90  
COM 3/88

### **Before the Broadcasting Tribunal**

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **The Insurance Council of New Zealand Incorporated** of Wellington:

**Warrant Holder: Broadcasting Corporation of New Zealand, (Television One).**

*Chairman:* B. H. Slane.

*Member:* R. Boyd-Bell.

*Co-opted Members:* J. A. Kelleher and G. Whitehead.

#### **Decision**

Dated this 31st day of January 1990.

#### *Circumstances of the Complaint:*

The complainant is a trade association representing insurers and re-insurers other than State Insurance. It has a close working relationship with the Earthquake and War Damage Commission. It also operates an insurance emergency scheme to assist in speedy recovery of communities following major natural disasters.

The complaint was about a segment of the *Close Up* programme called "After Shock" broadcast on 30 April 1987. The programme dealt with the experiences of some people who had suffered losses and some others who were concerned with the assistance or lack of assistance given to those who were affected by the Bay of Plenty earthquake 2 months earlier.

The programme reported that the 25 000 people affected were so desperate they had asked for international aid, and there were interviews with individuals who were said to be angry at both alleged delays and the amounts of settlements of insurance claims. In particular, there were specific criticisms made of the procedure followed by the Earthquake and War Damage Commission (the Commission).

The executive director of the Insurance Council, T. A. Roberts, first took the matter up by writing to the producer of the programme on 11 May 1987. His concern was for the allegedly false impression given of the surrounding circumstances and factual inaccuracies, of which 11 were detailed. He indicated an intention to make a formal complaint but wanted to give the producer an opportunity to respond.

The producer replied on 21 May, and Mr Roberts responded to him on 15 June.

On 20 July the producer wrote again disagreeing with the criticisms made of the programme, whereupon Mr Roberts filed a formal complaint with the Broadcasting Corporation by letter dated 17 August 1987. At a meeting on 15 December 1987 the Broadcasting Corporation decided not up uphold the complaint. On 22 December 1987 the secretary of the Corporation wrote a lengthy letter to Mr Roberts setting out the Corporation's reasons.

On 13 January 1988 the Insurance Council formally referred the complaint to the Tribunal.

On 26 February 1988 the Corporation responded, but claimed that in the absence of detailed submissions the Corporation did not have a clear case to answer as its detailed lengthy response had not been challenged in a definitive way by the Insurance Council.

In response the complainant filed a 16-page submission with the Tribunal in March.

The Tribunal sat on 16 May 1988 to hear submissions from the complaint; the producer and the reporter were present, gave some personal views and answered questions as did a senior TVNZ news executive. Counsel for the Corporation participated in the hearing. Mr Roberts said the purpose of the complaint was to fire a "shot across the bows of television. Disasters would occur in the future and it was a matter of public interest that television perform adequately and responsibly. The Insurance Council could be in the same position after a flood as the Commission was after an earthquake.

The Tribunal reserved its decision. The Tribunal regrets that pressure of licensing work and work on new legislation has prevented a speedier resolution of this and some other complaints. However it believes a full decision may provide some better guidance for broadcasters involved in similar programmes in the future.

#### *The Complaint:*

In its complaint to the Broadcasting Corporation, the Insurance Council alleged that the programme was inaccurate and lacked balance.

We have some sympathy for the Corporation in attempting to deal with the complaint it received, in that Mr Roberts framed his complaint both to the Corporation (and to this Tribunal) by reference to earlier correspondence, which left it to both the Corporation and the Tribunal to extract from the correspondence the issues to be determined. However, we were considerably assisted by the full written submission we later received from the complainant. The significant complaints can be summarised as alleged breaches under section 24 of standards of accuracy, and of failure to ensure that significant points of view were presented.

We summarise the particularised complaints and our conclusions on specific aspects:

1. The reporter opened the programme as follows:

"Almost 2 months ago to the day the biggest earthquake in the country's history since the Napier shake ripped through the Bay of Plenty. Today the 25 000 people affected are so desperate they've asked for international aid. The emergency relief centre believes the Government is largely ignoring the magnitude of the damage and says the Government should be treating this crisis as it would a foreign disaster. Many locals feel cheated by what the Earthquake and War Damages [sic] Commission is offering and they can't afford loans. They're facing winter cold, confused, homeless and heart-broken."

The complainant said there was no evidence that 25 000 asked for international aid. There was evidence that one person did do so. It is reported that a person associated with the relief centre made a request through the local Red Cross Society to