

geographically uneven availability of the treatment in New Zealand. The programme is entitled to decide not to embark on the controversial aspects of a matter. We are inclined to think the fact that the amniocentesis test, when positive, frequently leads to a decision to have an abortion, may have been a desirable piece of information to impart, but we cannot say that it was essential and the absence of it was a breach of standards. It may have opened up, in fairness, the question of the motives of the pregnant mother and required her position to be clarified. That could raise a question of controversy or of unjust treatment which would have had to be dealt with in the programme or in another programme and would have led to a different additional story.

The complainant's approach, that the taking of the test is a controversial issue of public interest which is discussed in the programme and which requires significant points of view to be expressed, cannot be justified. The purpose of the item was not to discuss that controversial issue. It was not dealt with. The issues were whether hospital policy should deny her the test and apply different age criteria in different parts of the country.

If, for instance, an item was being prepared on the availability of blood transfusions and comparing the availability of that service in various parts of New Zealand, it would not be necessary to mention the scientific and religious controversies on the use of blood transfusions. The story would be about the availability of the service to citizens—not whether it is morally right to use the service.

We have had to consider this issue in a number of different forms in several complaints. We have to be careful to distinguish between information which we might believe would be a desirable addition or improvement to a programme and information the omission of which would cause a breach of minimum standards. It would also be dangerous for us to impose on programme makers in obligation to touch on more aspects of a topic in order to balance, qualify or even introduce some element of controversy.

A programme is entitled to limit, or even refrain from, controversial aspects of a topic, unless that results in unfairness or partiality or, in the case of a news programme, a lack of objectivity. There is no obligation to widen the topic or investigate subsidiary or peripheral byways.

It is perhaps unfortunate that some people may not have been fully informed about all the reasons and consequences of the test in this consumer programme, but we cannot say that that omission constitutes a breach of section 24 (1) (e).

The standard requires that the Corporation "shall be responsible for maintaining, in its programmes and their presentation, standards which will be generally acceptable in the community, and in particular it shall have regard to:

- (e) The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest . . .

We cannot uphold the complaint that there was a breach of this standard because the controversial issue of public importance which the complainant wishes to have balanced was not discussed.

On the question of whether there was a breach of the rule requiring the broadcaster to show impartiality and fairness in dealing with all questions of a controversial nature, we do not find the complaint justified. We do not consider there is any ground for a suggestion of partiality and do not consider fairness required the mention of the consequences of a positive test. We do not consider there was any inadequate supply of information concerning the dangers of the test. The programme was entitled to state an editorial view as long as it fairly presented the facts.

Even if we were wrong, by the complainant's own evidence,

Television New Zealand had within the period of current interest explained the tests and the reasons for having them.

We do not accept the allegations of personal bias made by the complainant against the reporter on the basis of the reporter's subsequent letter supporting the right of a woman to have the test if she wants it. Because a reporter may be thought to have a particular view, it should not be taken that the report must be biased—although this is commonly the approach of those who are themselves of an opposite view.

The complaint is respect of a breach of rule 1 (g) is not upheld.

It was not unreasonable for Mr Duffin to have brought the complaint to Television New Zealand and on to the Tribunal when he was dissatisfied with the outcome.

However the Tribunal declines to uphold the complaint.

Co-opted Members

Mr Carter and Mrs Drury were co-opted as persons whose qualifications and experience were likely to be of assistance to the Tribunal. They took part in 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. 13/90

Reference No.: COM 11/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **Leo Antony Gilich** of Titirangi, Auckland:

Warrant Holder: **Television New Zealand Ltd.:**

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Hearing: 17 January 1990.

Decision

Dated the 31st day of January 1990.

The Programme

In *Foreign Correspondent* on 25 May 1989, Television One broadcast a documentary prepared by Channel Nine in Australia for its *Sunday* programme. The documentary discussed recent legislation enabling the prosecution of alleged war criminals living in Australia for war crimes committed outside Australia during the Second World War.

The programme fell into 2 parts. After showing that no Australian ex-servicemen would be subject to prosecution under the legislation, the first part of the programme concentrated on the case of Srečko Rover, a Croatian living in Australia and an Australian citizen, as an example. Rover and his background were investigated in the programme because he had already been named in an earlier Australian report as being suspected of war crimes so he would not be prejudiced by his case being shown. He was alleged to have been a member of the Ustasha (or Ustace), a Croatian regime led by Ante Pavelic which was set up by Hitler after the invasion of Yugoslavia by Germany during the war.

In the second part of the programme, various issues were explored or taken further. These included whether or not the war was so long ago that reliable witnesses and evidence would be hard to come by; whether or not Australia's interests in terms of national unity and the avoidance of ethnic conflict between immigrant communities would be better served by dropping the legislation; whether the innocent would be hurt along with conviction of the guilty; whether or not political pressure had been put on the Australian Prime Minister by the