

**Mr Brian Robinson**

**17 August 2005**

**Broadcasting Standards Authority  
PO Box 9213  
Wellington**

**Dear Sir/Madam**

**Broadcasting Standards Complaint  
TVNZ "Sunday" - 1 May 2005  
"The Monster of Berhampore"**

This letter is in response to a submission by TVNZ to the Broadcasting Standards Authority. I received a copy of that letter by email, as I have temporarily been unable to collect mail. A copy of the letter that I received is included as an appendix.

**Substance of the Complaint.**

The substance of my complaint has been outlined in previous correspondence to the Broadcasting Standards Authority. I note that TVNZ say  
*"TVNZ has no further comment to make on the substance of the complaint."*

TVNZ do however make the submission"  
*"We submit that the subject matter in this case was clearly of overwhelming public interest"*

I have no argument with that position. I have presented no arguments to suggest that the case was not of public interest. My complaint was based on specific breaches of the Code of Broadcasting Practice. I have commented on the lack of fairness of the programme, and evidence that TVNZ were deliberately dishonest or deceitful.

Because TVNZ have not responded to the substance of my complaint, and yet make this statement in defence of the programme, there is a direct implication that TVNZ believe that standards of journalism may be lowered if the subject is of public interest.

I submit that whether the case was of overwhelming public interest is irrelevant to my complaint. **Public interest should have no detrimental effect on standards of broadcasts.**

## Request that the BSA should request Field Tapes from TVNZ

In my letter of complaint of 11 July 2005, I requested that the Broadcasting Standards Authority request TVNZ for copies of full and unedited transcripts of the interviews that TVNZ used to prepare their programme. My letter provided reasons for that request.

TVNZ argue against the BSA requesting such information from TVNZ. Their arguments and my responses are as follows:

1. **TVNZ state that they "*believe such a request would amount to unwarranted interference in the editorial process*"**

I disagree. The BSA is not interfering in the editorial process. The editorial process has long since been completed.

The BSA has a statutory duty to consider questions of fairness and balance. It is for that purpose that the tapes are sought.

2. **TVNZ continue that they believe that such a request would "*be contrary to the democratic principles associated with the notion of a free and unfettered news media*".**

The media **was able** to put out it's programme unfettered. TVNZ does not have an absolute "free and unfettered" right. TVNZ have a statutory duty to produce fair and balanced programmes.

3. **TVNZ claim "*that the field tapes are part of*" their " '*reporting notebook and that to ask for them is akin to asking an investigative newspaper journalist to show his notes*". They continue this argument concluding that "*withholding field tapes is regarded by TVNZ as an important matter of principle*".**

The analogy with notes of a newspaper journalist is wrong. TV reporters, like newspaper journalists, keep their confidential sources in notebooks.

It is ludicrous to suggest that TVNZ would go to all the trouble of setting up cameras, lights etc just to make confidential notes. Filming, with all the equipment, takes and retakes, and care in establishing settings etc make it clear to the interviewee (either implicitly or explicitly) that everything that is said is 'on the record' and that decisions over what parts of the recorded tape are used are entirely up to the media outlet involved.

John Tamihere couldn't convincingly argue that his conversation with Ian Wishart of '*Investigate*' was off the record because (according to Ian Wishart) he was being openly tape recorded, and knew he was being tape recorded. If this is true of discrete tape recordings it is even more true of obtrusive TV recordings - everything is on the record.

Off-the-record conversations take place off-camera & are noted in notebooks.

## **Importance of the TVNZ tapes to the complaint**

The tapes are not central to my argument that the Broadcasting Code has been breached. Rather, they may provide further information on the seriousness of those breaches, should my complaint be upheld.

For example, on Page 9 of my letter of 11 July, I outline that the transcript of the interview with Mavis Van Dalen will be of assistance in confirming what TVNZ is guilty of: either deceitfulness and dishonesty, or alternatively inadequate investigation

The Broadcasting Standards Authority may agree with TVNZ, or decide not to contest TVNZ's application to maintain their tapes as confidential. For the reasons given above, I think that would be an unfortunate decision.

If the BSA does, however, come to that decision, I have presented, on Page 11 of my letter of 11 July, an alternative remedy to the BSA to determine questions of fairness and balance. I have made the suggestion that the BSA could ask Mr Trevor Roberts if he is willing to present evidence to the Authority of the content of his interview.

Yours sincerely

Brian Robinson

(Appendix attached)

## Appendix

### Text of TVNZ letter to which I am responding:

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TVNZ

Dear Mr Sneyd

Thank you for your letter dated 12th July advising that Mr Brian Robinson has referred to the Authority his formal complaint about an item on Sunday shown on TV One at 7:30pm on 1st May.

TVNZ has no further comment to make on the substance of the complaint.

You have asked for TVNZ's submissions on whether the Authority should request field tapes, as has been suggested by the complainant.

We submit that the Authority should not request TVNZ to provide the field tapes. We believe such a request would amount to unwarranted interference in the editorial process and be contrary to the democratic principles associated with the notion of a free and unfettered news media.

We state, as we have on previous occasions, that the field tapes are part of our "reporting notebook" and that to ask for them is akin to asking an investigative newspaper journalist to show you his notes. Tapes, like a reporter's notes, sometimes include sensitive information which was never intended to be published – such as references [or] information which leads to the identification of confidential sources. Withholding field tapes is regarded by TVNZ as an important matter of principle.

We submit that the subject matter in this case was clearly of overwhelming public interest, and that the Authority should confine its consideration of the complaint to the item broadcast on 1st May.

In reference to the Holmes items (15th and 22nd May 2004) we have no objection to the Authority examining these. The programmes were broadcast, and are therefore in the public domain - in contrast to the untransmitted portions of the field tapes for the 1st May broadcast.

As requested I enclose VHS copies of the item broadcast on 1st May, and the follow-up story broadcast on 22nd May.

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