

Response to NZME's "further comments ... in regards to [my] complaint referral", 8 Nov 2018

In response to NZME's further discussion in response to Ms Moss's complaint:

Whilst Ms du Plessis-Allan and NZME stipulate that Ms du Plessis-Allan's "leeches" remark referred to governments and not to persons or peoples, it cannot be reasonably expected that all (or even most) of the programme's listeners would have been making this distinction when listening to the broadcast. There was nothing in the broadcast that would lead the entirety (or even the majority) of listeners to the conclusion that she was talking exclusively of governments and not of persons or peoples.

In response to NZME's further discussion in response to my (Mr Day's) complaint, and to the paragraph labeled "Jurisdiction":

NZME state that my complaint regarding their withholding of the full content from the public is that "it is disingenuous not to make our audio available to complainants if they did not hear it". In fact, as they state, they did basically provide the full content to complainants,¹ albeit after we complained. They only made available the full content of the broadcast in this text form, only in response to complainants, and only with the purpose of attempting to show that the full content in context substantially changes the meaning of the comments as compared to only hearing the most extreme comments reproduced out of context in other media (and therefore attempting to argue that the complaints are in some sense invalidated by not having access to the full content and context). My complaint is, rather, that it is disingenuous and obfuscatory of NZME to attempt to invalidate complaints in this way (firstly by stating that the complaints cannot be considered legally valid, and secondly by suggesting that the criticisms raised in the complaints do not apply when the full comments are read in context), when the situation in which the full broadcast was not available to the public (and, therefore, to complainants prior to complaining) is entirely of their own making. If they wanted to make the full comments in context available to the media and to the public (including those upset by the broadcast or reports of it), this was entirely in their power. The fact that they did not indicates that they felt they had more to gain by withholding the full recording than by providing the full comments in their full context.

NZME's comments in the "Jurisdiction" paragraph extend their previous disingenuousness and obfuscation to the point of apparently pleading with the BSA to hold them to a lower standard of accountability insofar as complaints were made by people who did not have access to the full broadcast. Therefore, my criticism is all the more pertinent after their recent statement.

I would also like to reiterate what I said when escalating my complaint to the BSA: nothing about the full content invalidates any of my criticisms, and I do not feel the need to change my critiques and complaints now that I have access to the full content. I would also like to note that even if my original comment is declared invalid because I did not have access to the full content, my escalation of the complaint to the BSA (where I repeat the same critiques after seeing the full content) is not invalid, as it was in response to the full content.

¹ I say "basically", because NZME are not being fully and literally correct when they say "The content of the broadcast was fully stated in the response to complainants to illustrate context." Their own standard for full statement of the broadcast, as illustrated in the "Jurisdiction" paragraph, seems to be "the entirety of the broadcast, including dissenting views of callers". They did not provide this to complainants. However, they did provide much fuller quotations and descriptions of context. I accept that this is, in essentials, the equivalent of the full content.

APPENDIX: NZME's "further comments ... in regards to [my] complaint referral", 8 Nov 2018

NZME Further discussion of the complaints

Ms Moss's complaint remains focussed on the misapprehension Heather called Pacific peoples "leeches". The audio shows that Heather is discussing NZ's fiscal investment in the Pacific Islands, and the reliance of these on New Zealand financial aid (taking into account NZ's contribution to the overall GDP). As discussed in our response, it is our opinion that Heather clearly intended her statement to refer to the governments of these nations, not Pacific peoples themselves. Further, upholding on the basis of this statement would be in stark contrast to the position taken by the Authority in Lothead and RadioWorks Ltd (2010-031), where Michael Laws suggested that social welfare payments should be stopped so that a Far North "underclass" would stop "breeding" and creating "feral children". Mr Laws also made unflattering comparisons to Australian Aboriginal persons. The Authority, as you will be aware, did not uphold either in respect of standard 1 or 6. Heather's position as a broadcaster is a privileged position. We agree that the public have a right to critique Heather and her performance in a public facing role. Heather was counselled in respect of her broadcast, and of course was very well aware of the extensive media coverage condemning her. However, Heather also has an extensive professional history as a political correspondent. In a democratic society, open and critical debate of government and their politics is incredibly important. We would argue this extends to the policies of government who accept aid from New Zealand.

We do not consider that hate speech can be condoned in a democratic society. It is our position that calling a country a "leech" – that is, the government or governing body is dependent on foreign aid – while undoubtedly provocative, was not targeted toward persons of a certain ethnicity. In respect of Mr Day's complaint, we also do not consider it is disingenuous not to make our audio available to complainants if they did not hear it. The content of the broadcast was fully stated in the response to complainants to illustrate context. We further note that we answered complaints fully, notwithstanding these complaints specifically noting that they "read about" the broadcast, rather than heard it.

Jurisdiction

We are aware that the date and time of the broadcast was published on social media. Our concern with a large majority of the complaints is that these were spurred by media coverage subsequent to the broadcast, often in a truncated manner that did not show the entirety of the broadcast, including dissenting views of callers. As such, most complaints received (including those referred to the BSA) read about the broadcast. While we understand the BSA's position, we do consider that in circumstances where complaints are based on information taken out of context that this factor should be taken into account by the Authority in making its decision.