

BROADCASTING STANDARDS COMMISSION

Complaint by Ms Jayne Zito about British National Party Election Broadcast, BBC1 and BBC2, 25 April 1997 - Adjudication

Introduction

On 25 February 1997 the BBC showed a *British National Party Election Broadcast*, at 6.30pm on BBC1 and 11.30pm on BBC2. The commentary of John Tyndall, the leader of the BNP, on the subject of law and order was accompanied by a montage of newspaper cuttings, including a photograph of Ms Zito and an article about the killing of her husband. Ms Zito complained that this use of the picture was unfair and unjust to her. (A different version of the broadcast was shown by LWT and Channel 5, which did not include the material complained of. The broadcast was not shown at all by Channel 4).

The Complaint

Ms Zito complained that the use of her picture was unfair as the inference which would have been drawn by viewers from its inclusion was that she shared the BNP's views on race issues, its attitude to law and order and its general beliefs. This was a gross distortion of her position and was unfair and misleading.

As a result of the media attention surrounding Mr Zito's death, the subsequent inquiry and other "care in the community" homicides highlighted by the Zito Trust, which is a registered mental health charity set up by Ms Zito, her face was well known. The use of the picture without Ms Zito's consent, which would not have been forthcoming had it been requested, resulted in several expressions of surprise that she should appear on the broadcast and that she should hold the views inferred by the broadcast.

The BBC said that the allocation of the broadcast to the BNP had been in accordance with the long-established arrangement that any party fielding candidates in 50 seats or more was entitled to at least one election broadcast. The role of election broadcasts was to give an opportunity to lawful parties, of which the BNP was one, to put their message over to the electorate.

The BBC's Producers' Guidelines made it clear that the content of election broadcasts was a matter for the originating party and that it was not a matter for the personal judgement of the broadcasters. The BBC's responsibility was simply that of publisher, namely to ensure that the broadcast was within the law. The clear legal advice the BBC received was that nothing in the broadcast contravened the Race Relations Act or was in any other way actionable.

The BBC understood that the shot complained of was edited out by LWT for copyright reasons rather than for reasons of fairness in relation to Ms Zito and that

the fact that Channel 4 did not show the broadcast was unrelated to the newspaper cuttings shown.

The BBC did not accept that there was any implication that Ms Zito endorsed the views of the BNP or had consented to co-operate in promoting them. The cutting in which her photograph had appeared was clearly taken from a newspaper report, and was therefore in the public domain. In view of this, the BBC had not seen any need to seek Ms Zito's permission to use the clip.

The BBC took the view that people who did not recognise Ms Zito would have no reason to associate her with the BNP's views and those who did recognise her would be aware of her own views in relation to mental health and care in the community.

The BBC said that it had not shown the broadcast unedited. At its request, the BNP had removed a sequence which could have given the impression that the family filmed did share the views expressed in the commentary, when there were no grounds for believing that was the case. Removal of the newspapers cuttings would also have been required if the BBC had seen any grounds for believing that the sequence might have given the same impression.

In response Ms Zito said she found the BBC's argument that viewers would know either everything or nothing about her views disingenuous and over-simplified. A number of viewers would have recognised her but would not have realised that her views were completely opposed to those of the BNP. It was in relation to viewers in this category that Ms Zito felt that considerable damage may have been done.

Ms Zito found the BBC's statements contradictory. The BBC said that it had "no responsibility for the content except that of the publisher - to ensure, for example, that it was within the law" but went on to say that it had removed another sequence because it could have given the impression that the people it showed were sympathetic to the BNP when there was no evidence that in fact they were. Ms Zito felt that the BBC had used editorial discretion in the second example but failed to do so in relation to her picture and was therefore inconsistent.

In its further response, the BBC did not accept that its approach had been inconsistent. The part of the broadcast which was not shown was cut because it was potentially defamatory, whereas the BBC had not considered that the sequence which included Ms Zito's picture had the same potential.

Evidence before the Commission

The Commission had before it Ms Zito's complaint, a statement in answer to the complaint by the BBC and a second statement from both parties. The Commission had read a transcript of the broadcast and viewed a recording of it.

