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broadcasting standards commission

12 September 1997

FINDING: Party Election Broadcast by the British National Party, BBC1, BBC2, ITV, C5, BBC Radio 4, Classic FM, 25 April 1997, various times

The Complaint

Seventy-six people complained to the Commission following the broadcasts. They were offended by the nature of the Party Election Broadcasts which they believed to be racist and likely to encourage racial hatred or violence, in part because of the nature of the illustrative material used in the television version, and the use of sensational newspaper headlines.

The Broadcasters' Statement

The BBC said the broadcasts had been allocated on the long-established arrangement that all parties fielding candidates in 50 or more seats are entitled to at least one Party Election Broadcast. The guidelines made it clear that the content of a PEB is a matter for the originating party which is not required to achieve impartiality. The BBC had no responsibility except that of the publisher - to ensure, for example, that it was within the law. The BBC's clear and categorical legal advice was that in this instance, neither the television nor radio versions contained anything which contravened Race Relations legislation or was otherwise likely to be actionable.

The BBC went on to say that the broadcasts promoted a party whose members hold views outside the mainstream of politics, views

considered offensive by many, but it was not the function of the broadcaster to substitute its judgment for that of the electorate. The illustrative shots were of the kind commonly used in many forms of broadcasting. As, in the BBC's view, there were no particular issues of privacy in this instance and no implication that the people shown endorsed the views being put forward, there were no grounds for imposing a restriction on the BNP which applied to no one else.

London Weekend Television, who oversaw compliance for the ITV network, said they saw themselves as the conduit for electoral messages as required by the ITC in their licence to broadcast. They too had been advised that the PEB did not constitute incitement to racial hatred under the Public Order Act 1986.

Some of the illustrative shots originally provided by the BNP had been questioned and the BNP substituted them. The version broadcast by ITV and C5 did not include a school exterior, shots of identifiable members of ethnic minorities, or a montage of headlines from the Daily Mail.

LWT went on to say that they believed they had been placed in an invidious position by the ITC's interpretation of its responsibilities as set out in the Broadcasting Act 1990 in relation to PEBs. It was inappropriate and unreasonable to expect or anticipate that broadcasters should take what are essentially public policy decisions as to the propriety of those with racist views being accorded PEBs. Moreover, the currently legitimate use of PEBs by single issue pressure groups with minute support, propagating views found offensive by many and lowers the esteem with which viewers regard ITV. However, refusing to transmit the BNP broadcast was not a valid option if society allows the BNP to function as a political party.

Channel 5 said that under the ITC code they were not allowed to interfere with the editorial content of any PEB. Under the terms of their licence they were obliged by the ITC to allocate time.

Channel 5 had required the BNP to ensure that no images of any persons, black or white, who had not specifically consented to inclusion, were shown in an identifiable manner.

Classic FM said they had consulted the Radio Authority who confirmed that the station had no editorial jurisdiction on the content of PEBs on condition that they did not break any relevant laws. While the script was undoubtedly racially prejudiced, it did not break any law or invite any response other than a vote.

The BSC's Finding

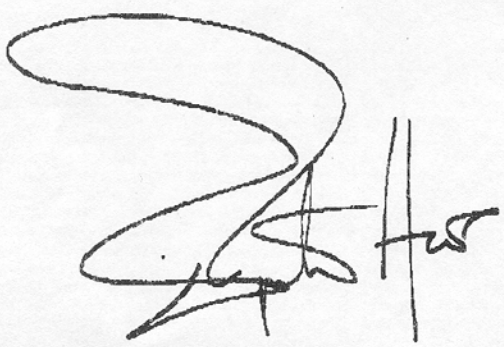
The full Commission watched and heard every version of the Party Election Broadcast and considered the submissions of the broadcasters and the observations offered by the Commission for Racial Equality.

It noted the confusion that appeared to exist about the exact responsibility of the broadcasters with regard to PEBs. Are they simply required to ensure that the broadcast does not break the law and the relevant broadcasting Codes of Practice? Or are they also expected to use their own judgment on matters of taste, decency and acceptability?

In the Commission's view, the broadcasters are put in a difficult situation. The requirements of democracy, and the rights of free speech, especially in an election period, mean that PEBs are not programmes in the conventional sense. It is an inevitable part of an election campaign that things will be said which cause offence, as well as disagreement. The Commission fully understands the concern of those who were outraged or made fearful by the broadcast, but it considers that in an election period the balance of rights is tipped in favour of freedom of speech. Ultimately, the electorate makes its judgment on a party's policy at the ballot box.

The broadcaster's approach to a PEB is of necessity therefore different. Having taken into account the explanations of why the various broadcasters acted as they did, the Commission concluded that they had approached a difficult judgment responsibly and their different conclusions reflected a real confusion over the status of a PEB. In the Commission's view, the varying use of the illustrative material in the television broadcast did not materially alter the basic thrust of the PEB. The Commission considered that the radio version was similarly offensive, but not to the point of unacceptability given the arguments set out above.

Although it is not a matter for the Commission, it would be helpful for the broadcasters and the political parties to look again at the convention by which PEBs are allocated and at the balance to be struck between freedom of speech and potential offence, especially where there are concerns about public safety. The complaints were not upheld.



Lady Howe
Chairman

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