


Peter Aranyi
PO Box 

21/6/15

To The Broadcasting Standards Authority

**Formal complaint: Mike Hosking's segment Seven Sharp
- broadcast approx 7.28pm on 23 April on TV ONE.**

I am dissatisfied with TVNZ's response to my complaint about Mike Hosking's comments on Seven Sharp. Hosking in an unbalanced, inaccurate and unfair manner attacked an identifiable victim of serial workplace harassment and did so in part by mis-reporting facts which he knew or ought to have known about.

Attached is *my original complaint (including a transcript and URL of the segment complained about) and *the TVNZ Complaints Committee's decision which 'identifies' no breach of any broadcasting standard.

As you will read, my complaint made some comments in general and then addressed 3 Standards. TVNZ has structured its response – somewhat in the manner of a form letter – around them, so I will maintain that structure in this referral to the BSA.

4. Controversial issues - balance

It's not contested that the news story at issue regarding the Prime Minister being exposed as having repeatedly harassed a cafe worker by pulling her hair was seen by all as a controversial issue. As such, TVNZ had an obligation to be balanced in its coverage of this story. It's clear to me that in Mike Hosking's monologue the broadcaster failed. Hosking's 'commentary' was effectively a personal attack on Ms Bailey, the cafe worker.

In the Complaints Committee's response to my complaint, it seems as if the broadcaster is making an argument that if other news media outlets were discussing other aspects of this controversy in a wider, balanced way, that this somehow obviates the requirement for TVNZ to pursue balance in its own coverage of the events on Seven Sharp. I disagree.

I note that the TVNZ response gives not a single example of its own coverage (inside or outside of the Seven Sharp programme) where an alternative view to Mike Hosking's 'final word' – views which the broadcaster admits "do not represent the views of all and could be

considered provocative and perhaps rude by some viewers" – was presented. Where are the "reasonable efforts" or "reasonable opportunities" to present these other significant points of view the Standard requires?

Of course Hosking is entitled to hold and express his opinion. No one, least of all me, is challenging that particular straw man. This complaint is about TVNZ's failure to uphold the standard of balance. To couch Hosking's unbalanced attack on Ms Bailey in terms of 'opinion and commentary' as if that is some kind of 'Get out of jail free' card when confronted with unbalanced reporting in news and current affairs seems a very thin lifeline for TVNZ to clutch.

5 Accuracy

I am particularly disappointed in TVNZ's cursory response to this limb of my complaint. I feel they have failed to address this aspect, and have effectively ignored their responsibility as a broadcaster NOT to broadcast misleading information – especially in a news and current affairs context. TVNZ has dismissed my concerns about the inaccuracy, in part, by pointing to the wrong part of my complaint.

I said (emphasis added): *"In my view, Mike Hosking unfairly attacked and inaccurately abused an identifiable person - 26 year old waitress Amanda Bailey. By at the time of broadcast it was clear Ms Bailey had been confirmed as a victim of serial harassment (unwanted touching) at her workplace. **It had also been published and Hosking knew - or ought to have known - that Ms Bailey had unsuccessfully complained about the incidents to her manager.**"*

With his comment "She had a problem at work the owners were the people to consult not a blogger" Hosking ignored the by then well-known, published statement by Ms Bailey that she had (unsuccessfully) involved her manager of the cafe (her employer) in her efforts to stop the repeated harassment from continuing. [Mr Key's comment "She really doesn't like me pulling her ponytail?" was directed to the cafe manager.] Hosking's comments (those and others) unfairly and – more importantly for this Standard – inaccurately characterise Ms Bailey's actions.

Again, I do not dispute Mike Hosking's right to hold or express an opinion about Ms Bailey's actions, and about whom he thinks it is appropriate ("more properly") for a cafe worker being repeatedly harassed by a patron (even a powerful public figure) to complain to. My point is: his comments (which were broadcast) inaccurately reported the facts. Ms Bailey had involved her employer, but a viewer relying on Mike Hosking's version of events would have gained quite the opposite impression.

So, with respect, I differ from TVNZ's finding that no breach of standard

5 has been identified. Hosking misled his viewers on an issue of fact, not opinion.

6 Fairness

The TVNZ Complaint committees's response to this aspect of my complaint – that the segment broadcast treated the subject of the 'report', Ms Bailey, unfairly – muddies the issues, in my view in a confusing and unhelpful way. Perhaps that is deliberate obfuscation.

I do not accept the committee's attempt to describe the 'Mike's view' segment of Seven Sharp as all about the 'political agenda' in the cafe worker releasing her story publicly.

Hosking characterised the controversy as primarily a political attack – based on what, exactly? Ms Bailey's choice of media outlet? That was indeed a personal attack in her. TVNZ is obligated, as I see it, to be fair in its coverage of this matter and that is not evident.

In its form letter response to me, the Complaints Committee allows:

"We acknowledge that these sentiments are very close to being personally critical about the waitress."

I say Hosking's 'sentiments' go further than that. The committee argues:

"However we also understand that this level of political commentary was opened by the way that the accusations were first revealed and subsequent actions of the many parties involved ..."

I say none of that is relevant to how Mike Hosking's comments attack this young woman's integrity, casting her as someone who by telling her story, making her complaint known created "a puffed-up self-involved pile of political bollocks".

With a perplexing case of mis-directed empathy, Hosking criticised Ms Bailey's "selfishness" which he said "caused needless upset and attention to a couple (the cafe chain owners) who have done nothing but go about their business" and whom he characterised as "the big losers out of all this" – these "good hard-working people who in their own way have revolutionised the food scene with an outstanding series of outlets throughout Auckland".

As I told TVNZ in my original complaint, I'm a father of teenagers. My daughter has worked in hospitality roles and contract catering, interacting with patrons, some of whom are the worse for wear and that can present challenges to young women. Hosking's sneering, poisonous and destructive message – effectively: maligning a young woman who objected to be being touched without her consent – and using his 'pulpit' at TVNZ to publicly decry her speaking up in frustration – was off-base, and his unfair manner of doing it, a breach.

Of course, he's entitled to his opinion. But in my opinion, this particular broadcast segment was below Broadcasting Standards for these and other reasons. I ask that the Broadcasting Standards Authority review this - literally my first formal complaint to any broadcaster.

Please contact me if you have any queries about my complaint.
Thank you

A handwritten signature in black ink, appearing to read 'Peter Aranyi', followed by a horizontal line.

Peter Aranyi, Auckland

Peter Aranyi
PO Box [REDACTED]

29/4/15

To the producers of Seven Sharp
Cc: Kevin Kenrick, TVNZ CEO

Breach of broadcasting standards: Mike Hosking, Seven Sharp 23 April 2015

I am appalled at what TVNZ broadcast last Thursday, 23 April on Seven Sharp - and subsequently published to the TVNZ website under the headline "Mike's View: Waitress' 'selfishness' in outing Key makes cafe owners the big losers". (Transcript below.)

I wish to make a formal complaint.

In my view, Mike Hosking unfairly attacked and inaccurately abused an identifiable person - 26 year old waitress Amanda Bailey. By at the time of broadcast it was clear Ms Bailey had been confirmed was a victim of serial harassment (unwanted touching) at her workplace. It had also been published and Hosking knew - or ought to have known - that Ms Bailey had unsuccessfully complained about the incidents to her manager.

Inaccurately and without justification, Hosking characterised Ms Bailey as politically-motivated and described her airing of her complaint as a sign of "selfishness" which only hurt the cafe owners - whom he described as "the big losers" and "the victims" and to whom he gave a gushing promotional recommendation: "good hardworking people who in their own way have revolutionised the food scene with an outstanding series of outlets throughout Auckland". He obscured the published fact that Ms Bailey had complained about the harassment to her employer, casting her as a witting or unwitting pawn of a political smear campaign.

It is intolerable that a public broadcaster such as TVNZ should provide a platform for Hosking's nasty, out-of-touch bullying.

Instead of the free infomercial for his 'acquaintances' the owners of the Hip Group, Hosking should have devoted some time to balance - to fairly and accurately address the published facts of this issue - including the fact that Ms Bailey had complained to her manager.

I'm a father of teenagers. My daughter, like many, has worked in hospitality roles and contract catering, interacting with patrons, some of

whom are the worse for wear. I am very clear that Hosking's sneering, poisonous and destructive message - effectively: maligning a young woman who objected to be being touched without her consent and using his 'pulpit' at TVNZ to publicly decry her speaking up in frustration as "selfishness" which "caused needless upset and attention to a couple who have done nothing but go about their business" should never have been given space on our airwaves.

To rectify this, I ask that you broadcast a formal apology and retraction of Hosking's comments, and remove that offending video clip from the TVNZ website <http://tvnz.co.nz/seven-sharp/mike-s-view-waitress-selfishness-in-outing-key-makes-cafe-owners-big-losers-video-6299059>

It seems to me the 'Mike's View' segment was in breach of the broadcasting standards, specifically:

STANDARD 4 - Controversial Issues/Viewpoints - When discussing controversial issues of public importance in news, current affairs or factual programmes, broadcasters should make reasonable efforts, or give reasonable opportunities, to present significant points of view either in the same programme or in other programmes within the period of current interest.

STANDARD 5 - Accuracy - Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming:

- is accurate in relation to all material points of fact and/or
- does not mislead.

STANDARD 6 - Fairness - Broadcasters should deal fairly with any person or organisation taking part or referred to.

Hosking's 'view' was about controversial matter, he was not accurate, and he dealt very unfairly with the subject of his attack: Amanda Bailey.

Please advise me of the steps you intend to take to rectify this matter. In the absence of an adequate response, it is my intention to lodge a detailed formal complaint with the Broadcasting Standards Authority.

Thank you



Peter Aranyi
Auckland

UP NOW

 **Mike's view: Waitress' 'selfishness' in outing Key makes cafe owners the big losers (1:04)**

Added: 7:41PM Thursday April 23, 2015

Source: Seven Sharp

"They are the victims in an agenda driven circus," Mike says.

 **Tweet** 150

UP NEXT

Transcript - "Mike's View: Waitress' 'selfishness' in outing Key makes cafe owners the big losers." - Seven Sharp, 23 April 2015

Hosking: You know who the big losers out in this ponytail shambles are? The cafe owners are.

They are the victims in an agenda-driven circus which has unfolded as these things always do when you involve the angry undergrounders on social media.

To quote the waitress concerned today, "I felt New Zealand should know." What a puffed-up, self-involved pile of political bollocks.

She had a problem at work? The owners were the people to consult, not a blogger.

The owners - one of whom I have run into a couple of times given we frequent a number of their cafes - good hard-working people who in their own way have revolutionised the food scene with an outstanding series of outlets throughout Auckland. They deserve none of this.

Yes, what Key did was bizarre, but it never warranted this. This is what it is because, as always, there is more at play than the singular incident.

Even if the waitress concerned wandered into this naively, she wandered into a snakes pit frequented by those driven by political self-interest and nothing more.

And if it wasn't naive - which makes it worse - and she was looking to hang the prime minister out to dry, her selfishness caused needless upset and attention to a couple who have done nothing but go about their business. •



27 May 2015

Peter Aranyi
[REDACTED]

Dear Peter Aranyi

Further to your email received 30 April we wish to advise the Complaints Committee has completed its enquiry into your formal complaint about *Seven Sharp* shown on 23 April on TV ONE.

Your complaint has been considered with reference to Standards 4, 5 and 6 of the Free-to-Air Television Code of Broadcasting Practice.

The Decision

The Complaints Committee has not identified any breach of the relevant standards and accordingly declines to uphold your complaint. The reasons for this decision are discussed below.

The Programme

The *Seven Sharp* bulletin of 23 April contained commentary from Mike Hosking on the developing story of the Prime Minister pulling an Auckland waitress's hair and the issues arising from this.

The previous day (22 April) the waitress's anonymous blog about the unwanted hair-pulling had been posted on *The Daily Blog*, a left-wing blog. On the morning of 23 April, the NZ Herald published an interview with the waitress and her employers, all named and pictured, this article was written by Rachel Glucina. This NZ Herald interview was the subject of additional controversy as the waitress claimed that the interview was obtained by deception, which the NZ Herald disputed. In a second blog about how the interview was conducted (posted on the morning of 23 April) the waitress states:

When I made the decision to publish my experience my feeling was that what transpired was not ok, and the public had a right to be aware of how poorly their Prime Minister had behaved.

In an established opinion and commentary segment at the end of the *Seven Sharp* programme Mike Hosking commented about the controversy so far:

You know who the big losers out of this ponytail shambles are? The café owners. They are the victims in an agenda driven circus which has unfolded as these things always do when you involve the angry under-grounders on social media.

To quote the waitress concerned today "I felt New Zealand should know". What a puffed self-involved pile of political bollocks. She had a problem at work the owners were the people to consult not a blogger.



The owners, one of whom I have run into a couple of times given that we frequent a number of their cafes, are good hard-working people who in their own way have revolutionised the food scene with an outstanding series of outlets throughout Auckland deserve none of this.

Yes what Key did was bizarre, but it never warranted this. This is what it is because as always there is more at play than the singular incident. Even if the waitress concerned wandered into this naively, she wandered into a snakes-pit frequented by those driven by political self-interest and nothing more. And if it wasn't naïve, which makes it worse, and she was looking to hang the Prime Minister out to dry her selfishness caused needless upset and attention to a couple who have done nothing but go about their business.

The right to freedom of expression is guaranteed by section 14 of the New Zealand Bill of Rights Act 1990. In determining an alleged breach of broadcasting standards, the Committee assesses the importance of the particular speech and the extent to which the values of freedom of expression are engaged, and weigh this against the level of harm in terms of the underlying objectives of the relevant broadcasting standards.

The *Seven Sharp* comments were given in the context that the ponytail pulling saga had become political as explained by Bill Ralston in the afternoon of 23 April:

"There's an underlying current of politics throughout all of this and lying at the bottom of it, ... She (Ms Bailey) is undoubtedly of a centre-left persuasion, no doubt about that, but then again a lot of her detractors are people of a centre-right persuasion. So once again we're seeing a news issue turned into pure politics."

<http://tvnz.co.nz/national-news/ponytail-saga-public-won-t-really-know-happened-until-herald-releases-transcript-6298704>

Mr Hosking's comments raised questions about the political motivation around the discussion of the incidents. There was no suggestion that what the Prime Minister had done was appropriate; however there was some criticism of the motivation of the centre-left and questioning of the motivation of releasing the blog in that way.

Your Complaint

You state:

I am appalled at what TVNZ broadcast last Thursday, 23 April on Seven Sharp – and subsequently published to the TVNZ website under the headline "Mike's View: Waitress' 'selfishness' in outing Key makes cafe owners the big losers". (Transcript below.)

I wish to make a formal complaint.

In my view, Mike Hosking unfairly attacked and inaccurately abused an identifiable person – 26 year old waitress Amanda Bailey. By at the time of broadcast it was clear Ms Bailey had been confirmed was a victim of serial harassment (unwanted touching) at her workplace. It had also been published and Hosking knew – or ought to have known – that Ms Bailey had unsuccessfully complained about the incidents to her manager.

Inaccurately and without justification, Hosking characterised Ms Bailey as politically-motivated and described her airing of her complaint as a sign of "selfishness" which only hurt the cafe owners – whom he described as "the big losers" and "the victims" and to whom he gave a gushing promotional recommendation: "good hardworking people who



in their own way have revolutionised the food scene with an outstanding series of outlets throughout Auckland". He obscured the published fact that Ms Bailey had complained about the harassment to her employer, casting her as a witting or unwitting pawn of a political smear campaign.

It is intolerable that a public broadcaster such as TVNZ should provide a platform for Hosking's nasty, out-of-touch bullying.

Instead of the free infomercial for his 'acquaintances' the owners of the Hip Group, Hosking should have devoted some time to balance – to fairly and accurately address the published facts of this issue – including the fact that Ms Bailey had complained to her manager.

I'm a father of teenagers. My daughter, like many, has worked in hospitality roles and contract catering, interacting with patrons, some of whom are the worse for wear. I am very clear that Hosking's sneering, poisonous and destructive message – effectively: maligning a young woman who objected to be being touched without her consent and using his 'pulpit' at TVNZ to publicly decry her speaking up in frustration as "selfishness" which "caused needless upset and attention to a couple who have done nothing but go about their business" should never have been given space on our airwaves.

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- is accurate in relation to all material points of fact and/or*
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STANDARD 6 – Fairness – Broadcasters should deal fairly with any person or organisation taking part or referred to.

Hosking's 'view' was about controversial matter, he was not accurate, and he dealt very unfairly with the subject of his attack: Amanda Bailey.

Please advise me of the steps you intend to take to rectify this matter. In the absence of an adequate response, it is my intention to lodge a detailed formal complaint with the Broadcasting Standards Authority.

The Relevant Standards

Standard 4 Controversial Issues – Viewpoints

When discussing controversial issues of public importance in news, current affairs or factual programmes, broadcasters should make reasonable efforts, or give reasonable opportunities, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Guideline

- 4a. No set formula can be advanced for the allocation of time to interested parties on controversial issues of public importance. Significant viewpoints should be presented fairly in the context of the programme. This can only be done by judging each case on its merits.
- 4b. The assessment of whether a reasonable range of views has been presented takes account of some or all of the following:
- the programme introduction;
 - whether the programme approaches a topic from a particular perspective (e.g. authorial documentaries, public access and advocacy programmes);
 - whether viewers could reasonably be expected to be aware of views expressed in other coverage.

Before considering a complaint under this standard, the Complaints Committee must determine whether the issue being discussed is a ‘controversial issue of public importance.’

The Broadcasting Standards Authority has typically defined an ‘issue of public importance’ as something that would have ‘a significant potential impact on, or be of concern to, members of the New Zealand public’ (refer BSA decision 2005-125). A ‘controversial issue’ is defined by the BSA as one which has topical currency and excited conflicting opinion or about which there has been on-going public debate (e.g. BSA decision 2006-076).

As discussed under “The Programme” above this was an issue which was being discussed in many news media outlets and by many different commentators. This meant that significant viewpoints on this issue were represented within the period of current interest. The Committee notes that the *Seven Sharp* segment is a well-known commentary slot where presenters give a ‘final word on topical issues; and that it is permitted under the standards to broadcast opinion and commentary.

In decision 2014-047 concerning Mike Hosking’s comments on global climate change the BSA observed:

[17] ... while *Seven Sharp* is a news and current affairs programme, it takes a sometimes non-traditional, light-hearted or comedic approach to topical issues. Part of the standard format of *Seven Sharp* is the presenters’ ‘final word’ at the end of each evening’s episode, in which they give their views on a chosen topic of the day. We think viewers would have appreciated in this context that Mr Hosking was not in this segment delivering ‘news’; he was offering his own views in a provocative manner, and he was going against the general consensus (though he is unlikely to be the only person who holds this opinion). Mr Hosking is well-known for this type of monologue where he gives his opinion on any number of issues. Freedom of speech as preserved by the Bill of Rights explicitly entitles Mr Hosking to hold and express an opinion that challenges orthodoxy on the issue of climate change, even if that opinion is unpopular or incorrect.

In the case of this monologue Mr Hosking provides commentary on his perceptions of the political motivations behind the ponytail scandal. Mr Hosking does not dispute that John Key had pulled the waitress’s hair or that these actions were inappropriate in his commentary and he did not dispute the waitress’s rights to protections under employment law.

The Committee understands that the comments do not represent the views of all and could be considered provocative and perhaps rude by some viewers. However Mr Hosking's right to hold and express his opinion on this issue is protected by the Bill of Rights Act. No breach of standard 4 has been identified.

Standard 5 Accuracy

Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming:

- *is accurate in relation to all material points of fact and/or*
- *does not mislead.*

Guidelines

- 5a *The accuracy standard does not apply to statements which are clearly distinguishable as analysis, comment or opinion.*
- 5b *In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity.*
- 5c *News must be impartial.*

You have complained that the comment *she had a problem at work the owners were the people to consult not a blogger* was inaccurate in the segment. This comment is meant to reference that, in Mr Hosking's opinion, the waitress's complaint was more properly made to her employer rather than on *The Daily Blog*. This is a statement of opinion or commentary.

Comments which are clearly distinguishable as analysis, comment or opinion are permitted under this standard. No breach of standard of standard 5 has been identified.

Standard 6 Fairness

Broadcasters should deal fairly with any person or organisation taking part or referred to.

Guidelines

- 6a *A consideration of what is fair will depend upon the genre of the programme (e.g. factual, dramatic, comedic or satirical programmes).*
- 6b *Broadcasters should exercise care in editing programme material to ensure that the extracts used are not a distortion of the original event or the overall views expressed.*
- 6c *Except as justified in the public interest:*
- *Contributors and participants should be informed of the nature of their participation*
 - *Programme makers should not obtain information or gather pictures through misrepresentation;*
 - *Broadcasters should avoid causing unwarranted distress to surviving family members by showing footage of bodies or human remains.*
- 6d *Broadcasters should respect the right of individuals to express their own opinions.*
- 6e *Individuals and particularly children and young people, taking part or referred to should not be exploited, humiliated or unfairly identified.*
- 6f *Where the programme deals with distressing circumstances (e.g. grief and bereavement) discretion and sensitivity are expected.*

This standard is designed to protect those people and organisations taking part or referred to in broadcast. You have complained that the comments were unfair to the waitress.

In Kiro and Radioworks Ltd, the Authority stated that the fairness standard:



... does not prevent criticism of public figures. Indeed, it is an essential element of free speech that even the most trenchant criticism of public figures be allowed. ...The question for the Authority is whether that criticism overstepped the boundaries of fairness, that is, whether it strayed into abusively personal territory.

The Committee considered the following in regard to this aspect of your complaint:

- The waitress was not named or shown in the *Seven Sharp* segment, even though this information was available in other news media.
- Mr Hosking does not dispute that John Key had pulled the waitress's hair or that these actions were inappropriate in his commentary.
- In the main Mr Hosking's commentary concerned what he saw as the political machinations behind the release of the blogs. These comments are permitted under the standards as a freedom of expression right.
- The presenter directly criticised the waitress once when he says: *to quote the waitress concerned today "I felt New Zealand should know". What a puffed self-involved pile of political bollocks. She had a problem at work the owners were the people to consult not a blogger.* This comment relates to the perceived political agenda behind releasing the blogs in the way that they were, not to the allegations the waitress made about John Key's actions.
- Mr Hosking also states of the waitress that *Even if the waitress concerned wandered into this naively, she wandered into a snakes-pit frequented by those driven by political self-interest and nothing more. And if it wasn't naïve, which makes it worse, and she was looking to hang the Prime Minister out to dry her selfishness caused needless upset and attention to a couple who have done nothing but go about their business.* This is clearly commentary about the political spin that the issue had been given, and two possible (but not known) reasons for the issue to be publicised in the way that it was discussed.

The Committee understands that these sentiments could be considered to be trenchant criticism of the politics behind the way the accusations were released and the possibly political motivation of the waitress (although no firm statement is made about this). We acknowledge that these sentiments are very close to being personally critical about the waitress. However we also understand that this level of political commentary was opened by the way that the accusations were first revealed and subsequent actions of the many parties involved and that such political discussion is protected by the Bill of Rights Act. Accordingly, no breach of standard 6 has been identified.

Right to Refer to Broadcasting Standards Authority and Time Limit

In accordance with section 7(3) of the Broadcasting Act you are hereby notified that it is your right, should you be dissatisfied with this decision, to refer the matter to the Broadcasting Standards Authority, P O Box 9213, Wellington, as provided under section 8 of the Act, for the purpose of an investigation and review of the decision. You have 20 working days after receipt of this letter to exercise this right of referral.

Yours sincerely

Complaints Committee