

The SBS logo consists of the letters 'SBS' in a bold, white, sans-serif font, set against a dark, stylized background that resembles a flame or a series of overlapping shapes.

SBS Corporation - Australia's multicultural broadcaster

Office of the Managing Director

13 July 2004

Dr Colin Rubenstein
Australia/Israel & Jewish Affairs Council
Level 1
22 Albert Road
SOUTH MELBOURNE VIC 3205

Dear Dr Rubenstein

I am now in a position to provide a formal response to your facsimile of December 19, 2003 regarding complaints of "unsatisfactory coverage" of Middle East issues in SBS television programs in 2002 and 2003. Let me again apologise for the delays in providing this response.

The most recent of these delays was caused by SBS reviewing the internal process by which these complaints were being handled. That review led to the matter being placed directly into the hands of the Head of Television. His report, as received by me, is attached to this letter. It is self explanatory and you should regard it as the official response by SBS to the complaints your organisation has made. You are, of course, aware that should you be dissatisfied with this response you are entitled to refer your complaints to the Australian Broadcast Authority for its consideration.

I am conscious, though, that your facsimile of December 19 formed just one part of the recent dialogue between AIJAC and SBS regarding coverage of Middle East affairs and, more particularly, the manner in which SBS handles formal complaints by viewers, including members of your organisation. As a consequence of our meetings and correspondence, SBS management does have a clear understanding of the concerns of AIJAC regarding Middle East coverage. The review of your claims relating to SBS coverage of news items from 2003 (referred to in my letter of 16 April 2004) added to that appreciation. I understand your one on one meetings with the Director of News and Current Affairs have also been helpful. I regard this opening up of lines of communication as a positive step towards a mutual understanding of the positions of both organisations.

More particularly, your submission to the SBS Board Committee responsible for recommending changes to our Codes of Practice has been seriously considered as we work towards establishing a more objective internal process for the handling of complaints. I am pleased to tell you that this initiative is now well advanced. The Board has recently received and approved recommendations from its committee. Before adopting the proposed new complaints handling process there will be a further opportunity for your organisation and others to comment on its suitability.

Let me assure you that SBS is committed to achieving the highest standards of editorial performance and to ensuring that complaints regarding failure to meet those standards are fairly and objectively assessed.

Kind regards

A handwritten signature in black ink, appearing to read 'Nigel Milan', is written over a white background.

NIGEL MILAN
Managing Director



SBS RESPONSE TO COMPLAINTS BY AIJAC 12 JULY 2004

Background

This report is in response to the formal complaints lodged by The Australia/Israel & Jewish Affairs Council by facsimile on December 19, 2003.

I am aware that those complaints form part of a broader range of concerns about SBS Television coverage of Middle East issues. During face to face meetings and in other correspondence AIJAC has raised concerns about other SBS news, current affairs and documentary coverage and has specifically challenged the process by which SBS handles complaints about such coverage.

These matters have already, or are being, addressed elsewhere and although they may be seen to form a backdrop against which the December 19 complaints are set, they have not played any part in my consideration of the complaints listed in the December 19 facsimile.

Approach

That facsimile requested that SBS investigate four specific instances of SBS coverage of Middle East issues that AIJAC claims are not satisfactory.

AIJAC also supplied a further description of items broadcast during 2002 and 2003 which it claimed demonstrated "inappropriate choice of language, selectivity and editorialising, and blatant factual errors." In addition, it claimed the broadcasting by SBS of a documentary by John Pilger entitled "Breaking the Silence" demonstrated the existence of a culture within SBS that allowed "continuing problems with the SBS coverage of Israel" to flourish.

AIJAC has not sought investigations or responses for either the general list of "unsatisfactory coverage" examples in 2002 and 2003 or the John Pilger documentary. Indeed, in many of the cases listed, a specific breach of the SBS Codes of Practice is not identified. Rather, SBS has been invited to consider this additional material to determine whether, together with the outcome of its investigations into the four specific complaints, an acknowledgement is warranted by SBS "of the shortcomings in its coverage in relation to Israel in news, current affairs and documentary programs over the last decade."

Given that that determination is substantially dependent on the outcome of the investigation into the four specific complaints, it is appropriate to deal with those matters first.

Although the complainant did not specify which of the SBS Codes of Practice it claimed were breached it is reasonable to assume that the complaints concerning the three news items related to Code 2.4.1 which deals with the need for accuracy, balance, fairness and objectivity. The relevant portion of that Code is:

2.4 NEWS AND CURRENT AFFAIRS

2.4.1 Introduction

Section 10(1)(c) of the SBS Act makes it a duty of the SBS Board to "...ensure by means of the SBS's programming policies, that the gathering and presentation by the SBS of news and information is accurate and is balanced over time and across the schedule of programs broadcast."

SBS believes in the right of its audience to make up its own mind after a fair, objective, balanced and professional presentation of the issues. SBS provides a forum for views on important issues to be communicated to audiences and seeks to present the widest range of opinion over time....

Accuracy is the highest priority of news and current affairs and SBS will take all reasonable steps to ensure timely acknowledgement and correction of any errors of fact..."

Complaints

Item 1

AIJAC complaint: *On September 30, Jane Braslin reported on the third anniversary of the commencement of the current violence. Her story showed footage of Israeli tank fire, planes dropping bombs, a Palestinian car burning after a targeted killing and Mohammed al-Durra being shot. After discussing Ariel Sharon's walk on the Temple Mount, she said, "But Ariel Sharon went on to become a hard line prime minister, responding to the intifada by reoccupying parts of the territories, imposing closures, expanding Jewish settlements and with an unrelenting campaign of attacks on militants." There was no vision of the aftermath of any Palestinian attacks and the only mention of suicide bombings was in a related story in which she explained the charges against Marwan Barghouti. Clearly Ms Braslin's depiction of the situation shows only one side of the story, representing it as three years of Israeli violence against Palestinians. This is no less than a gross distortion of reality and reflects a high degree of anti-Israel bias.*

SBS broadcast two items on this subject at the time. Although the complaint refers to only the second item, the suggestion that SBS coverage of this event lacked balance necessitates a review of both relevant items.

1st item: The third anniversary of the "start of the current violence in Israel and the Palestinian territories" was marked on 28 September 2003. On that date, SBS News showed a report prepared by Janet Haslett that was introduced by news of the new Cabinet for the incoming Palestinian Prime Minister, which coincided with demonstrations marking the third anniversary of the Palestinian uprising. The report then referred to the new Prime Minister's offer of a ceasefire and the recent US accusation that the Palestinians were failing to rein-in militants. The accompanying footage showed Palestinian militants demonstrating, while chanting and firing automatic weapons into the air.

The report then referred to the celebrations to mark the New Year in Israel being subdued due to an attack which killed a man and baby in a Jewish settlement. The report showed IDF footage of the home in which the attack occurred and commentary from an Israeli government spokesman on the significance to the peace process of this latest attack. A Palestinian spokesman then condemned the attack, but said it should be viewed in the context of the Israeli occupation and Israeli violence against Palestinians.

2nd item: On 30 September, SBS News ran a report by Jane Braslin, also about the intifada in the West Bank and Gaza. Following an introduction by Mary Kostakidis, the report opened with vision of various protests marking the anniversary of the uprising. The reporter provided a history of events, including explanations for the uprising from the Palestinian perspective – claiming it occurred because of Prime Minister Sharon's 'walk on the Temple Mount' and the Israeli view, that it was unrelated to that event and was already planned.

A variety of vision was included in this section of the story, including that of tank and air attacks, the well-known footage of Mohammed al-Durra, Prime Minister Sharon's walk on the Temple Mount and Yasser Arafat after a recent illness.

The second half of the item dealt with the trial by Israel of Marwan Barghouti, the report explaining that he is accused of masterminding the Intifada, including the murder of 26 Israelis by suicide bombings. The accompanying footage showed his recent appearance during the trial and protesters waving placards of his image.

Finding

AIJAC claims the item "shows only one side of the story, representing it as three years of Israeli violence against Palestinians".

It is evident from reviewing the two items, however, that coverage of Palestinian attacks on Israelis was contained in the reports.

The first report contained footage of the attacks on Jewish settlements provided by the Israeli Defence Force, including the death of a man and child. The footage showing bullet holes throughout the home in which the attack occurred. The report also included the response from an Israeli spokesperson to the attack.

The second report, while not containing visuals of the aftermath of attacks on Jewish settlements, did contain lengthy coverage, including visuals, of the trial of the person accused of masterminding the intifada and suicide bombings that killed 26 Israelis.

This item is found not to have breached the SBS Codes of Practice and the complaint is not upheld.

Item 2

AIJAC complaint: *On July 23 Mary Kostakidis announced, "There are unconfirmed reports that Israel has offered to release 100 more Palestinian prisoners from its jail. The issue is one of the major planks of the roadmap." In fact, the prisoner release is not mentioned in the roadmap. This misrepresentation of the terms of a crucial document in the peace process, which was repeated in different forms on other nights, imposed obligations upon Israel that were simply non-existent.*

This item covered reports that Israel had decided to release 100 more Palestinian prisoners on the eve of talks between Israel and the United States concerning the Roadmap for peace in the Middle East.

Finding

SBS accepts that the reference to the release of prisoners does not appear in the Roadmap document itself. However, it is clearly stated as a component of the supporting *The Tenet Plan: Israeli-Palestinian Ceasefire and Security Plan*, dated June 13, 2001, which states, in part:

"Israel will release all Palestinians arrested in security sweeps who have no association with terrorist activities."

At various points throughout the Roadmap itself are references to its implementation through the Tenet work plan e.g. the first paragraph of Phase I of the Roadmap states

"Palestinians and Israelis resume security cooperation based on the Tenet work plan to end violence, terrorism, and incitement through structured and effective Palestinian security services."

In the third point under the heading of *Security* the Roadmap states

"GOI takes no actions undermining trust, including deportations, attacks on civilians;and other measures specified in the Tenet work plan."

In the fifth point, under *Security*, it states

"Restructured/retrained Palestinian security forces and IDF counterparts progressively resume security cooperation and other undertakings in implementation of the Tenet work plan....."

While prisoner release does not feature in the Roadmap itself, it is clearly part of the Tenet work plan which, in turn, is tied to the Roadmap. Prisoner release is therefore an element of the peace process. This would tend to contradict the complaint that the SBS news item "imposed obligations upon Israel that were simply non-existent".

The item is found not to have breached the SBS Codes of Practice and this complaint is not upheld.

Item 3

AIJAC complaint: On March 14 Tony Townsend reported, "...an official [Israeli] government report revealed the Israeli army has killed more than 360 innocent civilians during the latest intifada. At least a third of them were children, 22% came from hardline groups like Hamas and Islamic Jihad and 17% from Yasser Arafat's Fatah movement." The report did not describe the civilians as "innocent" in fact, it pointed out that many were killed while confronting Israeli troops with stones etc. And to suggest that Hamas and Islamic Jihad members are "innocent civilians" is extraordinary. Once again, facts have been misrepresented in a way that increases sympathy for Palestinians while painting Israel in a more unfavourable light than would have been the case without the errors.

The report was about recent violence in the Middle East resulting in the deaths by Israeli forces of Palestinians and in one case two Israelis by 'friendly fire'. The item referred to concern by human rights organisations with the IDF's 'open fire' regulations and also noted an Israeli government report on deaths caused by the IDF during the uprising. The reporter then drew several statistics from that report.

Finding

There is a factual error in this report and one that is acknowledged by the News and Current Affairs Department now that it has been pointed out.

Because of the time elapsed between broadcast of the item (March 2003) and lodging of the complaint (December 2003) the source material from which the item was prepared is no longer held by SBS. I have relied on text coverage by three other news organisations, Agence France Presse, Deutsche Presse-Agentur and the Haaretz newspaper to establish the content of the original report. It appears reasonable to assume that the information they carried was the same as supplied to SBS News.

Those reports quoted the following statistics.

- 1,945 Palestinians had been killed by the IDF in the 29 months of the uprising;
- 365 of those 1,945 were described as being "innocent civilians";
- those described as "innocent civilians" included 130 under the age of 16;
- 324 people, around 17% (of the total 1,945) were from Arafat's Fatah movement;
- 441 people, around 22% (of the total 1,945) were members of Hamas and Islamic Jihad.

The SBS item has been assessed line by line against the specifics of the complaint:

"...an official government report revealed the Israeli army has killed more than 360 innocent civilians. At least a third of them were children..."

This is an accurate summary of part of the report and entirely consistent with the treatment given by the three other news organisations quoted above. With regard to the use of the term "innocent civilians", that phrase is quoted by all three news organisations in their description of the report. Deutsche Presse-Agentur specifically quotes the report as saying "365 had nothing to do with militant activity".

"...22% came from hardline groups like Hamas and Islamic Jihad and 17% from Yasser Arafat's Fatah movement."

This apportionment should have been applied, not to the "more than 360 innocent civilians" but to the overall number killed, 1945. The error therefore would have been avoided if a full stop had been inserted after the word children and if the next sentence had been started with the phrase "Of the 1945 Palestinians killed during the intafada..."

The item is found to have breached the SBS Codes of Practice with regard to accuracy and the complaint is upheld.

SBS News and Current Affairs has acknowledged this breach and has advised that if it had been pointed out at the time of broadcast it would have justified a correction being broadcast at the earliest opportunity.

Having regard to the preparatory drafts of the item and the experience and standing, here and overseas, of the journalist involved I accept that the error was inadvertent. With regard to the AIJAC claim that the error "increases sympathy for Palestinians while painting Israel in a more unfavourable light", I do not believe that the omission of the total number of Palestinians killed (1945) had this effect.

Documentary

AIJAC complaint:

I believe you should investigate the airing on August 23, as part of the "As it Happened" series, of "Dead in the Water" a BBC documentary claiming to prove that the Israeli air and naval attack on the US spy ship USS Liberty during the Six Day War was intentional and part of a conspiracy. As the attached article from the Sydney Morning Herald shows, US tapes of Israeli forces, released the previous month, prove the Israelis believed they were attacking an Egyptian ship, and ceased the attack when they found out otherwise. This important information was available a month before the documentary was aired, yet no mention of it was made either before or after the broadcast. The result was that the documentary provided an incomplete and misleading account of the events with which it dealt.

This documentary investigates the attack on the US spy ship *USS Liberty* by Israeli Defence Forces during the Six Day War. Specifically it explores the view, strongly held by some, including ex-crew members of the *Liberty*, that the attack was not a mistake, but intentional and part of a conspiracy designed to bring the US into the war between Israel and its Arab neighbours, including Egypt.

Finding

Code 2.4.1 against which the previous complaints have been considered does not apply to documentaries. This has been affirmed by the Australian Broadcasting Authority in its finding:

"Code 2.4.1 covers news and current affairs programs. "... (the program) is a documentary... and is not a current affairs program. Therefore Code 2.4.1 is not applicable to this program..."

(ABA Reference 2000/081 of 10 January 2001).

SBS responsibilities with regard to the selection and broadcast of documentaries are covered in the introduction to the Codes of Practice:

"SBS believes that its audiences are best served by exposure to wide range of cultures, values and perspectives. As a result, SBS's programming can be controversial and provocative, and may at times be distasteful or offensive to some. SBS will present diversity carefully and responsibly, ensuring a balance of views over time."

Documentaries, by their nature, often tell a story from the perspective of the documentary makers. *Dead in the Water* approaches the subject matter from the position of those who hold a conviction that the attack on the *Liberty* was deliberate. But it very clearly afforded those who hold contrary views the opportunity to deny the suggestions of a conspiracy and advance their own theories. Viewers of this program will have been left in no doubt that there are two divergent opinions on the reasons for the attack. Both were well canvassed in the program.

With regard to the complaint that additional and more recent information should have been reported either as an introduction to or at the conclusion of the documentary, it is important to recognise that this is a long-standing and intricate debate. Fresh information, as the documentary demonstrates, will slowly continue to emerge. The revelation that two Israeli pilots sent after the attack to check for survivors believed it to be an Egyptian ship until seeing the US flag flying, as reported in the *Sydney Morning Herald* does not, in itself, invalidate the content or approach of the documentary. Indeed it can be argued that this information is no different to the account given in the program by an Israeli torpedo boat crew member who was involved in the attack on the *Liberty*. One of the theories suggested in the documentary is that *parts* of the Israeli military may have been kept in the dark about the identity of their target. The evidence referred to in the complaint goes to the knowledge of the pilots involved. It does not address the state of knowledge of other parts of the Israeli military.

The documentary is found not to have breached the SBS Codes of Practice and the complaint is not upheld.

Request for General Acknowledgement

The complainant also requests that SBS acknowledge "the shortcomings in its coverage in relation to Israel in news, current affairs and documentary programs over the last decade".

The four items which the complainant requested be investigated do not provide evidence of such a general shortcoming. The one complaint upheld relates to a regrettable, but inadvertent, error of fact.

The additional commentary by the complainant on some news items broadcast during 2002 and 2003 and the general allegation regarding the broadcasting of a John Pilger documentary were provided as some sort of additional background to the four specific complaints and cannot be regarded as the sort of evidence necessary to justify such an acknowledgement.

The only effective and fair way for the complainant to establish such a general shortcoming exists, is for a formal complaint to be lodged on each occasion an alleged breach of the Codes of Practice is identified. Such a complaint should be made at the time of the alleged breach so that it can be properly investigated and, if the complainant is dissatisfied with the subsequent finding, it should be referred to the ABA for independent review. The resulting body of decisions would establish beyond doubt whether the complainant's position is justified.

The complainant, if dissatisfied with my findings, has the right to seek review by the ABA.

Shaun Brown
Head of SBS Television
July 12, 2004