



**Australian
Broadcasting
Authority**

INVESTIGATION REPORT NO. 1345

File No.	2003/1411
Licensee	SBS Corporation
Station	SBS TV
Type of Service	National television
Name of Program	Jenin, Jenin
Date of Broadcast	1 June 2003
Relevant Legislation/Codes	Code No. 1 and Code 2.1 of the SBS Codes of Practice

Decision

The ABA has determined that on 1 June 2003 SBS TV did not breach either Code No. 1 or Code 2.1 of the SBS Codes of Practice by broadcasting the documentary 'Jenin, Jenin'.

Background

On 11 December 2003 the Australian Broadcasting Authority (the ABA) received a written complaint regarding 'Jenin, Jenin', a documentary broadcast by SBS Television on 1 June 2003 that dealt with an incident in the ongoing Israeli-Palestinian conflict. The complainant alleged that the program was unbalanced, contained deliberate untruths, was little more than anti-Israeli propaganda and was designed to denigrate.

In response to this complaint the ABA wrote to SBS on 23 December 2003 requesting comments and a videotape of the program in question. These were received by the ABA on 6 February 2004.

The Program

'Jenin, Jenin' is an account of the Israeli Defence Force's operations in the West Bank during 2002's Operation Defensive Shield, and in particular the raid on the refugee camp adjoining the city of Jenin, which occurred in April of that year. The documentary focuses almost exclusively on eyewitness accounts from the residents of Jenin, with some footage of the camp during and after the raid. There are no interviews with Israeli personnel involved in the operation.

Complaint

In its letter of complaint to SBS the complainant wrote, in part:

Given the past history of Palestinian fabrications for the purposes of hoodwinking Western media, I would suggest that without any independent evidence to back up the accusations, the claims that tanks deliberately ran over civilians, or that civilians were shot in the street, were simply untrue.

....

As a piece of evidence to support the claim that this is full of fabrications, consider these two episodes from the film:

- (1) a Palestinian doctor leads someone (the producer, perhaps?) up long corridors and stairs while describing the terrible damage to his hospital. I don't recall seeing any visual evidence of any damage to his hospital.
- (2) There are references to the bulldozers (the large D-9s) used to destroy houses. We see these on a couple of occasions. However, later references to these bulldozers are accompanied by shots of small, normal tractors with shovels, presumably being used to clear up rubble afterwards.

There was no balance, no search for truth in this film. Of course the damage to houses and the deaths of civilians is shocking, but the film made no attempt to explain the context that Israeli forces were engaged in a large and serious military operation to eliminate a nest of terrorists responsible for numerous deliberate attacks on innocent Israeli civilians.

....

I would expect that you would respond to this complaint by telling me that you engaged in “balance” by screening a half-hour documentary immediately beforehand which presented direct quotes from named and identifiable individuals from both sides of the battle. That program was certainly balanced, and I commend you for showing it. However, following this up with an hour of unbalanced propaganda doesn’t make the total package balanced.

In its letter of complaint to the ABA the complainant wrote:

We do not consider that a channel can meet an accusation of imbalance merely by pointing to the numbers of Israeli and Palestinian programs that it presents. More particularly, we consider the defence of ‘balance over time’ used in this way is totally inadequate as an answer to accusations that a program contains deliberate untruths. **We are more interested in accuracy, truthfulness and fairness as the appropriate criteria:** SBS’s defence of ‘balance over time’ leaves us entirely unmoved.

SBS’s Response

In response to the complainant’s letter of complaint SBS wrote:

I acknowledge that *Jenin, Jenin* is made from a Palestinian perspective. Complete balance within the one program might be considered the ideal approach, but we have no such illusions about its feasibility....Our Codes of Practice acknowledge the difficulties inherent in achieving balance within one program, by requiring us to achieve “balance over time”.

....

As you yourself acknowledge, the documentary *The Battle of Jenin*, immediately preceding *Jenin, Jenin*, put forward an Israeli perspective of the conflict. In addition, there have been numerous other programs on SBS that look at the history and the current situation of the Israeli/Palestinian conflict from a predominantly Israeli point of view. Among them are *What I Saw in Hebron* (13 October 2002), *An Interview with Ariel Sharon* (20 October 2002), and *Israel: In Search of Peace* (11 May 2003). In my view, the best way to deal with a highly contentious issue such as this is to show as many viewpoints as possible, so long as they don’t incite or promote racial hatred and violence. Even though it is inevitable that many viewers will find themselves disagreeing with the views expressed in a particular program, as you have, this approach allows as many people as possible to become aware of the complexities involved and make up their own mind.

The following are relevant extracts from SBS’s response to the ABA’s request for comments:

Having considered the sensitivities around this documentary, the following matters were taken into account in deciding to broadcast the program:

....

- the SBS programmers were conscious that the documentary was made in a style which was highly emotive, subjective and which included many serious claims, some of which appeared to lack independent verification. That being said, they were presented as the perspectives of people who claimed to have been exposed to or directly affected by the events;

- given the level of interest in this issue, the series of interviews with inhabitants of the camp was regarded as reflecting a set of views and opinions, which though presented very emotionally, were themselves of interest to viewers.

Bearing in mind the above factors, the SBS programming management determined that *Jenin, Jenin* should not be aired on its own and an appropriate counterbalancing program was sought. This was to ensure that SBS audiences were given a range of perspectives on these events. In light of the sensitivities, it was determined that *Jenin, Jenin* and the other program should be shown back to back rather than leaving a period of days or weeks in between, as is often the practice when SBS broadcasts alternate perspectives on a controversial issue.

The other documentary, *The Battle of Jenin*, which was chosen to balance *Jenin, Jenin*, takes a more structured and objective approach to the issues. The decision was made to broadcast *The Battle of Jenin* immediately before *Jenin Jenin*. It was felt that audiences interested in the issue would be likely to watch both programs and would be able to view the latter in the context of the former.

....

In considering the issue of Code compliance, SBS took into account the following:

....

- viewers who watched *The Battle of Jenin* first would have been led to question or challenge elements of *Jenin, Jenin*;
- *Jenin, Jenin*, for all its strong claims, does not at any time mention a 'massacre' nor does it contain allegations about the numbers killed in that conflict....

....

It is not the intent of clause 2.1 of the Code to suggest that programming covering a contentious overseas conflict or depicting individuals' opinions of that conflict could have the effect of encouraging discrimination against people from the cultural background involved in that conflict. The analogy given was that such an interpretation would prevent the reporting of suicide bombers on the basis that the story could be construed as discriminating against others of the same cultural or religious background.

The matters in the *Jenin, Jenin* documentary are unarguably controversial but, together with the material in *The Battle of Jenin*, merely attempt to explain particular perspectives. Further, the deliberate scheduling of *The Battle of Jenin* immediately before *Jenin, Jenin* (and the other matters outlined above dealing with Code 1) support the position that viewers were given the opportunity to make up their own minds, based on a range of perspectives.

Relevant Codes of Practice

The broadcast in question has been assessed against Code of Practice No.1 and Code 2.1.

Code of Practice No. 1 acts as an introduction to the Codes and states, in part, that:

SBS believes that its audiences are best served by exposure to a 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. SBS is for all Australians. Accordingly, SBS aims to represent the different experiences, lifestyles, perspectives, cultures and languages within Australia.

Code 2.1, 'General Program Codes and Policies', sets out SBS's policy regarding prejudice, racism and discrimination and states:

SBS seeks to counter attitudes of prejudice against any person or group on the basis of their race, ethnicity, nationality, gender, age, sexual preference, religion, physical or mental disability, occupational status, or political beliefs. While remaining consistent with its mandate to portray diversity, SBS will avoid broadcasting programming which clearly condones, tolerates or encourages discrimination on these grounds.

SBS views racism as a serious impediment to achieving a cohesive, equitable and harmonious society, and is committed to its elimination. SBS seeks to correct distorted pictures of cultural communities and issues of race generally. It does this through programming which reflects the reality of Australia's cultural diversity and exposes racist attitudes.

SBS aims to ensure that programs either counter or do not support individual or group stereotyping. SBS strives to eliminate stereotyping by presenting members of different groups in a variety of roles and by avoiding simplistic representations.

Matters Not Considered by the ABA

Section 2.4 of the SBS Codes of Practice (the Codes) applies to news and current affairs programs and covers several of the issues that were raised in the complaint, such as accuracy, balance over time and the avoidance of a sensationalised and exaggerated treatment of issues and events.

However, the program in question is a documentary and therefore the requirements of Section 2.4 of the Codes are not applicable. The term 'documentary program' is not defined in either the *Broadcasting Services Act 1992* or in the Codes. It is, however, defined in the *Broadcasting Services (Australian Content) Standard 1999* as:

documentary program means a program that is a creative treatment of actuality other than news, current affairs, sports coverage, magazine, infotainment or light entertainment program.

The examination of and the treatment afforded the issues raised in the program are consistent with this definition. The ABA accepts that the program in question is a documentary. Section 2.4 of the Codes is therefore not applicable to the program and its requirements concerning accuracy, balance over time and the avoidance of a sensationalised and exaggerated treatment of issues and events are not relevant to this investigation.

It should be noted that the issue of 'balance over time' is also covered in Code No. 1.

Assessment

As stated earlier in the report, 'Jenin, Jenin' has been assessed against:

- Code No. 1 to determine whether the broadcast of this program and other programs dealing with the same subject has ensured a 'balance of views over time'; and
- Code 2.1 to determine whether it 'clearly condones, tolerates or encourages discrimination' on the basis of 'race, ethnicity, nationality, gender, age, sexual preference, religion, physical or mental disability, occupational status, or political beliefs'.

Balance Over Time

In relation to presenting a balance of views, the ABA notes that this objective is 'over time' and not in any individual program and that a balance of views does not implicitly require that programs cannot adopt a position in any examination of controversial subject matter. The Code does not impose a requirement to provide balance within a program, nor does it impose an obligation to provide opportunity for the presentation of all views concerning matters broadcast in a documentary.

The ABA notes that SBS took this Code provision into account when deciding to broadcast the documentary 'The Battle of Jenin', which the complainant described as balanced, immediately before the broadcast of 'Jenin, Jenin'. The ABA also notes that SBS has stated that it broadcast three programs in the twelve months preceding the broadcast of 'Jenin, Jenin' and that these programs looked at the Israeli/Palestinian conflict from a 'predominantly Israeli point of view'. The ABA examined program guides¹ for the relevant periods to ascertain the nature of these programs. This examination revealed the following:

1. 'What I Saw in Hebron', broadcast on 13 October 2002, is an Israeli documentary that recounts the story of a woman who survived the 1929 Hebron massacre after being saved by an Arab neighbour.
2. 'An Interview with Ariel Sharon', broadcast on 20 October 2002, is a German documentary and features an interview between the vice president of the Jews' Central Council in Germany and the Israeli Prime Minister.
3. 'Israel: In Search of Peace', broadcast on 11 May 2003, is an American documentary that chronicles the first two decades of Israel's existence. It was made by the Simon Wiesenthal Centre.

On the evidence before it the ABA is satisfied that the broadcast by SBS of 'Jenin, Jenin' on 1 June 2003, considered in conjunction with other programs dealing with the same subject from different perspectives, has not amounted to a breach of the Code provision that relates to 'ensuring a balance of views over time'.

¹ 'The Guide' from The Sydney Morning Herald, 'Seven Days' from The Daily Telegraph and 'The Green Guide' from The Age.

Discrimination

Essentially Code 2.1 is intended to prevent the broadcast of material that condones or promotes prejudice or discrimination or supports individual or group stereotyping.

For the following reasons the ABA is of the opinion that the program complained about did not clearly condone, tolerate or encourage discrimination on the grounds of race, ethnicity or religion and is therefore not in breach of Code 2.1:

- the Code is not intended to proscribe the broadcast of information dealing with current events or the reporting of historical issues, nor is it designed to prevent the broadcast of material of this kind that may be critical in its examination of controversial subject matter;
- the Code does not impose a requirement to provide balance within a program of this nature or to be neutral on issues covered in such a program;
- the program did not purport to be anything other than an examination of the viewpoints and experiences of the Palestinian inhabitants of Jenin who lived through the events of April 2002;
- given the well-publicised nature of the conflict a reasonable viewer would have been aware that the views being expressed were from one side of the conflict only, particularly as the program was broadcast directly after another program that showed the same conflict from another perspective;
- most of the criticism and anger expressed during the program was directed at the Israeli Defence Force and its (alleged) actions in Jenin and at political leaders such as George Bush and Ariel Sharon. However, whilst the program was undoubtedly critical of Israeli military and political elements involved in the conflict it did not, in the opinion of the ABA, condone, tolerate or encourage discrimination on the grounds of race, ethnicity or religion;
- some of those interviewed were also highly critical of certain Arab states and of the United States of America. Many lamented the fact that, in their opinion, their plight had been largely ignored by the rest of the world; and
- while the views of the residents of Jenin were strong and often expressed in an emotive fashion these residents were entitled to tell their story and express their opinions and reactions to the raid. The ABA is of the view that such opinions, reactions and eyewitness accounts were a legitimate subject for a documentary and provided an important insight into a crucial aspect of the Israeli-Palestinian conflict.

Finding

The ABA finds that the broadcast in question has not resulted in a breach of Code 2.1.

Decision

I, Phyllis Fong, Manager, Investigations Section, being the appropriate delegated officer of the Australian Broadcasting Authority, determine for the above reasons that on 1 June 2003 SBS TV did not breach either Code No. 1 or Code 2.1 of the SBS Codes of Practice by broadcasting the documentary 'Jenin, Jenin'.

Signed: Phyllis Fong
Phyllis Fong

dated this ^{23rd} day of February 2004