

## INDEPENDENT COMPLAINTS REVIEW PANEL

### ICRP REPORT INTO THE COMPLAINTS MADE BY TIMBER COMMUNITIES AUSTRALIA AND FORESTRY TASMANIA AGAINST THE ABC *FOUR CORNERS* PROGRAM 'LORDS OF THE FORESTS' BROADCAST ON 16 February 2004

#### The Complaints:

The *Four Corners* program, 'Lords of the Forests' is the subject of two complaints from Forestry Tasmania and Timber Communities Australia Ltd (TCA), which have been referred to the Independent Complaints Review Panel (ICRP). The Panel understands that at least one other complaint about 'Lords of the Forests' was lodged with the ABC but subsequently referred directly to the Australian Broadcasting Authority (ABA).

While the Panel accepts that the two referred to it are separate complaints, it has chosen to deal with both complaints together as they cover similar ground. Central to both are claims of inaccuracy, bias, lack of balance and, due to 'selective use' of quotes from forestry industry representatives interviewed for the program, lack of fairness. The claimed bias, lack of balance and fairness are centred around the complainants' view that 'Lords of the Forests' had a strong anti-logging, anti-wood-chipping theme and that the makers of the program, most notably the reporter, Ms Ticky Fullerton, embraced an anti-logging philosophy.

Taken overall and in specific instances, says the TCA complaint, the program breached Sections 4.1, 4.2 and 4.3 of the ABC's Code of Practice. The program thereby failed to uphold 'the key values of honesty, independence and fairness' listed in the ABC's Editorial Policies.

Forestry Tasmania's complaint contends that the program was in serious breach not only of Code of Practice clause 4.1 but also of 5.2: *Every effort must be made to ensure that the factual content of such programs is accurate and in context and does not misrepresent viewpoints.*

Both complaints lodged within days of the program airing, run to considerable length and detail. Forestry Tasmania's General Counsel, Mr John McDonald, sent his organisation's letter of complaint to the ABC (Hobart) on 5 March 2004. TCA State Coordinator, Mr Barry Chipman, wrote to the ABC (Hobart) with a copy to the ABC Board Chairman, Mr Donald McDonald on 25 February 2004. Mr Chipman included a transcript of the program with accompanying notes challenging, on the Panel's count, 95 statements made and/or elements contained in the 43 minute 25 second program.

The ABC's Director of Corporate Affairs, Mr Geoffrey Crawford, responded to both complaints against the 'Lords of the Forests' -to Mr Chipman on 8 April 2004 and to Mr McDonald on 20 April 2004 -again at some length and detail. The responses did not satisfy any of the parties and drew rebuttals from both complainants.

Besides overall claims of bias, unfairness and lack of balance, Forestry Tasmania's General Counsel, in a letter to the ICRP Convener dated 24 May 2004, listed a further 20 specific challenges, mostly as to the veracity of information in the program and most paralleling those of TCA.

Forestry Tasmania's Managing Director, Mr Evan Rolley, later expressed in writing his organisation's 'extreme disappointment' that complainants wishing to invoke the ICRP process must first sign a release against any further legal action before the Panel would consider the complaint.

### **The Review:**

The ICRP Panel reviewed all the correspondence and viewed, a number of times, a tape of the program. Two of the viewings were made side-by-side with the transcript and TCA's comments challenging 95 points, statements and 'facts' presented in the program.

With the specific complaints about 'selective editing' in mind, complete transcripts of comments made during interviews by the ABC with both pro-logging and wood-chipping advocates and critics of Tasmanian forestry policies, were also studied.

Telephone discussions were held with Mr Chipman (TCA) and Mr Rolley (Forestry Tasmania) to offer them or their colleagues the opportunity for further comment. Mr Chipman said he was satisfied to rely on TCA's letters of complaint, including rebuttal of the ABC's response from Mr Crawford rejecting TCA's claims of overall bias and lack of balance and fairness.

When he was contacted, Mr Rolley said Forestry Tasmania had been 'very open' with *Four Corners*. If they had not been so open then the 'biased program' might have been a 'fair cop'. Over two days he said, every effort had been made on his part to see that the *Four Corners* people making the program had everything they wanted. He had even organised a helicopter to fly the journalist and cameraman around. But what the industry got, he said, was a program heavily weighted against it. Other than that Mr Rolley said Forestry Tasmania would rely on its complaint as detailed in its letters from their General Counsel.

Finally, as part of the ICRP review, more than three hours of face-to-face discussion with and questioning of the on-camera reporter, Ms Fullerton, Producer, Ms Linda Carroll, and *Four Corners* Executive Producer, Mr Bruce Belsham, were conducted by an ICRP panellist.

### **Preliminary Findings:**

There is no doubt -and the ABC concedes -there were two factual errors in 'Lords of the Forests':

- (1) It was not Van Diemen, as the program stated, but Abel Tasman who discovered Tasmania
- (2) The coloured map of Tasmania, designed to show forestry reserves was inaccurate and misleading.

There is no doubt either, from study of the transcripts of all interview material, that different 'grabs' could have been included in the final compilation of the 43-minute program. As these transcripts run to 29 closely-typed pages there was a wealth of material from which to choose. Selection of different quotes could have made the program seem more favourable to the logging and wood-chipping industries -or, it must be said, the anti-logging forces. The program makers concede that given the constraints of shoehorning all the material they had collected into the less than 45 minutes of airtime available, 'selection' was a significant factor. They believed they had 'gone down the middle' and been fair to both sides.

Also questioned by the complainants was the accuracy of other material used in the program. Indeed what has transpired since the airing of the program is a series of claims and counter-claims between the parties. Many of the claims are of a complex nature in that they relate to conflicting interpretations of statistics. Both sides can be either right or wrong and the Panel does not have the expertise to make a firm ruling.

In relation to a number of specific factual allegations in the program which are of some significance, it seems to the Panel that complaints of inaccuracy by Forestry Tasmania or TCA are not all answered satisfactorily, or in some cases not at all, by the ABC. These are listed below with the Panel's comments.

While the Panel reviewed the complainants' points one by one against the ABC's (*Four Corners* and *Corporate Affairs*) comments it chose not to deal in detail with a number of other alleged inaccuracies where the ABC's answers seem to leave the issues unresolved.

The Panel has not, either, dealt with yet more apparent inaccuracies in the program which it regards to be of minor significance only and are not much debated in the correspondence (eg TCA's objection that '450 farms' should have been '450 titles'). Nor is the Panel concerned about such things as the program depicting as alive (but logged) a tree, which according to TCA was dead (and logged).

### **Significant Allegations:**

1) The Program states:

- a) 'left behind as waste, up to three quarters of the forest, pushed into windrows for burning'
- b) 'so intense are the fires, every autumn, mushroom clouds dominate the horizon. These burns are designed to kill everything above and below the surface -a scorched earth policy in preparation for new planting.'
- c) 'native wildlife returning from nearby to feed on new seedlings is also targeted. First coaxed with cinnamon carrots, later carrots laced with 1080 poison. It's pictures like these that have caused public outrage, the poison crashing the metabolism.'

TCA says the vision used over these statements is either unrelated or unsourced. In the case of c) above, TCA claims the vision was supplied by the Tasmanian Greens and that Senator Shayne Murphy had publicly claimed that he commissioned the footage and that he did not give permission for its use. The ABC response that *Four Corners* arranged Australian broadcast rights for this material and that Senator Murphy had no connection with the footage is, at the least, inadequate. As to a) and b) above, there is no written response from the ABC and the post-broadcast response provided by *Four Corners* -that in the case of b) file footage had to be used as it was impossible to film 'mushroom clouds' at the time of the year the program was being made (summer) -does not amount to a plausible reason for omitting the vision's source. As to c), acknowledgement of the source of the vision would have rendered the disputation over this point unnecessary.

2) The program states that regenerated trees 'have a short life, as they too are bred to clear fell, when the cycle begins all over again'. Forestry Tasmania says that there is no 'breeding program' and that it is not known (now) whether trees planted now will be logged in 80 years' time. There was no response from the ABC.

3) The program states that Gunns' share price 'has risen 900% in five years from the .-fruits of the forest'. TCA says that this ignores all of Gunns other activities. Again, there was no response from the ABC.

4) The program states that much of the reserved land 'was of little use to loggers'. Both TCA and Forestry Tasmania point out that 40% of the forests were reserved. The ABC acknowledges this, but ignores the claim by TCA that '40 per cent of the native forest is also locked up in reserves'.

5) The program states that the price paid by Gunns to Tasmania for chip logs is \$14 per tonne. TCA says that the allegations on the program by Ms Christine Milne, former Leader, Tasmanian Greens, that Tasmanians are being 'ripped off' and by Ms Naomi Edwards, Actuary, that Gunns is being allowed by Tasmania to 'buy its wood cheap' are misleading because the prices in other States are much lower. This was not answered by the ABC.

6) The program includes an explanation by Ms Edwards that Forestry Tasmania's \$11-million loss is due to its 'playing with accounting standards' and to its having 'really damaged the value of the forest estate'. Forestry Tasmania and TCA explain this chiefly by reference to changes in accounting standards (with the Auditor-General's approval) producing a decrease of \$25.3 million in the accounting value of standing timber. In their response, the ABC does not substantiate the program's claim (made by the actuary) that Forestry Tasmania damaged the forest estate.

7) The program's statement that 'many more millions of old trees are not protected' can be understood to refer to *old growth trees*. On this interpretation, the statement is inaccurate. The problem is that the distinction between (a) old growth trees and (b) trees that are old but do not fall within the definition of 'old growth' is not pointed out in the program. There are three references to 'old growth' trees or forest within this passage and only one reference to 'old trees'. On this matter, the ABC's response is unconvincing.

8) The program challenges the Managing Director of Gunns Ltd, Mr John Gay's, estimate that only about half of the trees 'taken out' of Tasmania are clear felled, by saying that he 'would have you believe that clear felling is a minor occurrence; and that Gunns opponents are incredulous at these figures'. The evidence in support of the estimates, given by TCA, is ignored. The ABC's response does not meet this specific objection.

9) The program's statement that 'Tasmania had planned to pullout of old growth clear felling and chipping by 2010' is countered by TCA's statements that: (a) this was a 'benchmark recommended but not accepted by the government' and (b) that it related to clear felling only. The ABC makes no response.

10) The ABC justifies using Mr Graham Green from Timber Workers for the Forests to cast doubt on the ABARE employment figures of 8,000 timber workers by saying that figures from Mr Paul Lennon, then Deputy Premier of Tasmania were dated August 2003 and 'more recent ABS figures' were available. This does not meet TCA's claim that Mr Green's figures date from 2002.

11) The program's depiction of Launceston as running short of water and needing a ~. new dam is contradicted by an ABC news report on 17 February 2004, of a denial by an Esk Water spokesperson, that Launceston had problems satisfying water demands. The Esk Water spokesperson also said that he gave this denial to *Four Corners* before the program went to air. The ABC's justification that 'conflicting views were canvassed in the program' is clearly inadequate, an inadequacy not overcome, in the Panel's opinion, by Ms Fullerton's post-program explanation that this (new dam for Launceston) claim had been further backed by a Launceston City Council engineer - a claim not presented within the program. The program merely quoted Mr Gay. Mr Gay had already been identified as a wholly biased advocate of logging and big business generally who did not claim any expertise in water matters.

12) The program presents a simplified picture in saying that Forestry Tasmania is exempt from the Commonwealth's Environment Protection and Biodiversity Conservation Act and from State-threatened species laws because of a 'deal done under the Regional Forestry Agreement' which 'leaves the industry to self-regulate'. As TCA says, a Regional Forestry Agreement must satisfy a number of conditions, including that an assessment is made of the matter of endangered species, along with numerous other matters as covered under the *Commonwealth's Regional Forest Agreements Act, 2002*, Section 4. The ABC's response does not mention this. It does however concede that it was an exaggeration to say that the industry is free to 'self regulate', and suggested that a more suitable statement would have been that there is 'state-based supervision by bodies with strong connections to the industry'.

13) While the program's claim that most of the members of the Forest Practices Board have forestry connections appears correct, its description of them (quoting Mr Bill Manning, Forest Practices Officer), as 'shadowy figures' implies some *form* of unspecified concealment which, as TCA and Forestry Tasmania point out, is unjustified. The ABC's response does not consider this objection.

14) The program's assertion that Mr Edmund Rouse, the then Chairman of Gunns, was worried in 1989 about Gunns' logging operations being stopped, is apparently answered by TCA's statement that Gunns only started to export woodchips in 1995 and only expanded to its current activities in 2001. The ABC's response does not deal with this objection.

15) The program's claim that the town of St Helens will suffer from the plantations that 'creep close' is answered by TCA's statement that St Helens has always been a timber town. There was no response by the ABC.

While the above 15 'unanswered' points of complaint are significant they are not seen by the Panel as a sweeping indictment of the program. The ABC has apologised in writing for two outright inaccuracies and satisfactorily answered many of the TCA and Forest Australia objections.

A point to make here is that the statement made by Senator Bill Heffernan within the program that Forestry Tasmania has a specific exemption from Freedom of Information laws is correct. The response by TCA that there is a general exemption for commercial-in-confidence information does not meet Senator Heffernan's claim that if the industry was honest, trustworthy and open, why is there a need for a special provision in relation to freedom of information? TCA's further response that Forestry Tasmania's special exemption only relates to 'operations under the Forest Act' is not correct (as the Panel reads the legislation) and is unconvincing because Forestry Tasmania is in fact established by the *Forestry Act 1920* and its functions are defined in the Act.

However, the Panel believes the program's opening sets its tone.

**Overview:**

The opening moments of the program include Senator Heffernan making vague and unsourced accusations of 'death threats', and a whistleblower, Mr Bill Manning speaking of 'bullying, cronyism, secrecy and lies'. Ms Fullerton, as presenter, asserts that the fate of a national asset 'is in the hands of an industry that is self-regulated, self-serving and unaccountable'. The ICRP believes that for the average viewer this would be seen as a move off centre right at the start.

Emotive language is a feature of the program. We hear of, for example, 'mushroom clouds, scorched earth policy, poisoned native wildlife, an aggressive forest policy, a voracious appetite for timber, overwhelming devastation, absolute assault on the landscape and the senses, rhetoric within the industry, farmers under threat, corruption and cronyism..'. The use of language, the emotiveness of which the Panel regards as exacerbated by the producers'/presenter's concession that in hindsight they 'might have pulled back on a couple of pieces of language'. All convey a disparaging picture of the 'Lords of the Forests', ie of those who control the timber industry in Tasmania and those who purport to regulate it.

To a noteworthy degree the program is quick to query the credibility of the 'Lords' and their supporters -eg Mr Gay, Mr Lennon, Mr Rene Hidding, Leader of the Opposition, and in particular Mr Rolley -but contains little or nothing that queries the credibility or integrity of the featured opponents of the 'Lords', or even suggests they had axes to grind. Adherence to anti-logging causes is mentioned -eg Mr Alec Marr's representation of the Wilderness Society -but the possibility that their adherence might prompt them to overstate their case is not probed by the reporter or put before the viewer in any other way.

**The Findings:**

Clause 12.6.1 of the ABC's Editorial Policies requires the ICRP to 'review complaints relating to allegations of serious cases of bias, lack of balance or unfair treatment arising from an ABC broadcast or broadcasts'.

The Panel finds instances of serious lack of balance and unfair treatment in 'Lords of the Forests'. The program often, though not invariably, presents only the 'anti-Lords' version on disputed issues of fact. It frequently casts doubt on the credibility of the 'Lords' and their supporters, but scarcely ever subjects their opponents to the same treatment; it includes vague and unsourced allegations and emotive phrases, in both cases, so as to engender disapproval of the 'Lords'.

In defence of the program and in response to Forestry Tasmania, Mr Crawford of the ABC said that the program included the views of all major stakeholders in the Tasmanian forestry debate.

The Panel finds there is little doubt it did; it also believes that the question is not so much that all stakeholders -for and against -were given their say, but what the program actually used of what the two sides said.

On the other hand, sometimes, the assumptions of the complainants' critique appear ~~ to be that 'faults' in the program could have been remedied if more of the information contained therein had been supportive of a pro-logging position. There is, of course, an obvious and strong counter argument to this.

There are two inaccuracies in the program, the second of which could have contributed to a perception of bias, lack of balance and lack of fairness.

(1) A few minutes into the program, ABC presenter Ms Fullerton states: 'Tasmania's state forests are unique. Trees, some ninety metres tall, some well into old age by the time Van Diemen discovered Tasmania and still standing. Rich hardwoods of Myrtle, Blackwood, Sassafras and Huon Pine mingle with common Eucalypts.'

If all the checking systems were in place, as the ABC insists they were, this was a serious mistake, though not providing, in the Panel's opinion, grounds for a finding of serious bias, lack of balance or unfair treatment.

(2) The map of Tasmania designed as a graphic representation of timber reserves versus logging and logged areas was factually incorrect and provides grounds for a finding of (serious) unfair treatment. The Executive Producer of the program said that despite the program's two-week lead-in timetable of checks, the map was drawn up only on the weekend before the Monday evening airing. In the circumstances of haste, plus the desire to make the map as simple as possible, the 'modified version' slipped through after 'sign-off' time.

The Panel notes that the ABC has acknowledged both mistakes and apologised to the complainants conceding that the inaccurate map, in particular, was 'misleading for viewers'. The Panel also notes that the ABC had indicated to the complainants that this 'misjudgement' has been brought to the attention of News and Current Affairs -though the Panel finds difficulty reconciling this with other assurances of a rigorous regime of checks and balances.

Points in TCA's complaint which the Panel also upholds as serious unfair treatment contributing to a lack of balance are:

**(1) The use of unattributed vision.**

TCA draws attention to vision in the program it says is 'unrelated to accompanying statements' or apparently provided from a source outside of the ABC.

Specifically TCA complains...

(a) the footage, including a mushroom cloud of smoke, illustrating the statement: 'So intense are the fires, every autumn, mushroom clouds dominate the horizon. These burns are designed to kill everything above and below the surface -a scorched-earth policy in preparation for new planting.'

TCA's critical comment is: "Regeneration burns are designed to provide a receptive soil bed for new growth and to reduce fuel loads to suppress future bushfires. This must be file footage or from another source as the ABC visited Tasmania in summer. There is no acknowledgement of the source of the footage'. The Panel agrees. The vision would have been more informative to viewers if its source had been attributed to essentially what it was - file footage.

(b) The vision used with this voice-over in the program: "native wildlife returning from nearby to feed on new seedlings is also targeted, first coaxed with cinnamon carrots, later carrots laced with 1080 poison. It's pictures like these that have caused public outrage... the poison crashing the metabolism.' TCA claims the footage was supplied by the Tasmanian Greens. Acknowledgement one-way or the other would have made disputation (and this specific point of complaint) unnecessary and would have better informed the average viewer. The Panel believes that without attribution the emotive vision could misinform a reasonable viewer.

(c) The vision covering this presenter voice-over statement: 'So successful is Gunns, Australian fund managers cannot afford not to hold shares. If you have superannuation there's a good chance your savings are helping to turn forest giants into woodchips. Sixty per cent of Gunns' forestry profits come from woodchips. To send five million tonne of chips a year to Japanese pulp mills, the company must fell tens of thousands of hectares. Yet John Gay plays down the importance of woodchips.' The accompanying vision is of re- growth or plantation logs on trucks bound for the chipping mills seriously misrepresenting the message to viewers.

(d) Vision over 'left behind as waste, up to three-quarters of the forest, pushed into windrows for burning.' If it is, as the complainant claims, footage of waste from a 'harvested plantation' it again seriously misrepresents the message to viewers.

## (2) **Emotive language**

The Panel finds that the emotive language of the program invalidates the claim that it 'went down the middle' and throws open the question of balance. Phrases such as *voracious appetite for timber, overwhelming devastation, absolute assault on the landscape and senses, corruption and cronyism, aggressive forest policy, mushroom cloud*, while individually and contextually descriptive are collectively questionable. The frequent use of such pejoratives leaves the reasonable viewer with the impression that the program is anti-logging i.e. seriously lacking in balance and fairness.

In addressing the many other specific complaints in the complainants' letters, the Panel finds they generally fit the mould of claim and counter claim; the complainants dispute 'facts' presented in the program; the ABC stands by their accuracy. Disputed figures over the profitability of Forestry Tasmania provide but one example of this.

Mr Rolley, on camera, says his organisation 'doubled the profit figure of the previous year. It was \$24 million on sales of about \$120 million.

The program then has Actuary, Ms Edwards telling viewers Forestry Tasmania made a loss of \$11 million. After studying a transcript of Ms Fullerton's original interview with Mr Rolley - from which the above quote was lifted -and a lengthy response from the reporter, the Panel concludes that the difference between the two figures is primarily due to different accounting methods for valuing forest assets.

In coming to the above conclusions the Panel was mindful of the prestige of *Four Corners* as a flagship ABC current affairs program, with a reputation for resourceful investigative reporting and detailed news analysis -a program that should be unfettered in tackling arcane and controversial national issues in the public interest. And the Panel believes there should be no doubt about the legitimacy of devoting the edition of *Four Corners* under question ('Lords of the Forests') to the timber industry in Tasmania. Any number of newspaper articles over time and recently have tackled the issue. Two come readily to mind: A *Sydney Morning Herald* article on 28 June

2004 (page 11) critical of timber harvesting in Tasmania carried the headline 'Nothing ..to Show but a Wasteland'. The Melbourne Age, on 22 July 2004 said Tasmania was 'a State ravaged by logging and inappropriate development' (page 13).

Both comments were on pages of newspapers clearly marked *Comment* and/or *Opinion*. *Four Corners* does not carry any such labelling and operates under clear ABC editorial guidelines concerning accuracy, fairness and balance.

The Panel cannot escape the impression that *Four Corners* in this instance ('Lords of the Forests') broke from its constraining guidelines. In its enthusiasm to canvass the logging-in-Tasmania issue it compromised the program that resulted. It seems to the Panel, *Four Corners* did not want to miss any opportunity to hammer home its critique thereby failing to give adequate opportunity for opposing contentions to be fairly presented.

The Panel finds there are some instances of serious bias, lack of balance and unfair treatment in 'Lords of the Forests' and partially upholds the complaints.

## **Summary of the ICRP Report into the ABC *Four Corners* Program -'Lords of the Forests' Broadcast on 16 February 2004**

The *Four Corners* program 'lords of the Forests' is the subject of two complaints, one each from Forestry Tasmania and Timber Communities Australia Ltd, referred to the Independent Complaints Review Panel (ICRP).

The complainants claim inaccuracy, bias, lack of balance and lack of fairness. The claimed bias and lack of balance is centred around the complainants' view the 'lords of the Forests' has a strong anti-logging, anti-wood-chipping theme and that the makers of the program, most notably the ABC reporter/presenter, Ms Ticky Fullerton, embrace an anti-logging philosophy.

The Panel finds there were inaccuracies and some misrepresentation of facts in 'Lords of the Forests'. The program often, though not invariably, presents only the 'anti-Lords' version on disputed issues of fact. It frequently casts doubt on the credibility of the 'Lords' and their supporters, but scarcely ever subjects their opponents to the same treatment.

Accordingly the Panel partly upholds the complaints. The specific elements upheld as serious breaches are:

### **(1) Inaccurate map of Tasmania**

The map misrepresents logged, logging and reserved forestry areas of Tasmania. Accepting the map as accurate leaves a reasonable viewer misinformed as to forestry management in the State.

### **(2) Unsourced vision**

In no less than four instances the program uses vision either out of context or unattributed as to its source, misleading to the reasonable or average viewer.

### **(3) Emotive language**

The emotive language of the program invalidates the claim that every effort was made to bring balance to the production. Perhaps justified as isolated individual and contextual descriptive phrases, the frequent use of pejoratives leaves the reasonable viewer with the impression that the program is anti- logging i.e. seriously lacking in balance and fairness.

While the misrepresentation, inaccuracies and unfair treatment could have arisen from *Four Corners'* apparent enthusiasm for and robust approach to probing an emotive, controversial and important issue (the forestry industry in Tasmania) the ICAP was established to review complaints relating to allegations of serious bias, lack of balance and unfair treatment arising from an ABC broadcast.