ABC AUDIENCE AND CONSUMER AFFAIRS INVESTIGATIONS REPORT C44166-15 Radio National *Earshot*, 'Jerusalem: A divine crime scene' and 'An unholy mix: Jerusalem, religion and archaeology'

Complaint

The complaint is in relation to two documentaries broadcast on the Radio National *Earshot* program on 27 and 30 July, entitled, respectively, 'Jerusalem: A divine crime scene' and 'An unholy mix: Jerusalem, religion and archaeology'. The Executive Director of the Australia/Israel & Jewish Affairs Council (AIJAC) Dr Colin Rubenstein has written to Audience & Consumer Affairs contending that the programs were inaccurate and misleading, presented only one perspective and unduly favoured that perspective, failed to provide fair opportunity to respond to allegations made against Israeli authorities, and did not disclose the program maker's pro-Palestinian perspective at the time of broadcast.

The AIJAC seeks, in part, 'findings of breaches and appropriate corrections' for each aspect of the complaint, in addition to the removal of the programs from the Radio National website.

Relevant editorial standards

Audience and Consumer Affairs, a unit separate to and independent from ABC program areas, has carefully considered the complaint, sought and considered information from ABC Radio management, and reviewed the broadcasts against the relevant standards for impartiality, accuracy and fair and honest dealing set out below.

Impartiality and diversity of perspectives

4.1 Gather and present news and information with due impartiality.

4.2 Present a diversity of perspectives so that, over time, no significant strand of thought or belief within the community is knowingly excluded or disproportionately represented.4.5 Do not unduly favour one perspective over another.

Complaint

The complainant has raised concerns that in both programs '...only one perspective was given, that favoured by Cathy Peters who produced and narrated the programs and who is an activist with a record of campaigning against Israel, so the information was not presented with due impartiality ...' and that '...in important instances, only one perspective was given, or far more weight was given to one perspective than another ...'

In particular, the complainant has alleged that in the documentary 'Jerusalem: A divine crime scene', 'There was not one speaker who put Israel's position', and that 'The only Israelis interviewed were extreme leftist activists with political views similar to those of Ms Peters ...'

Similarly, the complainant contends that in 'An unholy mix: Jerusalem, religion and archaeology', 'While there were occasional voice grabs, all but one unidentified, claiming a biblical basis for the Jewish archaeological history, again only guests known for being highly critical of Israel were featured'.

Assessment

'Jerusalem: A divine crime scene' and 'An unholy mix: Jerusalem, religion and archaeology' are radio documentaries produced and presented by Cathy Peters as part of the Radio National *Earshot* program, which is, according to the program website, 'about places, stories and ideas, in all their diversity'. Radio National advises that the program is:

"...a documentary feature program where audio essays can be presented from personal viewpoints, as opposed to ... news and current affairs reportage such as one would hear on RN's Background Briefing. RN has a long, and we believe a respected history, in the development of this genre of documentary. The differences in the type of content are crucial here. RN is confident that their audience understands these different contexts, bringing with them as they do differing levels of expectation ... and that they enjoy Earshot pieces particularly for their powerful, personal "point of view" storytelling.'

'Jerusalem: A divine crime scene' has a very particular focus on life in East Jerusalem from the perspective of producer Cathy Peters, and features a range of perspectives selected and framed by Ms Peters, interwoven with music and Palestinian poetry.

In the introduction to this documentary, the *Earshot* presenter indicates to listeners that the program focuses on Cathy Peters who undertook a tour of Jerusalem in 2014, and signals to listeners that the issues under consideration are 'highly contested':

'What do you know about Jerusalem? ... Who lives there and claims the land? These questions are not simply answered. For Palestinians living in occupied East Jerusalem, or for Israelis living in any of the settlement apartment blocks or in West Jerusalem, the answers are highly contested.

Producer Cathy Peters travelled to Jerusalem last year, at a time when the city was experiencing some of the worst violence in decades.'

The program presents the view of young Palestinian poet Mohammed al-Kurd; Shawan Jabarin, described in the program as 'Director of the Palestinian human rights legal NGO Al-Haq'; Micha Kurz of Grassroots Jerusalem, an organisation that 'support[s Jerusalem's Palestinian] communities'; Haneen Zoabi, described as 'an outspoken Palestinian member of the Knesset ... [who] has fought for equal rights for Palestinians within Israel for many years...'; a Palestinian postgraduate student residing in Australia; and Professor Jeff Halper from the 'Israeli Committee Against House Demolitions'.

The program also features the views of Israelis in West Jerusalem through vox pops on the topics of the situation in East Jerusalem and, according to ABC Radio, 'the perception of fear and security in the city'.

'An unholy mix: Jerusalem, religion and archaeology' also has a very specific focus, in this case the intersection of archaeology and politics in the city, once again from the perspective of Cathy Peters.

In addition to music and Palestinian poetry, the program features a range of interviews selected by Ms Peters, including 'UK-based writer, journalist and academic Sarah Irving'; former Australian ambassador to Israel Ross Burns; Yonathan Mizrachi who describes himself in the program as an 'Israeli archaeologist, part of an Israeli NGO called Emek Shaveh... that focuses on the role of archaeology in the political conflict'; Palestinian poet Mohammed al-Kurd and one of his neighbours in East Jerusalem; Eilat Mazar, Israeli 'archaeologist and granddaughter of Israel's pioneering archaeologist Benjamin Mazar, who was the first to excavate around ... the Temple Mount back in 1967'; and Dr Meir Margalit, 'who was a member of the Jerusalem municipal council' and also 'co-founded the Israeli Committee Against House Demolitions'. ABC Radio advises that the program includes vox pops from Israelis in West Jerusalem.

The program page also includes a link to a 2011 program on Radio National's *The Spirit of Things*, which featured the views of archaeologists Eilat Mazar and Avner Goren on the 'excavations of King David's Palace in the city of Jerusalem'.

As set out in more detail under the section headed 'Accuracy', ABC Radio amended the online audio of these programs following the broadcast to make clear that they were presented from the perspective of Cathy Peters, and that Ms Peters has had 'a long association with the pro-Palestinian cause'. The accompanying editor's notes provided further information that Ms Peters is 'a member of the NSW Greens, an executive member of the Coalition for Justice and Peace in Palestine and a member of Jews Against the Occupation'. ABC Radio has acknowledged that this information should have been included in the original broadcasts and apologises for the lapse.

The principles accompanying the standards for impartiality make clear that 'The ABC aims to present, over time, content ... from a diversity of perspectives reflecting a diversity of experiences, presented in a diversity of ways from a diversity of sources', and that the standards for impartiality must be applied with due consideration of factors such as 'the type, subject and nature of the program' and 'the likely audience expectations of the content'.

The ABC will at times broadcast point of view documentaries that provide listeners with the opportunity to gain insight into one or more perspectives. Audience members may expect that a program of this type or nature will *duly* favour the 'point of view' from which the documentary is presented, and that a range of competing or opposing perspectives will not necessarily be aired within a single program. Instead, it is expected that a diversity of views will be presented over time.

In relation to 'Jerusalem: A divine crime scene' and 'An unholy mix: Jerusalem, religion and archaeology', ABC Radio have explained that producer Cathy Peters 'talked to a range of people when producing these pieces in order to present a picture of life through their first-hand experiences as well as her own. ... her interviewees reflect a particular experience of life in East Jerusalem and a particular range of political views, and [ABC Radio] acknowledges that there are other valid experiences and perspectives within the complex nation that is modern Israel'.

ABC Radio advise that Radio National and the *Earshot* program have, over time, broadcast a wide range of views that 'contribute to a diversity of voices relevant to the issues covered by A Divine Crime Scene and An Unholy Mix', including:

• 'A Jerusalem love story' on *Earshot* (<u>http://www.abc.net.au/radionational/programs/earshot/a-jerusalem-love-story/6449640</u>)

- 'Jerusalem unbound: Where the sacred meets the secular' on *Late Night Live* (<u>http://www.abc.net.au/radionational/programs/latenightlive/jerusalem-unbound3awhere-the-sacred-meets-the-secular/5919962</u>)
- 'Easter in Jerusalem' on Breakfast (<u>http://www.abc.net.au/radionational/programs/breakfast/easter-in-jerusalem/6365082</u>)
- 'A joint journey to Jerusalem' on the Spirit of Things

 (<u>http://www.abc.net.au/radionational/programs/spiritofthings/a-joint-journey-to-jerusalem/5691684</u>)
- 'Hanukkah: Stones and Soup' on *The Spirit of Things* (<u>http://www.abc.net.au/radionational/programs/spiritofthings/hannukkah/3722316</u>)
- ""The price should be killing them": Israeli settler on revenge attacks' on *Background Briefing* (<u>http://www.abc.net.au/radionational/programs/backgroundbriefing/2014-08-17/5343476</u>)
- 'Make hummus not war' on *Earshot* (<u>http://www.abc.net.au/radionational/programs/earshot/make-hummus-not-war/6283156</u>)
- 'Israel votes: Jerusalem' on Late Night Live (<u>http://www.abc.net.au/radionational/programs/latenightlive/israel/6329804</u>); and
- '269' on *Earshot* (<u>http://www.abc.net.au/radionational/programs/earshot/israel-story/6707780</u>).

Other ABC programs and services – particularly those of the ABC's News division – have also provided ongoing coverage of issues relating to land and housing in Jerusalem, and have presented a range of perspectives in the course of doing so.

ABC Radio also advise that Radio National continues to commission content on facets of the Israeli-Palestinian conflict to ensure that the network provides audiences with a diverse range of perspectives in the future.

Finding

Audience & Consumer Affairs note that in the days following the broadcasts, ABC Radio promptly amended the online audio of the programs, as well as the accompanying program pages, providing audience members with appropriate context about the programs and producer Cathy Peters. In addition, an online clarification has also been posted on the ABC Corrections & Clarifications page. These actions, we consider, may be seen to contribute to the overall impartiality of the program.

In consideration of this, and having regard to the type, nature and subject of the program and the likely audience expectations of *Earshot*, we are satisfied that the program was presented with the impartiality due in the circumstances, that no one perspective was *unduly* favoured within the context of this point of view documentary, and that furthermore a range of perspectives on aspects of the Israeli-Palestinian conflict have been broadcast on *Earshot*, Radio National and the ABC within an appropriate timeframe, in keeping with standards 4.1, 4.2 and 4.5.

Accuracy

2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context. 2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.

Complaint 1 – 'Jerusalem: A divine crime scene' and 'An unholy mix: Jerusalem, religion and archaeology'

The complainant has raised concerns that in both programs, 'The failure to make it clear during the original broadcast ... that Ms Peters was a longstanding activist devoted to promoting a partisan approach to the conflict means that the entire reports were presented in a way that lacked context and would materially mislead the audience'.

Assessment

ABC Radio has explained that following the broadcast of these programs, it had 'concerns about the way in which Ms Peters' pieces could be interpreted'. ABC Radio acknowledges that the programs were not presented with 'sufficient explanatory information ... in order to ensure that the point of view, opinion-based nature of both these pieces was made abundantly clear to audiences', and that 'not all Ms Peters' relevant political affiliations were initially disclosed'.

On 31 July, ABC Radio added an editor's note to both online program pages stating that 'Cathy Peters is a member of the NSW Greens, an executive member of the Coalition for Justice and Peace in Palestine and a member of Jews Against the Occupation'.

In addition, the online audio of 'Jerusalem: A divine crime scene' was amended to include:

(Introduction)

'And now on *Earshot*, Cathy Peters, who's had a long association with the pro-Palestinian cause, brings us her perspective on life in Jerusalem.'

(Conclusion)

'Cathy Peters, the producer of today's *Earshot*, has had a long association with the pro-Palestinian cause.'

The online audio of 'An unholy mix: Jerusalem, religion and archaeology' was also amended as follows:

(Introduction)

'And now on *Earshot*, Cathy Peters, who's had a long association with the pro-Palestinian cause, brings us her perspective on the archaeology of Jerusalem.'

(Conclusion)

'Cathy Peters, the producer of today's *Earshot*, has had a long association with the pro-Palestinian cause.'

In addition to the editor's notes and audio amendments to the online publications, a clarification has also been published on the ABC Corrections & Clarifications page here: http://www.abc.net.au/news/corrections/.

This finding will also be published in due course here: <u>http://about.abc.net.au/talk-to-the-abc/resolved-complaints/</u>.

ABC Radio sincerely apologises for this lapse.

Finding

Audience & Consumer Affairs consider that the prompt action taken by ABC Radio to disclose the presenter's relevant affiliations and provide additional context to listeners about the nature of the

program was adequate and appropriate in the circumstances. Accordingly, this aspect of the complaint (1) is resolved.

Complaint 2 – 'Jerusalem: A divine crime scene'

Cathy Peters: There's an obvious process of removing Palestinians from all these neighbourhoods. Since 1967, Israeli authorities have demolished some 2000 Palestinian homes in East Jerusalem ...'

The complainant contends that the demolitions 'are not ... part of a scheme to drive out Palestinians', that listeners are not informed that houses are demolished if they are built without permits and that furthermore 'Large numbers of houses built by Israelis have also been demolished for being built without a permit ... '.

Assessment

During the program, interviewee Shawan Jabarin referred to areas in East Jerusalem that are 'target areas', in particular the neighbourhoods of Sheikh Jarrah and Silwan. The discussion of 'target areas' was continued by Cathy Peters, who described these as 'Palestinian neighbourhoods that are within the old city walls in occupied East Jerusalem', which are 'under continuing pressure from settler occupation because of their closeness to key religious sites for Jews: the Temple Mount or Haram al-Sharif and the City of David excavations in Silwan'. Ms Peters then put forward the view that 'There's an obvious process of removing Palestinians from all these neighbourhoods'.

From the outset of this point of view documentary, it was made clear to listeners that the answer to the central question, 'Who lives [in Jerusalem] and claims the land?' is 'highly contested'. In this instance, Ms Peters expressed a contestable view about specific neighbourhoods in East Jerusalem based on her tour of the area and her discussions with interviewees such as Shawan Jabarin. Whether or not there is an 'obvious process' of removing Palestinians from neighbourhoods like Silwan is a matter of opinion rather than a statement of fact capable of independent verification, and we consider that the nature of the statement, in addition to the immediate and broader context of the program, made this sufficiently clear to listeners.

ABC Radio has advised that it verified the statement that 'Since 1967 Israeli authorities have demolished some 2000 Palestinian homes in East Jerusalem ...' against the 2009 UN Report 'The planning crisis in East Jerusalem: Understanding the phenomenon of "illegal" construction', which states in the summary that 'Since 1967, the Israeli authorities have demolished thousands of Palestinian-owned structures in the oPt, including an estimated 2,000 houses in East Jerusalem april_20 09_english.pdf). Audience & Consumer Affairs consider that the presenter's reference to 'some' adequately conveys to listeners that this is an approximate figure.

Finding

The principles accompanying the ABC's accuracy standard make clear that this standard applies to assertions of fact, not to expressions of opinion, and that 'an opinion ... cannot be found to be accurate or inaccurate in the way facts can'.

The accuracy standard applies only to the statement that 'Since 1967 Israeli authorities have demolished some 2000 Palestinian homes in East Jerusalem ...', and we are satisfied that the program made reasonable efforts to ensure the accuracy of this statement. The program did not purport to comprehensively examine the demolition of 'illegal' houses in East Jerusalem , and it was not materially misleading to refer to the demolition of Palestinian-owned structures without

referring to the demolition of Israeli-owned structures or the permit system. No breach of standards 2.1or 2.2 has occurred.

Complaint 3 – 'Jerusalem: A divine crime scene'

The complainant has raised concerns that the suggestion by interviewee Micha Kurz that 'Jerusalem is being ethnically cleansed and it's not the beginning it's towards the end of the process' is inaccurate because 'demographic information ... shows the Arab population of the city increasing dramatically since 1967, both in absolute numbers and as a percentage of the overall population'.

Assessment

During the program, Cathy Peters made reference to a 'process [that] has been referred to as "the Judaisation of Jerusalem". The program went on to include the opinions of interviewees around this idea, including Micha Kurz, who said:

'And Israel's going to get away with it. It is getting away with it. It's happening. It's not something that's contested enough internationally. Sure there's debates, sure the EU puts out an official statement now and again, but Israel's gotten away with it by now. I mean practically speaking, it's over. Jerusalem is being ethnically cleansed, and Israel's in third or fourth gear already. It's not the beginning; it's towards the end of the process. That's something that people around the world must come to terms with.'

On review, Audience & Consumer Affairs note that this comment, which was emotive in nature and drew on rhetorical devices like hyperbole and amplification, was intended to express Mr Kurz' own resigned views about Jerusalem. This constituted opinion rather than a statement of fact capable of independent verification. We note that listeners were appropriately informed of Mr Kurz' affiliation with the pro-Palestinian organisation Grass Roots Jerusalem that is 'on the ground working to support [Jerusalem's Palestinian] communities'.

Finding

No breach of 2.1 or 2.2 has occurred.

Complaint 4 – 'Jerusalem: A divine crime scene'

Cathy Peters: The infrastructure is failing and there aren't enough schools or medical centres even though residents in these suburbs all pay the same taxes as those Israelis living in the far better serviced neighbourhoods in West Jerusalem ...'

The complainant contends this is inaccurate because 'they do not pay the same property taxes. Residents are entitled to discounts and figures show that overall, residents of Arab neighbourhoods receive the larger discounts, while those of wealthy neighbourhoods in west Jerusalem receive far lower discounts'.

Assessment

Audience & Consumer Affairs consider that listeners would understand that this statement by Cathy Peters was not intended as a detailed study of the municipal taxation system but was rather a general statement presented in the context of her broader point about disproportionate spending on infrastructure and lack of access to health and education services in East Jerusalem.

ABC Radio has explained that it considered the following statement from the 2013 UN Report 'The Palestinian Economy in East Jerusalem: Enduring annexation, isolation and disintegration' to sufficiently support Ms Peters' broader point in this segment:

'The municipal property tax, *arnona*, levied by the Jerusalem municipality on Palestinians living in East Jerusalem includes both residential and business taxes. These taxes are calculated on the basis of, among other things, the characteristics of the area of dwelling, the "rating" of the neighbourhood, and the quality of construction. However, numerous objections have been raised to these taxes, because of the disproportionately low municipal expenditure on East Jerusalem and its generally worse socioeconomic conditions compared to cities in Israel. It is estimated that Palestinian neighbourhoods of East Jerusalem (which host 30 per cent of the city's population) received only 11.72 per cent of the municipal budget in 2003 (Margalit, 2006) and 7 per cent in 2009 (ACRI, 2009). Data from the Israeli Interior Ministry show that Jerusalem has the highest rate of *arnona* among the 10 largest cities in Israel (Tzur, 2010). In 2009, Palestinians paid some 55 per cent of Jerusalem municipality *arnona* charged/owed (Jerusalem Institute for Israel Studies, 2011), reflecting inter alia the preferential rates applied to Jewish settlers in East Jerusalem as part of government-sponsored settlement of the city.'

(http://unctad.org/en/PublicationsLibrary/gdsapp2012d1_en.pdf)

Audience & Consumer Affairs accept that the program made reasonable efforts in the circumstances to verify the accuracy of the presenter's point. We acknowledge the statement that residents 'all pay the same taxes' could have been clearer. However, taking into consideration the broader context of this statement, along with the fact that Palestinians living in East Jerusalem are subject to the *arnona*, which has, according to this UN source, been the cause of 'objections' based on the 'disproportionately low municipal expenditure on East Jerusalem and its generally worse socioeconomic conditions ...', we do not consider that the statement would have the effect of materially misleading the audience.

Finding

No breach of standard 2.1 or 2.2 has occurred.

Complaint 5 – 'Jerusalem: A divine crime scene'

The complainant contends that comments made by Cathy Peters and interviewee Micha Kurz about the status of Palestinians in Jerusalem are 'inaccurate and misleading as Arab residents of East Jerusalem are all eligible for Israeli citizenship ...'

Assessment

Audience & Consumer Affairs note that the complainant has not identified any specific inaccuracies with regard to these comments. Given the fact that only a small percentage of the Palestinian population in East Jerusalem holds Israeli citizenship (see

http://www.haaretz.com/news/israel/.premium-1.630605 and

<u>http://www.timesofisrael.com/seeking-stability-more-east-jerusalemites-become-israeli-citizens/</u>), we do not consider that it was materially misleading for the program to focus on the status of the majority of Palestinian residents in East Jerusalem; nor was there any editorial requirement for the program to make reference to Israeli citizenship or the reasons Palestinians in East Jerusalem do not obtain citizenship.

Finding

There is no evidence of a breach of standard 2.1 or 2.2 in relation to this aspect of the complaint.

Complaint 6 – 'An unholy mix: Jerusalem, religion and archaeology'

The complainant has raised concerns that the program did not disclose interviewee Sarah Irving's affiliation with 'the virulently anti-Israel Electronic Intifada website' and 'the campaign of Boycotts, Divestment and Sanctions ...'. Furthermore, the program did not disclose interviewee Ross Burns' former role as 'a member of the executive of the Australia Palestine Advocacy Network'.

Assessment

Audience & Consumer Affairs note that Sara Irving was introduced as a 'UK-based writer, journalist and academic who's lived and worked in the occupied Palestinian territories and in Gaza', while Ross Burns was introduced as:

'... one of Australia's former Middle East ambassadors who's also a respected scholar on the Levant.'

Dr Burns then added, 'I'm Ross Burns, I'm doing research on Middle Eastern archaeology particularly for study of monuments in Syria but at the moment I'm also writing a history of Aleppo.'

ABC Radio has advised that:

'Both speakers are respected scholars ...Sarah Irving holds a BA (Hons) in Archaeology & Anthropology from the University of Cambridge (1997) and an MA (Econ) in International Political Economy from the University of Manchester (2002). After a career as a writer and researcher in journalism, the third sector and the Middle East, she returned to academia, gaining an MSc with Distinction in Arab World Studies from the University of Edinburgh (2013). She is currently studying for a PhD on The 'Canaanite Circle' and the formation of the Palestinian national subject 1920-1947.

Ross Burns is a former Australian ambassador to Israel among many other diplomatic posts in his 37 year diplomatic career. Dr Burns is also a scholar of international repute on the history and archaeology of Greco-Roman and Early Islamic Syria. His first book, Monuments of Syria: A Historical Guide (1992), now in its third edition (2009), is considered the best guide for scholars and travelers alike, and is ranked as one of the best guides ever written.'

Having regard to the type and nature of the program (which is discussed in detail under the section headed 'Impartiality and diversity of perspectives'), Audience & Consumer Affairs are satisfied that the program appropriately informed listeners of the credentials of these interviewees, and that furthermore it was not materially misleading to omit reference to the affiliations nominated in the complaint.

Finding

We are satisfied no breach of standard 2.2 has occurred.

Complaint 7 – 'An unholy mix: Jerusalem, religion and archaeology'

The complainant alleges that interviewee Sarah Irving's reference to a 'very very narrow period of history' lacked accuracy because 'In fact the Jews either ruled or were the major presence in the city

for over 1000 years up to the Roman exile, have been a significant presence there ever since, and have been the only people to have had their capital there.'

Assessment

Audience & Consumer Affairs note that in this segment Ms Irving put forward her own views on the 'layers of archaeology and ... history' in Jerusalem, which she explained were 'so rich and so diverse':

'You've got Canaanite material from thousands of years ago, through amazing kind of Greek and Roman ... all of the different phases of Islamic cultures that you can see there, the various phases of Christian cultures ... it's just incredibly diverse, and then going back before the Christian period onto Hebrew, Greek, various types of Canaanite ... and I think to anybody who doesn't have this investment in only looking at one period, that's really exciting, but because of the way that Israel wants to see itself as just being about this very very narrow period of history ...'

That Israel wants to see itself in terms of a 'very very narrow period of history' is clearly presented as the opinion of Ms Irving rather than a statement of fact; as such, it cannot be tested against the ABC's accuracy standard.

Finding

No breach of standard 2.1 or 2.2 has occurred.

Fair and honest dealing

5.3 Where allegations are made about a person or organisation, make reasonable efforts in the circumstances to provide a fair opportunity to respond.

The complainant contends that in nine instances the program failed to provide an opportunity to respond to allegations against Israeli authorities.

Audience & Consumer Affairs note that standard 5.3 relates to 'allegations ... about a person or organisation'. The nine instances cited in the complaint do not contain claims about a person or organisation. These are general rather than specific assertions presented as opinions within a point of view program; accordingly, our unit considers that this aspect of the complaint is best addressed under the section titled 'Impartiality and diversity of perspectives'.

Audience & Consumer Affairs 21 October 2015