

## Independent Complaints Review Panel

### Review of Complaint of Mr Mario Guiseppe and Ms Dorothea Randall concerning the ABC Television *Lateline* Programs dealing with the Mutitjulu Community

#### Preliminary Matters

The Panel received the Complaint from Mr Mario Guiseppe and Ms Dorothea Randall (“the Complainants”) on 30 October 2006 and accepted it for investigation on 27 November 2006 on the basis of serious allegations that the relevant ABC *Lateline* programs were “poorly researched and full of lies and misinformation”<sup>1</sup>. The Complaint was lengthy and consisted of a number of specific allegations, to which reference will be made later.

The Complaint included a submission to the Panel and copies of:

- Correspondence with ABC Audience and Consumer Affairs dated 30 August 2006,
- Relevant transcripts from *Lateline* program 21 June 2006, 22 June 2006, 23 June 2006, 27 June 2006, 1 August 2006 and 10 August 2006,
- Email from National Indigenous Times(NIT) to *Lateline* team dated 20 July 2006; Statement from Peter Cochrane (Director of National Parks) tabled at the Senate Environment, Communications, Information Technology and the Arts Reference Committee inquiry into national parks,
- Email dated 16 Jul 2006 between Margot Marshall at DEH and Chris Graham at NIT (referring to Peter Cochrane’s statement/letter above);
- Letter from NIT to Mario Giusseppe and Dorothea Randall (the Complainants) dated 28 August 2006;
- NIT website articles titled :
  - “Andrews sorry for misleading Senate” dated 27 July 2006,
  - “Andrews seeks criminal records” 27 July 2006
  - “*Lateline*: doctor gave alleged Mutitjulu paedophile Viagra, documents reveal:

dated 10 August 2006;

- “Gibbons makes a monkey out of good governance” dated 10 August 2006, ○ “A doctor runs out of patience” date 24 August 2006;

- Letter to Committee Secretary Community Affairs Committee, Department of Senate, Parliament House Canberra from Assistant Secretary Communities Engagement Branch, Office of Indigenous Policy Co-ordination dated 29 July 2006;
- ProQuest - AAP General News Wire article dated 14 July 2006 and SMH article dated 5 August 2006; and
- Response to NIT Inquiry 11 July 2006 from *Lateline*.  
Another letter was received from the Complainants on 3 November 2006 which attached

- SMH article dated 16 September 2006 titled “Mutitjulu women hit back at paedophilia claims”; and

- The Australian article dated 30 October 2006 titled “Aboriginal community cleans up image.

<sup>1</sup> P1 30 October 2006 Complainants’ submission

The Complainants claim that “the June 21 story, and the additional stories broadcast by *Lateline* on the dates referred to, breach six of the 12 Principles of the Media Entertainment and Arts Alliance Code of Ethics, specifically principles 1, 2, 3, 8, 9 and 12. The stories also breached numerous ABC Editorial Policy Guidelines”.<sup>2</sup>

The details of the relevant *Lateline* program segments, as described by ABC Online, are:

1. **Sexual abuse reported in Indigenous community. Originally this segment was titled “Sexual slavery reported in Indigenous community” on ABC Online. The date of the title change is unknown.**

**21/06/2006 Senior Aboriginal women from the Mutitjulu community, which is home to the custodians of Uluru, say petrol is being traded for sex with underage girls. They say other men in the community have made it difficult for people to expose the sexual violence, the drug trade and the petrol trafficking.**

2. **STIs found in remote community children: doctor**

**21/06/2006 Former Mutitjulu doctor Geoff Stewart says he has found Chlamydia and Gonorrhoea in children under 10 years old but more commonly, in girls between 12 and 14 years old.**

3. **Paedophile requested Viagra, GP says. Originally this segment was titled “Paedophile moved interstate, GP says”. The date of title change is unknown.**

**22/06/2006 A doctor who worked as a locum in Mutitjulu last year has told *Lateline* he had a disturbing encounter with the predatory senior man who, as we revealed, was trading petrol for sex with underage girls and children.**

4. **Indigenous child sex abuse a national issue: Brough  
22/06/2006 Earlier today, the Federal Indigenous Affairs Minister Mal Brough**

**announced a complete audit of policing and safety in remote communities.**

5. **NT orders inquiry into child abuse claims**

**22/06/2006 The Northern Territory Government has announced an inquiry into the sexual abuse of Aboriginal children in the wake of disturbing allegations aired last night on this program.**

6. **Questions continue over NT child sex abuse cases**

**23/06/2006 Two days after *Lateline* revealed details of a paedophile preying on children in the Central Australian community of Mutitjulu, the shock waves are still reverberating.**

Many other *Lateline* and *PM* programs spread over several months were referred to by the Complainants, but little in the way of specific allegations were made about these individual programs. Rather they were mostly cited to support an allegation that the ABC's coverage of the issue lacked balance. No supporting arguments on this issue have been supplied by the Complainants. In their absence, the Panel has been unable further to investigate this issue.

The Complainants also referred to program segments which were purportedly broadcast on 30 June 2006 and 29 August 2006. The Panel has been informed that no such *Lateline* segments were broadcast on these two dates on ABC or ABC2.

<sup>2</sup> Page 5 Complainants' submission.

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The Panel wrote to the Complainants on 15 December 2006 seeking clarification of several matters and further details of their allegations. Their response dated 31 January 2007:

(a) indicated that the Complainants were making the complaint as residents of Mutitjulu and did not have the authority of the Community to speak on their behalf; and

(b) failed to identify the precise portions of the programs which were relied upon to found the specific allegations in the Complaint.

On the 11 April 2007, the Panel asked a series of questions which were relevant to many of the allegations in the Complaint. The Secretary to the Panel made several phone and email contacts in an effort to obtain a response from the Complainants. These communications did not result in obtaining a satisfactory response and, in an effort to expedite their response, the Panel again contacted Ms Randall to suggest that, if necessary, a meeting could be arranged between the Panel and the Complainants, so that clarification and more information could be obtained.

Subsequent events relating to actions by both the Northern Territory and Federal Governments made it impossible for the Panel to meet with the Complainants in an informal manner. Accordingly, the suggested meeting did not eventuate.

On 27 June 2007, the Panel again communicated with the Complainants and stated that, unless a response was received by 13 July 2007, the Panel would have to proceed to deal with the Complaint without the benefit of their further submission or additional information. No response from the Complainants was received before or since 13 July 2007.

The Panel has received:

(a) transcripts and DVD recordings of all the relevant segments, which it has read and viewed on several occasions; and

(b) on 23 February 2007, in accordance with Section 12.6.10 of the ABC Editorial Policies 2002 (The Policies), a written response from the ABC to the allegations in the Complaint.

The Panel wrote to the ABC on 11 April 2007, seeking further information in relation to its response. It received further information from the ABC on 8 May, 18 June and 6 July 2007.

In accordance with 12.6.14 of the ABC's Editorial Policies, a Preliminary Report was provided to the ABC and on 3 December 2007 they responded to it by providing further comment and information which the Panel has taken into consideration.

## Background

### a) The *Lateline* Program

According to ABC Online, *Lateline*:

*“is a unique nightly news analysis program bringing you up-to-the-minute coverage of Australian and international news and events. Presented by one of Australia's most experienced and respected journalists, the program is a provocative, challenging and intelligent window on today's world.*

*“Lateline engages the foremost experts or commentators - wherever in the world they may be - to bring you penetrating insights from a range of perspectives. If they're making news, launching new ideas or at the forefront of debate, the team at Lateline will track them down and bring them to you”.*

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## **b) Mutitjulu Community**

The Complainants lodged their complaint as "community members of the Mutitjulu Aboriginal Community, the traditional custodians of Uluru"<sup>3</sup> who live adjacent to Uluru in a world-renowned tourist area, the Uluru-Kata Tjuta National Park. Its people are joint managers of the park with Parks Australia. It is home to approximately 500 people most of whom are Anangu<sup>4</sup>.

## **c) Events Preceding the Program**

The state of the Mutitjulu community received broad coverage across ABC outlets in the time identified by the Complainants, namely 21 June to 11 October 2006 and has been the subject of regular reporting over the last five years.

In the period of less than one year before the Lateline program of 21 June 2006 (“the Program”), the topics of petrol sniffing and drug taking in Mutitjulu and, particularly, of young women petrol sniffers trading sex for petrol, received considerable media coverage.

On 10 October 2005, after lengthy public hearings in a coronial inquest, the Coroner Greg Cavanagh, made findings in respect of the deaths of three young petrol sniffers at Mutitjulu. One of the witnesses, Greg Andrews, who later appeared in disguise in the Program, gave extensive evidence about conditions in Mutitjulu. He received particular commendation from the coroner, to which reference will be made later. The coroner also reported his own first hand observations of a young man engaged in petrol sniffing, who was present during a hearing in Mutitjulu. He also made the following remarks in his findings:

*“After I adjourned the hearing at Mutitjulu I was taken for a drive around the community. I saw the sand dunes where some of the old people sleep, to avoid threats and assaults from petrol sniffers. I saw a number of houses which looked unsuitable for habitation and some which were boarded up, and apparently used by petrol sniffers. I saw a ‘car dump’ of several hundred rusted vehicles, within the grounds of the World Heritage listed Kata Tjuta National Park and within sight of Uluru, of which, it is said, much of the “gate money” flowing to the local Aboriginal community has financed. I saw the homes of contractors working in and near the community which had high protected fences and steel cages for garages (for obvious reason).*

*The distressing fact is that Aboriginal women, such as Sarah Goodwin who led her “petrol sniffing” son to me and pleaded for help, have a real and apparent sense of hopelessness. Despite much talk, usually in major centres much removed from her country, nothing much has happened to stop the sniffing. In this regard, I note that a politician in Darwin last month launched a 40 page (English language) education kit in an endeavour to address petrol- sniffing problems. In my view, such education kits are no answer to the pleas of persons such as Sarah Goodwin; people in her community are dying, or becoming brain damaged as we speak in front of anyone who want to see. Their problems are immediate, stark and urgent.”*

Whilst the inquest was continuing, there was a report, in the *Sydney Morning Herald* of 10 August 2005, of an interview with Mary Turner, a Senior Aboriginal Health Worker, present at the hearing, who said that “some girls were swapping sex for petrol and that sniffers were buying petrol from others in the community.” She said that she felt very angry about it but that “police said the sex-for-petrol claim had been investigated in the past, but there had never been enough evidence to prosecute those involved.”

On 11 August 2005, ABC radio's *PM* program reported on the evidence at the inquest, mentioning that Greg Andrews had wept when testifying of "*the addiction epidemic that appears to have destroyed community life and culture at Mutitjulu*". He was reported as stating that children were brought up to sniff by parents addicted to petrol, grog or drugs, that young girls were prostituting themselves in exchange for petrol and that there were four year olds with sexually transmitted diseases.

<sup>3</sup> 30 August 2006 Complainants' letter to ABC Audience and Consumer Affairs <sup>4</sup> Uluru (Ayers Rock) - Home of the Mutitjulu Aboriginal Community website.

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On 5 January 2006, there was a program on ABC *PM*, containing similar material relating to social problems at Mutitjulu and featuring Mary Turner and Greg Andrews providing the same sort of information.

On 15 May 2006, *Lateline* broadcast an interview with Dr Nanette Rogers, who had, for 12 years, been the Crown Prosecutor in Alice Springs. She provided a horrifying account of violence against women, children and infants in Aboriginal communities in Central Australia, together with the influence of the culture of alcohol, drugs and petrol sniffing. She spoke of law enforcement difficulties due to harassment and intimidation of potential witnesses. She said "... *Aboriginal society tends to be very punitive. So if a witness goes into court and tells the story about what they saw the offender do ... they are liable to get physically punished by the offenders' family ...* ".

It may also be noted that, prior to the broadcast of the program, two of the Complainants, Dorothea Randall and Mario Guiseppe, together with Sami Wilson, Leslie Calma and Graham Calma, persons of authority in the community mentioned in the Program, took part with many other Mutitjulu residents in discussions, which led to the "*Mutitjulu Community Substance Misuse Action Plan*". This was a project apparently funded by and under the auspices of the Northern Territory Department of Health and Community Services. It had a number of objectives, including consideration of activities for "preventing and minimising substance misuse in the community and developing an action plan."

Reference was made in the final report, dated May 2006, that the Mutitjulu Community Council, on 7 March 2006, "was in agreement that substance misuse is a serious matter deeply affecting the well-being of this community and most individuals". It was also noted that "concern was also expressed that a number of young children had started sniffing since December and that there was still a sizable number of chronic petrol sniffers ... Council members were also aware of the unscrupulous practices of certain individuals selling alcohol, marijuana and petrol to community members at exorbitant prices."

It is plain that, at the time *Lateline* was putting together the Program, the topics addressed in it, namely sexual abuse of children, alcohol, drugs and petrol sniffing in Mutitjulu, were very much in the public domain and recognised by the program makers as very newsworthy material.

### **d) Subsequent Events**

For completeness, reference should be made to the following events, which have, of course, received wide media attention.

- Police investigation:

A joint NT Police and Family and Community Services (FACS) taskforce has interviewed almost 300 people over claims of widespread sexual abuse of Aboriginal children. NT Police Superintendent, Colleen Gwynne, has been reported as saying the taskforce had gathered a significant amount of

information from a wide range of people, both in the NT and interstate, following claims aired on ABC *Lateline* program.

*“We have found some evidence of petrol being provided to children, Supt Gwynne said. There’s certainly no evidence there that the petrol is being provided to entice children to provide sexual favours, none whatsoever”...*

The taskforce was evolved into a wider taskforce that investigated all incidents of child sex abuse throughout the NT, from September 2006.<sup>5</sup>

- Administration :

On 3 July 2006 the Mutitjulu Community Aboriginal Corporation was informed that federal funding to its community had been frozen. An Administrator was appointed to manage the Corporation’s day-to-day activities. This decision was subsequently overturned on appeal.

<sup>5</sup> AAP General News Wire 14 July 2006.

- Inquiry and Task Force:

The Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse was established on 8 August 2006. The purpose of the Inquiry was to find better ways to protect Aboriginal children from sexual abuse.

The Board of Inquiry held more than 160 meetings with stakeholders around the Northern Territory, including meetings with service delivery organisations, Aboriginal communities, government agency staff and individuals.<sup>6</sup>

The Australian Crime Commission commenced work on investigating allegations of violence and sex abuse in Aboriginal communities, on 5 October 2006. The Task Force was established after a summit called by Indigenous Affairs Minister Mal Brough over concerns of violence and abuse in Indigenous communities. One of its major challenges was perceived to be the breaking of the code of silence that surrounds sexual abuse. In this regard, the Commission may employ Indigenous staff to help in its inquiries.<sup>7</sup>

On 18 June 2007 the Northern Territory Government released a report into Indigenous child sex abuse. The report titled '*Little Children Are Sacred*' outlined allegations of widespread child abuse across 45 Aboriginal communities including Mutitjulu.

- Federal Government Response:

In response to the release of this Report and subsequent media coverage and public outcry, the Federal Government announced immediate and broad ranging measures to stabilise and protect communities in the crisis area.

The Federal Government response created considerable controversy with division in the Indigenous community becoming apparent in the weeks following this announcement. The issues mainly concerned whether the Government was approaching the problems in an appropriate way.

The authors of the Report commented that *Lateline's* coverage played an important role in prompting this inquiry.

### **The Making of the Program**

The ABC has advised the Panel, and the Panel accepts, that after the interview with Nanette Rogers, "Lateline was contacted by representatives of a number of Indigenous communities who wanted to tell them their own stories about violence in their communities ..." This included contact from Mantatjara Wilson, a respected female Aboriginal elder of the Anangu, who was to be featured in the Program. The Program featured six other participants. As well, the ABC advises and the Panel accepts that a number of other persons provided information about significant social problems in Mutitjulu but were not prepared to appear on the Program through fear of retribution to themselves and/or family. They have remained anonymous but the obtaining of relevant information from them constituted a significant part of *Lateline's* research for the Program. Also, other persons referred to later, who appeared on the Program, were approached because of their apparently having relevant information to impart.

<sup>6</sup> Northern Territory Government Inquiry into the Protection of Aboriginal Children from Sexual Abuse website.

<sup>7</sup> The Minister for Justice, Senator Chris Ellison's Media Statement.

## The Program

The Program was introduced as follows:

TONY JONES: *“Last month, the Crown Prosecutor for Central Australia appeared on this program and described in graphic detail the abuse of women and children in Aboriginal communities. Following that report, the Indigenous Affairs Minister Mal Brough appeared on Lateline and made this extraordinary statement:*

MAL BROUGH: *“Everybody in those communities knows who runs the paedophile rings. They know who brings in the petrol, they know who sells the ganja. They need to be taken out of the community and dealt with, not by tribal law, but by the judicial system that operates throughout Australia.*

TONY JONES: *We were then contacted by some senior Aboriginal women, who asked us to tell the story of a man who traded petrol for sex with young girls in the community of Mutitjulu – home of the custodians of Uluru. And how other men in the community, many with convictions for violent crime, made it difficult for people to expose the sexual violence, the drug trade and the petrol trafficking.*

*“Later, we’ll talk to the community’s former doctor who, as you’ve heard, was confronted by the brick wall of bureaucracy when he reported numerous cases of children and young girls with sexually transmitted disease and tried to get action. First, this special report by Suzanne Smith. The producer was Brett Evans”.*

The “community’s former doctor”, Dr Geoff Stewart, was interviewed by Tony Jones. His contribution lasted about 20 minutes. He provided information as to his observations whilst working as the community’s doctor until 2003. Particular passages will be referred to later but, in general, he described the community in his time as “generally dysfunctional”. He spoke of a particular case of a brain damaged mother and young child, both through the mother’s petrol sniffing, and of his belief that she was being sexually abused by a particular older man who was an “influential powerful figure in the community”. This man, he understood, was “procuring very young women and offering them petrol for sex” in a quite open way. He became fully aware of this from people confiding in him. He said that the man was intimidating and that there were “systemic and structural issues at play within the community that had allowed his behaviour to continue.” He spoke also of sexually transmitted infections being discovered in groups of young girls who were petrol sniffing, which could be indicative of sexual abuse. He had tried to get government action but “it was the classic brick wall scenario”.

This interview was preceded by the segment created by Suzanne Smith which, it appears, is the source of the allegations in the Complaint. Again, particular passages will be referred to later but a general description is as follows.

Suzanne Smith made the following summary of the segment:

*“this story contains the oral and written testimony of six people - white and black – who all lived in Mutitjulu and the Central Desert between 2000 and early 2006. They are a doctor, a youth worker, a domestic violence worker, a park ranger, a school teacher and an Aboriginal elder. What they saw and experienced in this physically beautiful place will stay with them forever as will their sense of guilt for having, in their minds, failed the people they love.”*

She continued this narrative later by saying *“the six witnesses all tell the same story. It’s a story of despair and addiction to alcohol, marijuana and petrol sniffing. It’s a story of government failure, a predatory paedophile unchecked by both white and black authorities and communities dominated by cliques of violent Aboriginal men. According to these on the ground observers, a whole generation of Aboriginal children is at risk.”*



There were interspersed comments from the “witnesses” which presented, overall, a rather disjointed dissertation on the topics referred to. It is difficult to detect what could be described as a dominant message or theme. The ABC Online transcript was originally entitled “Sexual slavery reported in Indigenous community”. This was not the title chosen by *Lateline*. It was subsequently changed to “Sexual Abuse reported in Indigenous Community”, at the request of the program makers. The original title had its origin in a statement made by Greg Andrews in his guise, in the Program, as a “former youth worker”, which statement was the source of one of the allegations in the Complaint to be referred to later. In its submission to the Panel, the ABC stated that “*the central theme of the report was that more should have been done to protect the most vulnerable members of the community*”. In the Panel’s view, the first section of the Program can be said to lack a precise focus. What the viewer obtains from it is largely a matter of blurred impression, rather than an appreciation of any clear central theme. However, the impression is of an appalling state of affairs in Mutitjulu in the times referred to by the “witnesses”.

Be that as it may, it is clear that those chosen to be the “witnesses” on the Program were able to speak with authority on the matters they addressed. Dr Stewart had had 13 years experience in the medical care of members of Indigenous communities. Ms Wilson was a respected Aboriginal elder of the Anangu, who was visibly distressed by the condition of her people in the Central Desert areas. Jane Lloyd, an anthropologist, had been an active and respected member of the NPY Women’s Council for many years and had extensive experience in dealing with the problems of Aboriginal women. Clare Howard was a former principal of the Mutitjulu School who was able, during her term of office, to make informed observations of the behaviour and mental and physical health of the school children in her care. Also, she spoke their Pitjantjatjara language. The anonymous National Parks ranger could draw on his experience in that role in observing and evaluating the behaviour of the paedophile, who was also a ranger. Bob Randall had been a director of the Mutitjulu Health Service. His contribution, which was obtained by the ABC in a manner which has been criticised by the Complainants and will be considered later, provided some balance to the opinions advanced by the others.

The only witness whose credibility has been attacked in the Complaint is Greg Andrews. In respect of a large number of the allegations relating to his statements in the Program, it was said by the Complainants that he was “a totally discredited witness”. It should be noted that specific questions were directed to the Complainants by the Panel, the answers to which might have cast light upon this allegation. They were not answered. Accordingly, the credibility of Mr Andrews must be assessed without this assistance. There is, however, an abundance of material provided to the Panel which bears upon this question. This will be considered later in these reasons. At this stage, it may be noted that the Panel does not accept this criticism and is satisfied that the makers of the Program were fully justified in accepting Mr Andrews as a credible informant.

The other witnesses, with the exception of Ms Wilson, had lost direct connection with Mutitjulu no later than 2004, a fact made sufficiently clear in the Program. It is a recurring theme of the Complaint that “not one local was interviewed to test the veracity of this allegation.” Of course, the absence from the Program of persons currently resident in Mutitjulu speaking of the conditions in the community at the time of its making renders the Program open to this criticism. However, the Panel accepts that Suzanne Smith made unsuccessful attempts to enter Mutitjulu to gather and film the up-to-date facts. The detail of these attempts will be referred to later.

Also, much information that was obtained could not be broadcast because the persons providing it are said to have feared retribution if they appeared on the Program. The Panel accepts that Greg Andrews appeared in disguise for this reason. When he was later “outed” he was subjected to harassment and intimidation. The Panel sought information from the Complainants about these matters. It was not supplied. The Panel has accepted the program makers’ version.

Before considering the Complaint in detail, it is necessary for the Panel to discuss the relevant Code and Policy provisions relating to this review.

## **Relevant Code and Policy Provisions**

*Lateline* is a news and current affairs program. Accordingly, the following provisions apply to it.

### **ABC Code of Practice (the Code)**

#### Section 4: News and Current Affairs

Section 4.1: Every reasonable effort must be made to ensure that the factual content of news, current affairs and information programs is accurate. Demonstrable errors will be corrected in a timely manner and in a form most suited to the circumstances.

Section 4.2: Every reasonable effort must be made to ensure that programs are balanced and impartial. The commitment to balance and impartiality requires that editorial staff present a wide range of perspectives and not unduly favour one over the others. But it does not require them to be unquestioning, nor to give all sides of an issue the same amount of time.

Section 4.3: Balance will be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of importance. This requirement may not always be reached within a single program or news bulletin but will be achieved as soon as possible.

### **ABC Editorial Policies 2002 (the Policies)**

#### Section 5: Editorial Responsibility

##### The Charter of Editorial Practice

5.1.3: Every reasonable effort must be made to ensure that the factual content of news and current affairs programs is accurate and in context. Demonstrable errors will be corrected in a timely manner and in a form most suited to the circumstances.

5.1.4: Balance will be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of importance. This requirement may not always be reached within a single program or news bulletin but will be achieved as soon as possible.

5.1.5: The commitment to balance and impartiality requires editorial staff to present a wide range of perspectives and not unduly favour one over the others. But it does not require them to be unquestioning, nor to give all side of an issue the same amount of time. News values and news judgements are a material consideration in reaching decisions, consistent with these standards.

##### Correction of Errors

5.4.1: The ABC makes every effort to avoid errors but with so many programs produced each day mistakes do sometimes happen. When errors occur the ABC accepts responsibility and acts promptly and appropriately in accordance with its Charter of Editorial Practice.

5.4.2: Correction will be made in a timely manner and in a form most suited to the circumstances. The error should be explained and it should be clear that a correction is being made.

#### Introduction

Section 6.1.3: All editorial staff are required to observe the *Charter of Editorial Practice* and to keep in mind the four fundamentals of the ABC's Editorial Principles: honesty, fairness, independence and respect.

#### Accuracy, impartiality and objectivity

Section 6.3.1: It is one of the statutory duties of the ABC Board to ensure that the gathering and presentation by the ABC of news and information is 'accurate and impartial according to the recognised standards of objective journalism'. The Board also requires ABC editorial staff to observe the highest standards and not allow their professional judgment to be influenced by pressures from political, commercial or other sectional interests or by their own personal views.

#### File Footage and images

Section 6.10.1: File footage and images used in news or current affairs reports should be clearly identified as such, when not to do so would confuse or mislead the audience.

### **Other Codes**

The Complainants also claim that the Panel should have regard for the MEAA Code of Ethics since they believe it "represents good journalistic practice and is a base level of ethical conduct by which the actions of all journalists can, and should, be measured. We consider that these minimal standards overlay the ABC's policies and do not derogate from them."<sup>8</sup>

The ABC claims that the MEAA Code of Ethics "is not a relevant standard for the assessment of ABC broadcasts because the MEAA has its own complaint process to handle alleged breaches of this Code with the whole process being overseen by the MEAA. Furthermore, the ABC claims the reference in Section 6.3.1 of the Editorial Policies which requires ABC editorial staff to observe the highest standards refers to the standards articulated in the Editorial Policies."<sup>9</sup>

The Introduction of the Editorial Policies sets out which documents accompany it and does not include the MEAA Code of Ethics. Also the introduction states that "program makers can be confident that if they are seen to work within these policies the ABC can justify why, from time to time, it challenges, shocks, disturbs or even angers its audiences".

It is the Panel's view that this means that the "highest test" required by the Board relates to the provisions of the Editorial Policies and does not rely on any other standards or tests. Therefore, the MEAA Code of Ethics is not a matter which the Panel takes into consideration in reviewing the allegations made by the Complainants.

The Panel, in reviewing the Complaint, will have regard only to the provisions of the Policies.

### **The Jurisdiction of the Panel**

The following provisions of the Policies establish and define the Panel's jurisdiction to review complaints:

Section 12.6.1: The ABC Board has established an Independent Complaints Review Panel (ICRP) to review written complaints relating to allegations of serious cases of factual inaccuracy, bias, lack of balance or unfair treatment arising from and ABC broadcast or broadcasts, or publication of material on ABC Online.

<sup>8</sup> Complainants' letter dated 31 January 2007. <sup>9</sup> ABC 23 February 2007 submission.

Section 12.6.2: A complaint of this nature may only be referred to the Panel for review:

\* once the ABC's normal complaints handling procedures have been completed ..."

\* and, for broadcast matters, if the complaint was lodged with the ABC within six weeks of the date of broadcast ..."

Section 12.6.12: Reviews will be conducted entirely informally, without legal representation. The selected panellist(s) will restrict the review to an investigation of the alleged factual inaccuracy, bias, lack of balance or unfair treatment in the broadcast or published matter which is the subject of complaint. The panellist(s) will have regard to relevant sections of the ABC Editorial Policies. The Convenor and panellists will have the full assistance of the relevant ABC department(s) and staff. ABC staff will not be obliged to disclose confidential sources which they are entitled to protect at all times."

### **Allegations in the Complaint**

The Complainants' submission was long and included a detailed complaint about the response they had received from their original complaint to the ABC dated 30 August 2006. The Panel advised the Complainants that the way in which the ABC Audience and Consumer Affairs responds to a complaint is not a matter which falls within the Panel's terms of reference and therefore will not be addressed in this response.

The Complainants state:

*"We are writing as community members of the Mutitjulu Aboriginal community, the traditional custodians of Uluru, to complain about a series of recent reports aired on the ABC's Lateline program and the unsatisfactory response we have received from the ABC's Audience and Consumer Affairs Department.*

*...The ABC Lateline programme commenced with an extraordinary attack on our community on 21 June 2006 and has continued with a series of self-serving reports and adverse comments; including but not limited to 22 June 2006, 27 June 2006, 30<sup>th</sup> June 2006, 11 July 2006, 21 July 2006, 15<sup>th</sup> August 2006, 23 August 2006, and 29 August 2006. There was another attack as late as 11 October 2006. To compound matters, Tony Jones and Suzanne Smith have also continued to attack our community publicly through Crikey and the Walkley Magazine, rather than correct the record as new facts have come to light."<sup>10</sup>*

In summary, the Complainants allege the *Lateline* program "is poorly researched and full of lies and misinformation". On the 12<sup>th</sup> February 2007, the Panel provided to the ABC a schedule of 30 issues which the Complainants raised in their submission including 18 statements which they claim are unsupported by the evidence during the relevant broadcast.

In response to these 18 issues the ABC stated that it:

*"... does not agree with the Complainants' summation of these points and does not consider this a helpful way of approaching the complaint. The summaries do not reflect the full range of perspectives presented nor do they differentiate between statements made by the six witnesses and statements made by reporter Suzanne Smith.*

*As the ABC's submission will demonstrate, there were strong editorial reasons for including the testimony of these six credible and reliable people on the program. Not only did they have first hand knowledge of the events they were describing, they were also prepared to speak out about these matters of public importance. It must also be borne in mind that the report was not an attempt to catalogue all of the violent and abusive behaviour that had been witnessed in the community: the*

central theme of the report was that more should have been done to protect the most vulnerable members of the community.”<sup>11</sup>

<sup>10</sup> Page 1 Complainants’ submission.

<sup>11</sup> Page 2 ABC 23 February 2007 submission

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The Panel’s letter dated 11 April 2007 asked the ABC to address the issues of factual inaccuracy and bias, which were raised in the Complaint and summarised by the Panel as:

*“It appears that a significant area of complaint is that the depiction in the program of conditions at Mutitjulu, at the time of the broadcast was ‘totally false’. The community was not dysfunctional, the problem of children petrol sniffing had been eliminated, there was no child sexual abuse, there was no male violence towards women, the one paedophile operating in the area had been forced to leave some months before and the community did not present the picture of a war zone, with rape, murders, torched houses and death and despair everywhere.*

*It would appear that there was a high level of annoyance in the community with the program, as witnessed by the refusal to permit the ABC to be present at the opening of the new police station, the alleged hostile reception to Minister Brough at the opening ceremony and criticism of the program by the NT Minister. These matters are of obvious concern to the Panel, which is charged with determining whether significant factual inaccuracies were conveyed by the broadcast on 21 June 2006 and whether it was biased against the Mutitjulu community and those in organisational control of it. It would appear that the program had a very significant impact and contributed to the decision to appoint an Administrator to the Community”.*

The Panel also sought answers from the ABC relating to the following aspects of the Complaint:

1. (a) Not one person currently living in or around Mutitjulu was interviewed to test the veracity of the allegations;
2. (b) The reference to one individual paedophile was presented in a way which gave a strong impression that he was still or recently operating in the community;
3. (c) The supply of all criminal record details of several persons referred to in the program;
4. (d) The use of footage of petrol sniffing filmed in Mutitjulu in 2001 could be misleading if in fact petrol sniffing had been eliminated in Mutitjulu at the time of the broadcast;
5. (e) The credibility of Mr Greg Andrews as an important source of information; and
6. (f) *Lateline* had failed to cover commentary by Police Superintendent Colleen Gwynne, that

claims of child sex abuse at Mutitjulu in the *Lateline* program had been overstated.

The Panel’s letter of 11 April 2007 led to a discussion within the Panel and with the ABC as to the proper scope of Section 5.1.3 of the Policies and its interaction with Sections 5.1.4 and 5.1.5, with particular reference to the meaning of the words “factual content”. Consistently with the view put forward by the ABC, it submitted that “many of the elements addressed by the Panel in its letter of 11 April 2007 are actually issues of balance and impartiality, not issues of accuracy”. That is, they should be evaluated in accordance with Sections 5.1.4 and 5.1.5 rather than Section 5.1.3, there being no requirement for the Panel to determine whether statements made in the Program were factually accurate. In this discussion, the ABC referred to previous decisions by ACMA and ABA in relation to these sections.

Thus, in ACMA Investigation Report Number 1530 it is noted that “ACMA’s approach to Clause 4.1 of the Code (see Section 5.1.3 of the Policies) has been to initially distinguish between factual content and expressions of opinion. ACMA considers that Section 4.1 envisages the type of factual content

which is easily verifiable. Expressions of opinion, implications and inferences do not constitute factual content and are not subject to the requirement of accuracy.”

In Investigation Report 1362, the ABA noted “that the requirement to ensure accuracy means that every reasonable effort must be made to ensure that factual content is presented truthfully and is free from errors and defects. This does not require all efforts or unreasonable effort to be made. It requires only those efforts which a reasonable person would make under the circumstances.”

It is appropriate that the Panel accept the guidance, in general terms, of these ACMA and ABA decisions.

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The result is that a significantly large proportion of the statements made by participants in news and current affairs programs will be treated as opinions, not subject to the accuracy requirements of the Policies or Code. They, of course, remain subject to the balance and impartiality requirements of the Code and Policies, such as Sections 5.1.4 and 5.1.5 of the Policies. Also, obviously, good journalistic practice would require that care should be exercised in the selection of participants to exclude any obviously lacking credibility.

Similarly, where a news and current affairs program appears to have a theme conveying a particular viewpoint, it must, relevantly, comply with Sections 5.1.4 and 5.1.5. Section 5.1.3 would not ordinarily be involved.

Obviously, cases will occur when it will be difficult to determine whether factual content rather than opinion etc. is being presented in a news and current affairs program. In such circumstances, the question may frequently be resolved, in a pragmatic way, by determining whether “every reasonable effort” has been made to ensure accuracy in the material presented. In many cases, sufficient compliance with these requirements will be achieved if the participant making the relevant comment appears to be credible and reliable and as having the necessary experience and/or expertise to do so.

Some difficulty may occur when program presenters and reporters make introductory and concluding remarks and also when they make comments during the course of a news and current affairs program. These contributions may often have the appearance of conveying factual content. When this occurs, it will be necessary for the Panel to determine whether an ordinary viewer would take the presenter or reporter to be conveying statements of established fact or merely presenting his or her opinion based on the material in the program or, again, merely summarising, in a neutral fashion, the material presented or to be presented in the participants’ contributions, in order to provide appropriate connection and transition in the program. Where it is determined that factual content is conveyed, then Section 5.1.3 will be involved.

With these considerations in mind, the Panel will now turn to consider the specific allegations in the Complaint.

## **Specific Allegations**

### **General Comments**

While the Panel appreciates that the ABC does not believe that responding to each of the points raised by the Complainants is a helpful way of approaching the Complaint the Panel has decided that the Complainants are entitled to have each of the issues they raised to be addressed by the Panel, even if there is some degree of duplication. Where possible, the ABC's views are referred to within each of the individual allegations.

It is convenient to set out the specific allegations made and the ABC's responses where provided. The wording of each allegation is largely taken from the Complainants' submission.

**Allegation 1: The statement that there are credible reports of children being used as ‘sex slaves’ by men in Central Australia, particularly Mutitjulu, was made without any information to support this conclusion.<sup>12</sup>**

The relevant part of the transcript from the Program appears to be:

*“Former Youth Worker: It’s true that there are predatory men in the central deserts who are systematically abusing young children. I’ve been told by a number of people, of men in the region who go to other communities and get young girls and bring them back to their community and keep them there as sex slaves and... exchange sex for petrol with those young petrol sniffers.”*

<sup>12</sup> Page 1 Complainants’ submission.

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The Complainants state that this is a breach of the Policies because there is no information which substantiates this statement.

The ABC contends that it is merely a statement of opinion from an interviewee (Greg Andrews), regarded as a credible informant.

#### **Panel’s view**

This is only a statement of opinion. It was relevant to the Program. It is sufficiently balanced, in a general way, by what is said in the Program by Mr Randall, the content of which will be referred to later. The relevant policy provisions are Sections 5.1.4 and 5.1.5. There are no breaches of these sections.

No breach of the ABC Editorial Policies has been demonstrated.

**Allegation 2: The statement that the Community is at war with itself (raping, murder, kidnapping, arson etc.) was made by a non-current resident and there was a lack of information to support this claim.<sup>13</sup>**

The relevant part of the transcript from the Program appears to be

*“SUZANNE SMITH, reporter: “It’s one of Australia’s greatest tourist attractions. But out of sight, in the shadow of Uluru, the traditional owners of this sacred icon are fighting a battle for survival”.*

*MANTATJARA WILSON, Aboriginal Elder (Translation): “We are at war inside ourselves. We live in a war zone, a big war. We are living in Australia but it is just like the war in East Timor. We suffer rapes, kidnaps, murders, arson, the torching of houses.”*

The Complainants stated that the interviewee used in the program segment alleged that it is like a war zone, just like the war in East Timor, yet she had not lived in Mutitjulu for seven years and she was referring to Central Australia in general. Furthermore they allege the ABC did not test the veracity of this allegation by interviewing a local.

#### **Panel’s view**

According to the ABC, Mantatjara Wilson has a long and abiding connection to Mutitjulu, where she lived for many years. During that time she held senior positions in the community. She was Chair of the Community Council, and she started the Night Patrol. She was a founding member of the NPY

Women's Council. Importantly for Mantatjara, her granddaughters were living in Mutitjulu during the time the paedophile was trading petrol for sex with young girls.

Suzanne Smith asked Peter Sutton, one of Australia's most eminent and experienced anthropologists, a leader in the field with a particular expertise in central desert communities, for his analysis of Mantatjara Wilson and her ability to speak out about issues at Mutitjulu.

He said:

*"She's a matriarch and the key point to make here is that in the central desert region people can attain a strong local status and speaking roles whether they are traditional owners or not. She has a resident's right to speak out. The reason she can speak out is because she is not beholden to anyone. She can move around and has other places to go. Women who do not have that ability do not speak out."*

<sup>13</sup> Issue 2, page 2 and Issue 6, page 9 Complainants' submission.

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Also, members of Ngaanyatjarra Pitjantjatjara Yankunytatjara (NPY), Women's Council Executive

(Governing Committee) have publicly commented on the ability of Mantatjara Wilson to speak out:

*"Mantatjara Wilson who talked on the ABC's "Lateline" in June about violence and child sexual abuse is one of the women who started this organisation. She has lived in Mutitjulu, Kalka and Ernabella (SA) area her whole life, moving between these communities. In our communities there is a lot of petrol sniffing, illegal grog, people using marijuana and trafficking drugs and a lot of violence.....*

*Often it is these people who organise local people to sell drugs and grog, and they make big money from this. This happens in many communities in our region. Now we see what happens when Mantatjara Wilson and other people who know what has been going on, including our staff, speak up after years of seeing these things happening. We are very upset that after many years of worrying about these things and seeing no action, their story gets pushed away or turned into another story. Mantatjara Wilson and the other people who spoke on Lateline did not make up those stories. They are not liars or mad."<sup>14</sup>*

The Panel notes that it was not only Mantatjara Wilson who commented on the state of affairs at Mutitjulu, since Dr Geoff Stewart who has spent many years in Indigenous health in NT and was the resident doctor at Mutitjulu between 2000 and 2003, made the following supportive comments:

TONY JONES: *"Now in a very emotional interview, the former youth worker from Mutitjulu has described the Central Desert and that place in particular as being "like a war zone". Do you agree with that?"*

DR GEOFF STEWART: *"Well, there's certainly many features that are consistent with that. The community is generally dysfunctional, and – as are many in the region."<sup>15</sup>*

In the Panel's opinion, Mantatjara Wilson made comments about the plight of Indigenous Australians across the Central Desert region and also referred to the predatory man who was selling petrol to children, but did not state the location of this activity.

It is clear that Mantatjara Wilson was readily accepted by the program makers as a reliable and credible interviewee.



The Panel believes that these interview segments should not be considered to involve factual content. They should be accepted as opinion expressed by Ms Wilson.

While balance, in relation to this material, would have been difficult to achieve because of the inability of the ABC to enter Mutitjulu, some balance was provided through the broadcast of Mr Randall's comments. Therefore, in the Panel's view there is no breach of the Policies.

No breaches of the Policies have been demonstrated.

**Allegation 3: The statement that some Aboriginal leaders are violent criminals and protectors of paedophilic activity and they also cover-up the existence of sexual violence, drug taking including petrol sniffing was made without any information to support this conclusion.**<sup>16</sup>

The Complainants state that these allegations are baseless, lack information to support them and, consequently, are inaccurate.

While this allegation is very general and combines many of the issues dealt with in other heads of complaint, the relevant parts of the transcript of the Program and of an earlier program on 16 May 2006 appear to be the following:

<sup>14</sup> *The Australian* newspaper on 7 August 2006. It carried the names of the Chairwoman Muyuru Burton; the Vice Chairwoman Margaret Smith; and the Director Yanyi Bandicha.

<sup>15</sup> STIs Found in remote community children: doctor *Lateline* segment 21/06/06

<sup>16</sup> Issue 2 page 2 Complainants' submission.

MAL BROUGH: *"Until you get out the root cause and it comes back to the fundamental issue I keep speaking about, and that's law and order and maintaining it. Everybody in those communities knows who runs the paedophile rings. They know who brings in the petrol and they know who sells the ganja. They need to be taken out of the community and dealt with, not by tribal law, but by the judicial system that operates throughout Australia. We're all equal in this country and we should all be treated the same way."*

TONY JONES: *"I'm sorry, you just said something which astonished me. You said paedophile rings that operate in these communities. What evidence is there of that?"*

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SUZANNE SMITH: *"As far as Lateline knows, there is one paedophile and he relies on his kinship and ceremonial connections for protection. Would you describe it as a paedophile ring operating in Mutitjulu?"*

JANE LLOYD: *"Not in the sense that we understand a paedophile ring, but in a sense that they are organised. They are protected by their relationships to these – to their victims. They are protected by their relationships to other men in the communities and to other women."*

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TONY JONES: *The anthropologist Jane Lloyd responded to the question, "Was there a paedophile ring operating in Mutitjulu?" with the answer that they're organised, in the sense that they are protected by their relationships to the victims and to other men. I mean, do you think that's right? Does that - we've heard Mal Brough making these claims of paedophile rings in the Northern Territory.*

DR GEOFF STEWART: *Yeah, well I think – I don't believe that's the case and I don't believe they exist with the connotations that go with that term. I mean, we've described one – an individual who's been engaged in that sort of paedophilic behaviour. So no, they don't exist and I'm confident that they don't exist in that way, but Jane is correct in saying that there are systemic and structural issues at play with the community that have allowed his behaviour to continue and in some ways to be – well, its never officially condoned, but they've certain been inactive in terms of dealing with it."<sup>17</sup>*

### **Panel's View**

The Panel believes that these extracts demonstrate that clarification of what was meant by a "paedophile ring" was provided during the program. Hence, insofar as the Policies imposed any obligation to do so, the program makers could have reasonably relied upon the expertise of these two participants, who could speak from first hand experience. In the result, no breach of Section 5.1.3 would have occurred.

On the other hand, if, as is clearly possible, the interviewees were merely providing their opinions, the question would have been whether the Program provided sufficient balance to this material. As Mr Randall's comments in the Program provided a degree of balance, there would be no breach of Sections 5.1.4 and 5.1.5.

No breach of the ABC Editorial Policies has been demonstrated.

<sup>17</sup> STIs found in remote community children: doctor *Lateline* segment 21/06/06

**Allegation 4: The statement that parents of Mutitjulu are so delinquent that they allow their four-year-old children to gamble while they are away drinking in Alice Springs relied on hearsay of a discredited person who has never lived in the community.<sup>18</sup>**

The relevant part of the transcript of the Program appears to be:

SUZANNE SMITH: *“This story contains the oral and written testimony of six people – white and black – who all lived in Mutitjulu and the central deserts between 2000 and early 2006. They are a doctor, a youth worker, a domestic violence worker, a park ranger, a schoolteacher and an Aboriginal Elder. What they saw and experienced in this physically beautiful place will stay with them forever, as will their sense of guilt for having, in their minds, failed a people they love.”*

FORMER YOUTH WORKER: *“I saw women coming to meetings with broken arms, or with screwdrivers or other implements through their legs. I saw 4-year-old children gambling while their parents were drinking in Alice Springs. I learnt of children as young as five who were watching pornography in abandoned houses while their parents were 200km away, drinking.”*

The Complainants argue there was no evidence for this allegation, other than the hearsay of a ‘totally discredited witness’ who has never lived at Mutitjulu. It is therefore a breach of Editorial Policies.

In response to this allegation, including the questioning of Mr Andrews’ credibility, the ABC provided the following information:

*“Greg Andrews worked in the central deserts region for approximately 18 months from mid 2004 until early 2006. As project manager, he ran the Mutitjulu “Working Together” project, a ‘whole- of government, whole-of-community’ initiative designed in partnership with the Mutitjulu Community Council to deliver improved community development outcomes and governance, through better coordination among the Northern Territory and Australian Governments, Parks Australia, the Central Land Council, Ayers Rock Resort, and local NGOs.*

*Greg Andrews’ achievements in the “Working Together” project included establishing a childcare centre which gave children a safe place to be, persuading the Commonwealth to fund a police post, which would normally be the responsibility of the Northern Territory, recruiting a youth worker, obtaining funding for a substance abuse worker, and generally persuading government to take seriously and respond to problems that had existed for many years in the community, but which had largely been ignored.”<sup>19</sup>*

The Panel also notes the commendation of the Coroner, who said of Mr Andrews “I have rarely met a more qualified, committed and emotionally and culturally supportive advisor in terms of Aboriginal substance abuse than Mr Andrews. His work is simply outstanding.”

In his 19 July 2006 letter to Mr Elton Humphery, Department of the Senate, which is provided at Attachment F of the Complainants’ submission, Greg Andrews states:

*“There was a shortage of housing at Mutitjulu and, along with a number of people from outside of the community who were working there, I had an apartment at Yulara which is close by. I resided there and commuted to the community regularly from early September 2004 until early February 2005. We then moved to Alice Springs. My wife found the human rights abuses that she witnessed at Mutitjulu too much to bear. She had to leave Uluru for medical treatment and was advised not to return there for residence. My employers subsequently arranged for us to move to Alice Springs, from where I commuted to Mutitjulu weekly”<sup>20</sup>.*

This letter was provided as explanation for and correction of a statement made by him in evidence to a Senate Inquiry, to the effect that he had lived in Mutitjulu.

<sup>18</sup> Issue 5 page 2 and Issue 6 page 9 Complainants' submission. <sup>19</sup> Page 21 of ABC 23 February 2007 submission.

<sup>20</sup> Page 22 of ABC 23 February 2007 submission.

The ABC stated that:

*“Regardless of where Greg Andrews slept at night, it is clear from his role as manager of the “Working Together” (project) that he worked closely with the Mutitjulu community and had ample opportunity to observe life in Mutitjulu. He was an entirely credible witness.”<sup>21</sup>*

The Panel can find no substance in the Complainants’ allegation that Mr Andrews was “a totally discredited witness”.

The Panel also notes that the *Lateline* program in question also included the following commentary: SUZANNE SMITH: *“But Bob Randall doesn’t believe Mutitjulu is a place run by violent men”.*

BOB RANDALL: *“No. I won’t accept that. There are a lot of us men who are not part of any protection racket or sexual abusing kids or other women. We just won’t go into that world. It isn’t our world.”*

### **Panel’s view**

In the Panel’s view Mr Andrews was a credible commentator on the conditions at Mutitjulu. He was not undermined by problems resulting from his appearance at Senate Community Affairs Committee hearing, since he voluntarily and promptly corrected his evidence.

His statements in the Program, following the ACMA decision, should probably be regarded as “opinion”. As such, they are balanced to an acceptable extent by Mr Randall’s evidence. Consequently, there would be no breach of Sections 5.1.4 and 5.1.5 of the Policies.

Insofar as they, arguably, provide “factual content” in the Program, the program makers would be justified in accepting Mr Andrews as a reliable and credit worthy witness. Thus, in the Panel’s opinion, there would be compliance with Section 5.1.3 of the Policies, if that section were applicable.

No breach of the ABC Editorial Policies has been demonstrated.

**Allegation 5: The statement that Aboriginal women attend meetings at Mutitjulu, displaying injuries including screwdrivers and other implements through their legs was made without any information to support this claim.<sup>22</sup>**

The relevant part of the Program appears to be the same as Allegation 4.

The Complainants argue that this statement relies on hearsay of a wholly discredited person. A local person could have been interviewed to test the veracity of this allegation.

### **Panel’s view**

Consistently with the ACMA decision, the statement of Mr Andrews should be regarded as opinion not fact. He was reasonably accepted by the program makers as reliable and credible. It was not possible for them to interview a local person. In these circumstances, there was no breach of Section 5.1.4 of the Policies.

If the statement, which was not, in any event, a hearsay account, contained factual material the Program makers were justified in accepting the account. Thus, no breach of Section 5.1.3 could arise.

No breach of the ABC Editorial Policies has been demonstrated.

<sup>21</sup> Page 22 of the ABC submission 23 February 2007 <sup>22</sup> Issue 4 page 2

**Allegation 6: The statement that parents of Mutitjulu are so delinquent that they allow children as young as five to watch pornography in abandoned houses while they are away drinking relied on hearsay of a discredited person who has never lived in the community and is therefore inaccurate<sup>23</sup>.**

The relevant part of the transcript from the Program is the same as that identified in Allegation 4.

The Complainants argue there was no evidence for this allegation, other than the hearsay of a 'totally discredited witness' who has never lived at Mutitjulu.

#### **Panel's view**

The Panel notes that this statement was not based on what Mr Andrews actually saw but what he learnt from others. A National Park Ranger who lived and worked in Mutitjulu, in a statement provided to *Lateline* in June 2006, said:

*"Pornography was rife within the town and this definitely affected the behaviour of young people"<sup>24</sup>.*

As already indicated, Mr Andrews could readily have been accepted by *Lateline* as a credible commentator on the state of the Mutitjulu community. He is here reporting what he had learned. His report falls within Section 5.1.4, not Section 5.1.3. Mr Randall's statement provides some balance.

No breach of the ABC Editorial Policies has been demonstrated.

**Allegation 7: The statement that parents and leaders of Mutitjulu are so delinquent that they allowed a 'predatory paedophile' to go about his activities unchecked and actively assisted by male leaders in the community is false.<sup>25</sup>**

The relevant parts of the Program appear to be as follows:

TONY JONES' introductory reference to *"the story of a man who traded petrol for sex with young girls in ... Mutitjulu ... and how other men in the community, many with convictions for violent crime, made it difficult ... to expose the sexual violence, the drug trade and the petrol trafficking"*.

JANE LLOYD, NPY WOMEN'S COUNCIL: *"They also target children who do not have strong family, who come from dysfunctional families. So these men are not going to be challenged by the fathers, by the uncles of these children."*

SUZANNE SMITH: *"a predatory paedophile unchecked by both white and black authorities and communities dominated by cliques of violent Aboriginal men"*.

SUZANNE SMITH: *"... all the witnesses were shocked to discover that young girls in the community were being targeted by a predatory paedophile."*

MANTATJARA WILSON: *"I know that man sells petrol to children. The huge problem wasn't started by the children. The problem was started by the people who sell petrol to get children started on petrol sniffing and then to induce them to have sex with them for it. On our Lands, the police see this problem all around them, but they cannot catch the perpetrators. All Anangu people know what is going on, but everybody is too scared to speak out and report them to the police."*

<sup>23</sup> Issue 6 page 3 Complainants' submission

<sup>24</sup> Attachment N 23 February 2007 ABC submission

<sup>25</sup> Issue 7 on page 3 and Item 6 and 7 on page 8 of the Complainants' submission

MANTATJARA WILSON: *"I got his number plate number and I went straight to the police station and I gave them the details and I said , "Here is the registration number, this is who he is and this is his name." I told them what I had been seeing and I asked the police what they would be doing next. But the police are wary of going out at night – they are frightened of the weapons people carry, knives and axes."*

SUZANNE SMITH: *"Jane Lloyd manages the domestic violence and child abuse service for an Indigenous women's group called the NPY Women's Council. On behalf of the council, she notified local police, the South Australian Government and the Northern Territory Government about the activities of the paedophile, as recently as April last year"*.

The Complainants argue that and there "are now sufficient facts to prove that the community did take steps to report and 'get rid of' the alleged paedophile – who by the way was a National Parks employee and was never a part of the community"<sup>26</sup>. Therefore a breach of Editorial Policies has occurred. Further information as to the steps taken was sought from the Complainants but was not supplied to the Panel.

#### **Panel's view**

It was not established by the Complainants that the program makers had any reliable material on the efforts made in Mutitjulu to "get rid" of the paedophile, which could have been included in the Program or in subsequent broadcasts.

No breach of the ABC Editorial Policies has been demonstrated.

#### **Allegation 8: The statement that Mutitjulu Community is dominated by cliques of violent Aboriginal men is unsubstantiated.<sup>27</sup>**

The relevant parts of the Program appear to be those referred to in Allegation 7. The Complainants argue the ABC relied on hearsay from a discredited person. **Panel's view**

In its submission to the Panel the ABC relied not only on the comments made by Mr Andrews but also on a statement made by a person in a senior leadership position within the community and made prior to the program going to air (name withheld)

*"Mutitjulu has been a very violent, extremely dysfunctional community with a high level of substance abuse and corruption. In this climate, while the women have spoken up openly about the general problems of violence, vandalism, sniffing, marijuana and grog, it has not been safe for them openly to accuse perpetrators, when 1) they know that some of these people are violent thugs with vested interests; 2) they or their husband or other family member is related to them, albeit distantly in some cases; and 3) a satisfactory police presence does not exist and any informant's safety would most likely be compromised."<sup>28</sup>*

The Panel also notes that the *Lateline* program also included the following commentary:

SUZANNE SMITH: *"But Bob Randall doesn't believe Mutitjulu is a place run by violent men."*

BOB RANDALL: *"No. I won't accept that. There are a lot of us men who are not part of any protection racket or sexual abusing kids or other women. We just won't go into that world. It isn't our world."*

<sup>26</sup> See Issue 7 on page 3 Complainants' submission.

<sup>27</sup> See Issue 8 on page 3 and Issue 6 page 8 Complainants' submission. <sup>28</sup> Attachment F ABC 18 June 2007 submission.

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This allegation falls for consideration under Section 5.1.4 of the Policies. It consists of the reporting of viewpoints of apparently credible people. Balance was provided by the reporting of Mr Randall's contrary view.

No breach of the ABC Editorial Policies has been established.

**Allegation 9: The statement that a whole generation of Aboriginal children is at risk at Mutitjulu and throughout the region is inaccurate, since the interviewee has not lived in the community for seven years<sup>29</sup>.**

The Complainants argue that the person interviewed was not specifically referring to Mutitjulu and, even if she was, she had not lived there for over seven years so her evidence has to be seriously questioned insofar as it relates to Mutitjulu. Furthermore, "not one local was interviewed to test the veracity of this allegation".

The relevant part of the Program appears to be:

SUZANNE SMITH: *"Mantatjara Wilson knows what has to happen. In the first instance, she wants sworn policewomen - black and white - to be recruited, so Indigenous girls will come forward and report sexual assault. But this proud desert matriarch thinks she'll be gone before anything changes for the better in her country."*

MANTATJARA WILSON: *"I am of the last generation, yet I am seeing my children die before me. I will get sick and die and leave some of them behind. But what is going to happen to my grandchildren's children? And all my grandsons? I cry for my grandsons."*

*"In every corner of our lands, there is death and despair. We are the last generation. But what is the future for our children? What will happen to them when we pass away? We are all dying you know, even the young fellas and young girls are dying before their time. They are committing suicide by hanging or they kill themselves by other methods. (Whispers) My spirit weeps. I am grief stricken and devastated. I am telling the truth."*

#### **Panel's view**

The credibility of Mantatjara Wilson to comment on Central Desert and in particular Mutitjulu community issues has been dealt with in Allegation 2.

It is also clear that the above comments from Mantatjara Wilson do not explicitly refer to the Mutitjulu community, but to Indigenous Australians in general. In the Panel's view, Ms Wilson's comments reflect her opinion of what she believes will happen to Indigenous Australians if the social and economic issues are not addressed.

This allegation falls for consideration under Section 5.1.4 of the Policies. It is balanced by Mr Randall's comment.

No breach of the Policies has been established.



**Allegation 10: The statement that a cluster of girls with sexually transmitted diseases treated in Mutitjulu was clear evidence of rampant child abuse at Mutitjulu lacks factual support and was therefore inaccurate.<sup>30</sup>**

The Complainants state that the Mutitjulu community has a tri-state health clinic and there is no evidence that a cluster of sexually transmitted diseases is the result of child abuse.

<sup>29</sup> Issue 9 page 3 of the Complainant' submission <sup>30</sup> Issue 10 page Complainants' submission.

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*"We cannot say with certainty that that abuse does not exist but any doctor could tell you that girls can contract a sexually transmitted disease from a boy around the same age and there is plenty of evidence of this phenomenon in white communities".<sup>31</sup>*

The relevant parts of the Program appear to be:

*"TONY JONES: "...Later we'll talk to the community's former doctor who, as you've heard, was confronted by the brick wall of bureaucracy when he reported numerous cases of children and young girls with sexually transmitted disease and tried to get action..."*

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*"SUZANNE SMITH: "Clare Howard is the former principal of the Mutitjulu Primary School. She worked there from 2003 to 2004. She speaks Pitjantjatjara, and is considered family by the local people. Here she is at Mutitjulu School in 2003, where she taught kids between the ages of 4 and 12. It was her understanding of the language that first led her to believe some of the children had been sexually abused."*

*CLARE HOWARD: "One of their most commonly utilised swear words was to refer to anal penetration. And I also suspect that there was a possibility of this because of the volatile nature of the children. If something went wrong, they had a volatile reaction. They'd throw things, they'd throw chairs, they'd throw desks, they'd swear and scream, they'd threaten to hit people."*

*SUZANNE SMITH: "Her suspicions were confirmed by Dr Geoff Stewart. He was the doctor at Mutitjulu from 2000 to 2003, where he found sexually transmitted diseases like Chlamydia and Gonorrhoea in children and young teens"*

*Dr GEOFF STEWART, Former Mutitjulu doctor: "The prevalent age group that we would see would be in the sort of the 12 to 14 year old, there was a sort of cluster around that sort of age. But there were certainly were isolated instances in children much younger. STI levels in Central Australia particularly are certainly the highest rates that occur nationally."*

**Panel's view**

The above program extracts do not indicate that the words "clear evidence of rampant child abuse at Mutitjulu" or similar words were used to describe the state of affairs in Mutitjulu. Furthermore, Dr Stewart's comment (above) in the same *Lateline* program clearly indicates that the problem exists but is not limited to Mutitjulu.

In terms of a causal link between STI and sexual abuse, the following extract is relevant:

TONY JONES: *"Were you seeing evidence in your clinic, physical evidence, of child sexual*

*abuse on a wider scale?"*

DR GEOFF STEWART: “Yes. Yeah I mean, we were certainly aware in the clinic that there were from time to time numbers of quite young girls involved in petrol sniffing and like any sort of sub-culture exists within any community, it was often happening at night and so you wouldn't see it, as such. But we were aware that there would - from time to time, there would be groups of young girls sniffing and engage in – well it was had to quantify exactly what was going on, but certainly there was sex involved and certainly we were concerned that it was with older men and was unsafe. We'd see those young girls with sexually transmitted infections. We had evidence, you know, that support what our concerns were.”

TONY JONES: “Physical evidence being sexually transmitted diseases appearing – infections appearing in young girls?”

DR GEOFF STEWART: “That's right, yep.”<sup>31</sup> Page 4 Complainants' submission.

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TONY JONES: “What age groups are we talking about here?”

DR GEOFF STEWART: “Well, the prevalent age group that we would see would be in the sort of 12-14 year old. There was that sort of cluster around that sort of age, but there certainly were isolated instances in children much younger.”

TONY JONES: “We've been told that at least one child as young as four was diagnosed with a sexually transmitted disease. Is that something you saw?”

DR GEOFF STEWART “I certainly saw STIs in very young children – only a handful in the almost three years that I was there, but they do exist. They do occur. And again, they're something that is not limited to Mutitjulu and is seen across communities”<sup>32</sup>

The Panel considers that the Dr Stewart was a credible commentator on the health and social issues existing in Mutitjulu community, given his role and length of time in the community. The interview was lengthy and his comments were provided without significant challenge from the interviewer.

The Panel considers that the complaint, most probably, falls for consideration under Section 5.1.4. Since it was reasonable for the ABC to rely on the first hand account of Dr Stewart, no breach has been established.

If “factual content” is involved, then the ABC has exhibited satisfactory “effort” to establish the truth, in that the program makers were entitled to rely on the recollection and expertise of Dr Stewart.

No breach of the Policies has been established.

**Allegation 11: The statement that there are predatory men (at Mutitjulu) who are systematically abusing young children and those men are in leadership positions in the community is false, unsupported by facts and was therefore misleading.**<sup>33</sup>

The Complainants argue that:

*“this is totally false and completely unsupported by evidence. Again not one local person was interviewed to test the veracity of this allegation.”*

The relevant parts of the transcript of the Program appear to be:

JANE LLOYD, NPY Women's Council: *"The target children who do not have strong family, who come from dysfunctional families, so these men are not going to be challenged by the fathers, by the uncles of these children."*

SUZANNE SMITH: *"The Indigenous people of the Central Desert may never recover."* FORMER YOUTH WORKER (anonymous): *"The people who are in control are the drug dealers*

*and the petrol warlords and the paedophiles."*

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TONY JONES: *"Let's go back to the man who was abusing (BLEEPED OUT). You mentioned that you took other steps to try and stop that happening. What were you able to do? It's an incredibly difficult situation in a small community to deal with, I imagine?"*

DR GEOFF STEWART: *"Well yes, I mean, as a doctor working in a community, your ability to operate with the community is at least partly dependent upon your relationships with community members and particularly influential and powerful people – you know, council and the like, and so –"*

<sup>32</sup> STIs found in remote community children *Lateline* Segment 21/06/06 <sup>33</sup> See Issue 11 on page 4 Complainants' submission

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TONY JONES: *"Was this man in that category? Was he considered an influential, powerful*

*figure [in] the community?"*

DR GEOFF STEWART: *"Absolutely, yeah".<sup>34</sup>*

The statements in question were made by persons who had been involved with the Mutitjulu community. Their comments did not suggest that there was 'systematic abuse of young children nor that this abuse was being carried out by 'predatory' men. They do state that some people in influential, leadership roles in the Mutitjulu community and in the Central Desert region were part of the problem.

Again, this part of the Complaint must be considered under Section 5.1.4. The participants were expressing opinions and viewpoints. They were reasonably accepted by *Lateline* as reliable and credible. Mr Randall provided balance. Also, the absence of interviewing any other locals is satisfactorily explained later in these reasons.

No breach of the ABC Editorial Policies has been established.

**Allegation 12: The statement that men in the (Mutitjulu) region go to other communities and get young girls and bring them back to their community and keep them there as sex slaves and exchange sex for petrol with young petrol sniffers is false and unsupported by facts.<sup>35</sup>**

The Complainants argue that this is "totally false and completely unsupported by the evidence. Therefore a breach of Editorial Policies has occurred. Again not one local person was interviewed to test the veracity of this allegation."

The relevant part of the transcript of the Program appears to be:

FORMER YOUTH WORKER: *"It's true that there are predatory men in the central deserts who are systematically abusing young children. I've been told by a number of people, of men in the region who*

*go to other communities and get young girls and bring them back to their community and keep them there as sex slaves ... exchange sex for petrol with those young petrol sniffers?"*

MANTATJARA WILSON: *"I know that man sells petrol to children. The huge problem wasn't started by the children. The problem was started by the people who sell petrol to get children started on petrol sniffing and then to induce them to have sex with them for it. On our Lands, the police see this problem all around them, but they cannot catch the perpetrators. All Anangu people know what is going on, but everybody is too scared to speak out and report them to the police."*

#### **Panel's view**

The above comments indicate that Mr Andrews clearly stated that he was relying on hearsay, while Mantatjara Wilson's comments were based on her personal experience across the Anangu area. Both persons, as already indicated, were reasonably accepted as reliable and credible participants in the Program.

Mr Randall's evidence provides some balance.

The relevant sections of the Policies are Sections 5.1.4 and 5.1.5. No breach of the ABC Editorial Policies has been demonstrated.

<sup>34</sup> STIs found in remote community children: doctor, *Lateline* segment 21/0/06 <sup>35</sup> See Issue 12 page 4 Complainants' submission

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**Allegation 13: The following statements about Bob Randall, a former director of the health clinic, were false:**

1. **(a) was a Mutitjulu Community Aboriginal Corporation, Governing Committee member or a**

**leader of the community**

2. **(b) was not concerned about sexual abuse and played it down**
3. **(c) was forced to face the issue at a community meeting**
4. **(d) did not act on rumours of serious sexual abuse that were known all the way up to the**

**Minister for Indigenous Affairs**

5. **(e) condones violence, the sexual abuse of children and is not concerned about domestic**

**violence issues**<sup>36</sup>

The Complainants argue Mr Randall has spent his life working for the benefit of Indigenous Australians and in particular the 'stolen generation'. "He is not a member of the Governing Committee or leader of the community and should not have been targeted as such. He is not a paedophile, a criminal, a substance abuser, a drug runner or a violent man. His 'crime' was to have been a director of the health clinic where he was bound by patient confidentiality and he was available without the ABC having to actually visit Mutitjulu."<sup>37</sup>

The relevant part of the transcript of the Program appears to be:

BOB RANDALL, FORMER HEALTH CLINIC DIRECTOR: *"I think we ourselves need to do*

*what the Government isn't doing – really start caring for each other.”*

*SUZANNE SMITH: “Mutitjulu elder Bob Randall has come here to launch a documentary he has produced about his life. Though not a doctor, he was the director of the Mutitjulu Health Service when it was placed under administration this year by the Commonwealth Government. Bob Randall, long time resident, plays down the notion that sexual abuse of children is rife in the community.”*

*BOB RANDALL: “Very little, you know. So I knew, you know, when those things were being talked about publicly, they have happened in the past in our community. But we are small in population and we are very strict with our discipline - our way- to anyone who acts those sort of non-acceptable ways.”*

*SUZANNE SMITH: “Bob Randall and two police officers from Yulara and the community were forced to face the issue at a public meeting organised by Mantatjara Wilson in 2003. The community's doctor at the time was Dr Geoff Stewart. He asked her to organise this gathering to confront the paedophile who had been threatening to expel him from the community.”*

*BOB RANDALL: “Yeah, and we did talk about it. I talked to the police about it because I was the director sitting there when these meeting were taking place. I saw the meetings take place, and honestly, not one girl would put her hand up to say, “I've been one of the victims” or, “I was supplied with that petrol”. And I tell you, with that kind of cases, the police can't act any more than you or I can. Because we're just spreading rumours and stories of what may have happened.”*

*SUZANNE SMITH: “Bob Randall says he employed female nurses and health workers at the clinic, and still, the victims wouldn't come forward.”*

*BOB RANDALL: “Probably any women, any young girls would have difficulty talking to any man about it. But I wasn't the one was saying, “Come and talk to me,” I was saying “Talk to my female Aboriginal health worker or my nurses.” You know, I did have the girls there in a professional capacity. But the rumours still happened, but not one real case came forward.”*

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*SUZANNE SMITH: “But Bob Randall doesn't believe Mutitjulu is a place run by violent men”*

<sup>36</sup> Issues 13, 14 & 15 on pages 4 and 5 Complainants' submission. <sup>37</sup> Page 4 Complainants' submission.

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*BOB RANDALL: “No. I won't accept that. There are a lot of us men there who are not part of any protection racket or sexual abusing kids or other women. We just won't go into that world. It isn't our world.”*

*SUZANNE SMITH: Jane Lloyd questions why Bob Randall never contacted the NPY women's service about domestic violence issues. It is the only Indigenous service in the region.*

*JANE LLOYD: All I know is that Mutitjulu clinic under his direction has not made any recent reports or any reports of domestic violence to our service, whereas prior to that, we would have regular reports from that clinic”*

## Panel's view

The above extracts from the program indicate Mr Randall was presented as the former Health Clinic Director and Mutitjulu elder not as Mutitjulu Community Aboriginal Corporation or Governing Committee member.

Mr Randall's broadcast comments indicate that he did not think that there was wide scale sexual abuse occurring in his community. The words used by Ms Smith clearly suggest that Mr Randall was forced to face a community meeting on this issue, since he was a Director of the Health Clinic, and he did not take sufficient action to address these concerns. Comments provided by Ms Lloyd presumably provided the basis for such allegations being made.

In the Panel's view, this program segment is based upon opinion rather than factual content. Balance to the allegation was sufficiently provided by the inclusion of Mr Randall's comments.

Section 5.1.3 of the Policies was not involved. There was no breach of Sections 5.1.4 or 5.1.5. No breach of the Policies has been established.

### **Allegation 14: Mr Randall was tricked into giving an interview on paedophiles in breach of the ABC guidelines.**<sup>38</sup>

The Complainants state that Mr Randall's interview was "based on the pretence that he was to discuss his forthcoming movie on the stolen generations". When he attended the interview he was ambushed with a series of questions on violence and sexual abuse".

In support of their case against the ABC, the Complainants stated that Ms Melanie Hogan, a film producer, could confirm that Mr Randall was ambushed. No statement from Ms Hogan was provided<sup>39</sup>

In response the ABC stated:

*"Lateline clearly informed Bob Randall before the interview that it intended to ask him about a range of issues arising from his recently-released documentary, "Kanyini", as well as broader issues affecting the Mutitjulu community, particularly those related to his role as former administrator of the Mutitjulu Health Clinic. It is relevant to note that the film "Kanyini" includes footage of petrol sniffing and presents this footage as being accurate and up to date – reflecting the types of behaviours that are currently witnessed in the Mutitjulu community.*

*The film was written by Bob Randall. Accordingly, Lateline's request to interview Mr Randall about matters including his film and the social conditions that the film says exist in Mutitjulu, would necessarily include questions about petrol sniffing and the terrible consequences of that practice.*

<sup>38</sup> See comment under 'Ambush' on page 5 and also point 4 on page 16 Complainants' submission.<sup>39</sup> Page 6 Complainants' submission.

*The program team has provided a transcript of the interview with Bob Randall which demonstrates that the interview commenced with discussion of Mr Randall's film and related issues before moving on to questions about broader issues affecting the Mutitjulu community. The program's pre-interview briefing with Mr Randall has been verified by Lateline producer Brett Evans and the ABC cameraman, Peter Wilson, who filmed the interview. Statements to this effect from Mr Evans and Mr Wilson are provided at Attachment A (the Panel has considered these statements.)*

*Mr Randall was not “targeted” and was not described as “a paedophile, a criminal, a substance abuser, a drug runner or a violent man”. It was made clear in the program that Mr Randall’s comments were relevant because he had been the Director of the Mutitjulu Health Service. Mr Randall’s comments in the program indicated that he had first hand knowledge of the public meeting organised by Mantatjara Wilson in 2003. He was also able to describe other steps he had taken to facilitate the reporting of crimes against women and children.*

*Mr Randall’s contribution allowed viewers to hear from him directly about the actions that had been taken in the community to try to address problems of sexual abuse, and the difficulty in taking concrete action when victims would not come forward. Lateline’s treatment of Mr Randall was fair and appropriate and in keeping with ABC Editorial Policies.”*

The ABC does not accept that Mr Randall was “ambushed”.<sup>40</sup>

### **Panel’s view**

The role of the ICRP is to review complaints relating to allegations of serious cases of factual inaccuracy, bias, lack of balance or unfair treatment arising from an ABC broadcast or broadcasts, or publications of material on ABC Online.<sup>41</sup>

In considering this allegation, the question for the Panel is limited to whether the way in which Mr Randall was treated during the interview was unfair and, as a consequence, affected the broadcast of portions of his interview.

A review of the interview transcript indicates that the interview was focused on the Mutitjulu community and its problems. Only the first few questions dealt with Mr Randall’s film.

The ABC provided comments from Brett Evans, Producer/Reporter for *Lateline* about his recollections of the interview:

*“In setting up the interview with Bob Randall I dealt with Mariangela Angelucci, of Gallus and Co. Ms Angelucci was doing PR for the Sydney Film Festival at the time. Mr Randall was the co-producer of ‘Kanyini’, a documentary about Mutitjulu he had made with Melanie Hogan that was being shown at the Festival.*

*I had several phone conversations with Ms Angelucci. I informed her that I would like to talk to Mr Randall about his film, and also about the community of Mutitjulu.*

*My interview with Mr Randall was conducted as a ‘simsat’: Mr Randall, he was in Melbourne and I was at my desk in Sydney; I asked my questions over the phone and Mr Randall’s answers were filmed by ABC cameraman Peter Wilson.*

*Before I began the formal part of the interview, I told Mr Randall that I wished to ask him about both ‘Kanyini’ and the community of Mutitjulu. He said that would be fine. I also asked Mr. Randall to confirm that he had been in charge of the Mutitjulu Health Clinic – he answered in the affirmative.*

<sup>40</sup> Page 3 ABC 23 February 2007 submission.

<sup>41</sup> Page 50 ABC Editorial Policies 2002: S12.6.1.

*As I recall, the interview was conducted in a calm and polite manner – by both myself and Mr Randall. Mr Randall readily answered all of my questions; at no stage did he voice any objection to my questions.*

*After the interview was completed Mr Randall agreed to be involved in the filming of 'overlay'- footage that is used in TV Current Affairs to introduce interviewees. The overlay in this case shows Mr Randall walking around an art gallery.*

*Peter Wilson has told me that Mr Randall co-operated willingly in shooting this overlay – not the action, I would argue, of a man distressed at having been “ambushed” by the ABC.”<sup>A2</sup>*

The Panel considers that it is reasonable to assume, through the use of the Film Festival contact and a gallery backdrop for the interview, that more emphasis would be on the film than the Mutitjulu problems. However, the two issues are very closely aligned and the interviewee must have realised that life at Mutitjulu would be raised. The fact that Mr Randall did not appear to object to the interview continuing also suggests that he was happy with the line of questions being asked, although once started it is very hard for an inexperienced person to stop an interview and bear the adverse consequences of not appearing to cooperate. Neither the Complainant nor the ABC stated that any request to withdraw permission to present the interview was raised.

In the Panel's opinion, it is not established that Mr Randall was dealt with unfairly in the interview and subsequent broadcast.

The issue of what interview material actually is broadcast is not an issue that the Panel can review, so long as the material which is broadcast conforms with the requirements of the Policies.

Section 6.4.4 states that “After a person has agreed to be interviewed, it is a matter of editorial judgment as to how, if and when the completed interview will be broadcast or published ... “ No breach of the ABC Editorial Policies has been established.

#### **Allegation 15 and 16: The statements that:**

1. **(a) all men involved in the Mutitjulu Community Aboriginal Corporation (MCAC) are violent**  
**men, drug and illicit substances runners and protectors of paedophiles is false and unsupported by facts.**<sup>43</sup>
2. **(b) people in power in the community [ab]use children at their whim is false and unsupported by facts.**<sup>44</sup>

The Complainants argue that these statements are " totally false and is completely unsupported by the evidence. Once again not one local [person] was interviewed test the veracity of this allegation". No further information was provided.

#### **Panel's view**

The issues relating to allegation (b) have been dealt with under other allegations. In relation to (a), while the allegation is very general, the relevant program segments appear to be:

*SUZANNE SMITH:” Lateline asked Bob Randall whether he knew that his nephew Leslie Calma had a criminal record when he employed him at the Mutitjulu health clinic. Leslie Calma is still working there as the driver.”*

*BOB RANDALL: “Yeah, I think he...got speeding fine, having a so-called unregistered firearm - you know, because he loves his shooting - but he's not a criminal. He's just another man doing what little he can to, you know, look after his family like all of us”.*



<sup>42</sup> Attachment A 23 February 2007 ABC submission <sup>43</sup> Issue 16 page 5 Complainants' submission.

<sup>44</sup> Issue 17 page 5 Complainants' submission.

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SUZANNE SMITH: *In fact, Leslie Calma has two convictions for assaulting a female. He was also the man who intimidated the Aboriginal youth worker into withdrawing his complaint to police. Leslie's brother Graham Calma is the deputy chair of the Uluru-Kata Tjuta National Park Board. Until recently, he was the community liaison office at the Mutitjulu Community Incorporated. He also chaired the royalties commission.*

*Lateline has obtained his police record, which includes 39 convictions - 10 of which are for assault. Sam Wilson is the chairperson of Mutitjulu Community Incorporated. He has nine convictions for assault - six of those are assault occasioning actual bodily harm. In one case, he burnt his wife with a fire stick and broke her leg. Sami Wilson was part of the push to drive the NPY Women's Council out of Mutitjulu."*<sup>45</sup>

FORMER YOUTH WORKER: *"the people who are in control are the drug dealers and the petrol war lords and the paedophiles"*

The above program segments indicate that persons with criminal records (spent or unspent) were involved or linked with people who held leadership roles with MCAC – deputy chair and chairperson. The Panel notes that the Complainants do not contest that these criminal convictions do exist but rather that the citing of three persons with such records is used to allege that everyone associated with the MCAC are "violent men, drug and illicit substances runners and protectors of paedophiles".

In the Panel's view, this conclusion does not necessarily follow from the statements made about the individuals in the Mutitjulu Community who appear to have criminal records. It does legitimately raise questions of the propriety of such individuals being in responsible leadership roles. The comments, therefore, amount to an opinion based on criminal records and administrative questions surrounding the operation of the MCAC at the time.

In developing this line of commentary the reporter, Ms Smith, did not provide the viewer with an alternate view, presumably because access to board members was not possible. In these circumstances it would have been prudent for the reporter to have made it clear to the viewers that she had sought but could not obtain a contrary view or comments from any other board member.

However, Section 5.1.5 of the Policies provides that editorial staff, in pursuit of balance, are not required "to be unquestioning, nor to give all sides of an issue the same amount of time." In the Panel's view the comments of Mr Randall, already referred to, provide sufficient balance. Accordingly, no breach of Sections 5.1.4 or 5.1.5 are demonstrated.

Insofar as Section 5.1.3 may be involved, the Panel believes that the ABC did take reasonable steps to ensure accuracy of the program segment, since it relied on several credible persons who had first hand experience working in the Mutitjulu community including Dr Stewart and Mr Greg Andrews. Accordingly, there would have been no breach of Section 5.1.3 of the Policies.

No breach of the ABC Editorial Policies has been established.

**Allegation 17: The statement that women and children in Mutitjulu are dying before people's eyes and that there is death and despair everywhere is false and unsupported by facts.**<sup>46</sup>

The relevant part of the transcript of the Program appears to be:

SUZANNE SMITH: *“Mantatjara Wilson knows what has to happen. In the first instance, she wants sworn policewomen – black and white - to be recruited, so Indigenous girls will come forward and report sexual assault. But this proud desert matriarch thinks she’ll be gone before anything changes for the better in her country.”*

<sup>45</sup> Sexual Slavery (later changed to Abuse) reported in Indigenous Community, Lateline 21 June 2006

<sup>46</sup> See issue 18 on page 5 Complainants’ submission.

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MANTATJARA WILSON: *“I am of the last generation, yet I am seeing my children die before me. I will get sick and die and leave some of them behind. But what is going to happen to my grandchildren’s children? And all my grandsons? I cry for my grandsons. In every corner of our lands, there is death and despair. We are the last generation. But what is the future for our children? What will happen to them when we pass away? We are all dying you know, even the young fellas and young girls are dying before their time. They are committing suicide by hanging or they kill themselves by other methods. (Whispers) My spirit weeps. I am grief stricken and devastated. I am telling the truth.”*

The Complainants state that this is “totally false and is completely unsupported by the evidence. Once again not one local was interviewed to test the veracity of this allegation.”

#### **Panel’s view**

The Panel notes that the Program also included the following statements:

“TONY JONES: *“Finally, I’d like to bring you back to Mantatjara Wilson. She has a rather pessimistic view of the future. She said that she sees herself a member of the last generation – not the lost generation, but the last generation. She said “its like we are all falling to pieces and I feel that we’re going to disappear and that’s going to be the end of us.” I mean, do you think or do you fear that she may not be wrong?”*

DR GEOFF STEWART: *“I certainly feel that – I mean, I’ve shared, you know, sort of similar concerns in the past. I think that the question now is for the general community, for the mainstream population of Australia and our governments is, are we prepared to accept that?...”<sup>47</sup>*

The Program dealt with the social issues within the Central Desert and gave prominence to the situation within and surrounding the Mutitjulu community. Whilst Mantatjara Wilson did refer to Mutitjulu community conditions, she also referred to the plight of the Indigenous community across the central desert region. Her statement should be regarded as “opinion” rather than involving “factual content”.

In the Panel’s view, her comments were supported with commentary from Dr Stewart, again someone with first hand experience of Indigenous communities and health issues. Had the ABC been able to gain access to the Mutitjulu community or been able to meet with the representative of the Community who initially agreed to meet with the reporter, then a contrary view may have been provided.

The program makers were justified in broadcasting Ms Wilson’s views, to which Mr Randall’s comments in other parts of the program provided some balance.

No breach of the ABC Editorial Policies has been established.

**Allegation 18: Stale criminal records involving Leslie Calma, were used and resulted in serious misreporting, since it leads viewers to believe the convictions were recent.** <sup>48</sup>

The Complainants argue that *Lateline* “seriously misreported Leslie Calma’s criminal record by failing to acknowledge that the offences of assault against a woman were committed more than 30 years ago. The *Lateline* story leads viewers to believe that the convictions recorded against Mr Calma are recent. This action by *Lateline* is an offence in its own right and is in breach of the Northern Territory spent conviction legislation, a complaint that was completely ignored by the ABC’s Audience and Consumer Affairs department.”<sup>49</sup>

<sup>47</sup> STIs found in remote community children:doctor, *Lateline* segment 21/06/06 <sup>48</sup> Point 2 page 6 Complainants’ submission.

<sup>49</sup> Page 6 Complainants’ submission.

The relevant part of the transcript of the Program is as follows:

SUZANNE SMITH: *"Lateline asked Bob Randall whether he knew that his nephew Leslie Calma had a criminal record when he employed him at the Mutitjulu health clinic. Leslie Calma is still working there as the driver."*

BOB RANDALL: *"Yeah, I think he ... got speeding fine, having a so-called unregistered firearm – you know, because he loves his shooting – but he's not a criminal. He's just another man doing what little he can to, you know, look after his family like all of us."*

SUZANNE SMITH: *"In fact, Leslie Calma has two convictions for assaulting a female. He was also the man who intimidated the Aboriginal youth worker into withdrawing his complaint to police ... "*

In response to the allegations the ABC states:

*"Suzanne Smith was told about Leslie Calma's convictions by a reliable source, but was not advised when the convictions occurred. Ms Smith had no reason to think they would be 'spent convictions', indeed, she was not even aware of the Criminal Records (Spent Convictions) Act (NT). This is important, because it is only if "a person knows, or should reasonably be expected to know, that a record is a spent record" that there can be liability under section 12 of the Act. Ms Smith still does not know when the convictions occurred, or what the sentence was.*

*"It may also be the case that the two assault convictions referred to are not 'spent' anyway, as that will depend on a number of factors ... Without knowledge of these requisite matters, it is not possible to say, first, that the convictions were 'spent, and in any event the report could not 'reasonably be expected to know, that a record is a spent record" without that additional information".*

Ms Smith also commented:

*"I endeavoured to contact Mr Leslie Calma by telephone (from my mobile and desk phone) on more than one occasion to enquire about his criminal record and to query whether his character and record were suitable qualifications for his employment at the Mutitjulu Health Clinic. Mr Calma did not return my calls."<sup>50</sup>*

Also, the Panel sought further information from the Complainants as to Mr Leslie Calma's convictions, but received no response. Further, it notes that Mr Calma has not, himself, complained about these allegations in the Program.

### **Panel's view**

The Complainants do not contest that Leslie Calma has two convictions for assaulting a female. Their complaint is that the Program did not report that these offences were committed more than 30 years ago. They assert that the Lateline story led viewers to believe that the convictions were recent. They also claim that reference to the convictions was a breach of the Northern Territory Spent Convictions Legislation.

The Panel is satisfied that the statement "in fact, Leslie Calma has two convictions for assaulting a female" in the context in which it occurred in the Program could reasonably convey to viewers that the convictions were not so old as to lack significance. In its context the statement appears to provide an answer to Mr Randall's assertion that Leslie Calma "is not a criminal".

The Panel has no independent evidence of the age of these uncontested convictions. It has only the Complainants' assertion that they were more than 30 years old and Suzanne Smith's account that she was told of them "by a reliable source, but was not advised when the convictions occurred". In these

<sup>50</sup> Ms Smith's comments attached to 3 December ABC response to Preliminary Report.

circumstances, the Panel is satisfied that it can make no finding as to the alleged factual inaccuracy of the statement complained of.

The Panel is of the opinion that if the ABC sought to rely on an anonymous source it had a duty to minimise the risks associated with using information obtained in this way. It notes that Ms Smith was “not advised” by her source as to when the convictions occurred. Clearly, had she been told that they were more than 30 years old she should have been obliged, in achieving proper balance, to have qualified her statement to take account of that fact.

The Panel has considered whether Ms Smith should have sought further information from her source as to the age of the convictions and included that information in the broadcast. This would require an assumption that the source had such information and would have disclosed it to Ms Smith. However, regard must be paid to the portion of ABC Editorial Policies 2002 Section 12.6.12, upon which Ms Smith relies, which provides that “ABC staff will not be obliged to disclose confidential sources which they are entitled to protect at all times”. The Panel is not, of course, concerned to identify Ms Smith’s source but, in the circumstances, it has not been able to satisfy itself as to whether or not she sought clarification as to the age of the convictions. In these circumstances, the Panel is not prepared to speculate as to what further (if any) information Ms Smith could have obtained from her source, if she had asked further questions.

The complaint as to a breach of the Northern Territory Criminal Records (Spent Convictions) Act does not fall within the Panel’s jurisdiction. In any event, an answer has been provided by the ABC in the passage quoted above.

No breach of the ABC Editorial Policies 2002 has been established.

**Allegation 19: The use of unattributed old footage on petrol sniffing misrepresents the current situation, since petrol sniffing has been eliminated from Mutitjulu.**

The footage in question shows young Aboriginals sniffing petrol with no indication of the location or date of these incidents.

The Complainants argue that “*Lateline* used old file footage of Mutitjulu without identifying it as such, including old vision of petrol sniffing, a scourge which has been eliminated from our community since the beginning of 2006.”<sup>51</sup> Breach of 5.1.3, 6.1.3, 6.10.1 and 6.10.3 of the Policies were alleged.

In response the ABC stated:

*“it is standard practice in television current affairs to use file footage in circumstances where fresh footage cannot be obtained. The ABC understands that conflicting reports remain on whether petrol sniffing has been eliminated from Mutitjulu, with credible Indigenous elders reporting that it remains a problem.”*<sup>52</sup>

*“The images of petrol sniffing used in this story were filmed at Mutitjulu in 2001. These were not labelled as file footage because the program did not believe that their use would confuse or mislead the audience. The images were used as illustration only, and were not dwelt upon or unduly emphasized in the report.”*

*“Lateline was told that petrol sniffing had not been eliminated in Mutitjulu” and refer to the fact that “Opal (unsniffable) fuel was not introduced at Yulara Mobil... until after 21 May 2006, and that following its introduction Opal was at first mixed with sniffable fuel”.*<sup>53</sup>

<sup>51</sup> Page 6 of the Complainants' submission.

<sup>52</sup> Page 2 ABC letter to Complainants dated 29 September 2006. <sup>53</sup> Page 4 of the ABC 23 February 2007 submission (added)

### Page 33 of 47 Panel's view

The ABC provided the Panel with relevant extracts from a report entitled "*Opal Cost Benefit Analysis*", prepared by Access Economics published in February 2006, together with several personal accounts (one with name withheld) to support their claim that petrol sniffing was still prevalent at the time of preparing and broadcasting the Program. The ABC also claims that since they were denied access to Mutitjulu they had no choice but to rely on file footage.<sup>54</sup>

Section 6.10.1 of the Editorial Policy states that file footage should be clearly identified as such if not to do so would confuse or mislead the audience. As noted above, the ABC has stated that it understood "that conflicting reports remain on whether petrol sniffing has been eliminated from Mutitjulu, with credible Indigenous elders reporting that it remains a problem."<sup>55</sup>

In the Panel's opinion, although there was a body of evidence to the effect that petrol sniffing was a continuing problem, there was sufficient lack of clarity as to its prevalence in Mutitjulu at the actual time of the broadcast, to render it necessary to indicate to viewers that file footage from 2001 was being used. Without this indication, the footage is capable of being accepted as positive proof of its being then a present problem.

The Panel finds that the ABC did not comply with Section 6.10.1 of the Policies. In failing to do so, it conveyed the misleading meaning to viewers that the petrol sniffing footage was of recent origin. This constituted a factual inaccuracy sufficient to require a finding of breach of Section 5.1.3 of the Policies. The Panel makes no other finding in respect of this allegation.

### **Allegation 20: File footage depicting Central Australia was used to depict Mutitjulu and was misleading.**<sup>56</sup>

The Complainants argue that "throughout the *Lateline* story, footage from other areas in Central Australia, including Docker River and Ernabella, is used to depict Mutitjulu"<sup>57</sup>. The Complainants allege this constitutes a breach of Sections 5 and 6 of the Policies. No specific information was provided to support this claim.

### **Panel's view**

The *Lateline* program in question covered the Central Desert region with focus on the Mutitjulu community. The ABC used file footage from several communities, which did not include any location identification. The footage showed the living conditions in various towns

Section 6.10.1 of the Policies states:

*"File footage and images used in news or current affairs reports should be clearly identified as such, when not to do so would confuse or mislead the audience."*

Although the Program focussed, to a large extent on Mutitjulu, it also referred to the Central Desert in general. The Panel accepts that the ABC was unable to film in Mutitjulu. It does not appear that the film footage used could create a false impression of conditions in Mutitjulu.

In these circumstances, the Panel considers that there was no obligation to identify the origin of the film footage and, consequently, there was no breach of the Policies.

No breach of the ABC Editorial Policies has been demonstrated.

<sup>54</sup> Page 5 of the ABC 23 February 2007 submission (added)

<sup>55</sup> Page 2 ABC letter to Complainants dated 29 September 2006. <sup>56</sup> See point 5 on page 16 Complainants' submission.

<sup>57</sup> Page 7 Complainants' submission.

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**Allegation 21: The statement that *Lateline* had unsuccessfully sought permission to enter**

**Mutitjulu on several occasions is false.**<sup>58</sup>

The Complainants argue "that *Lateline* made no attempt to visit the community of Mutitjulu before or after the broadcast of its 21 June story. To exacerbate this, *Lateline* falsely claimed publicly that it had unsuccessfully sought permission to enter Mutitjulu on several occasions."<sup>59</sup>

The Complainants provided a copy of *Lateline's* response to a National Indigenous Times inquiry dated 11 July 2006, which among other things, refers to Ms Smith stating that "I sought permission several times to visit Mutitjulu."

This, according to the Complainants, is a breach of Editorial Policies 5.1.3, 5.1.4 and 6.1.3. In response the ABC states that *Lateline* was not granted permission to enter Mutitjulu.

*"The failure was in Mutitjulu Community Council's refusal to respond to requests from Suzanne Smith and grant her the required permission".*<sup>60</sup>

The ABC provided to the Panel copies of fax and phone records which indicated that Suzanne Smith had attempted to communicate with the Mutitjulu Community Council and Parks Australia office in Uluru Kata Tjuta on the 8 and 9 June 2006. The ABC stated that these communications and others were addressed to the Chairperson of Mutitjulu Community Council (MCC), Mr Sammy Smith and Mr Graham Calma, as well as the media officer for the Park.

The reason for rejecting the request to enter given by Parks Australia was that the allowed number of crews was already in the Park and therefore a permit could not be issued.<sup>61</sup>

According to the ABC, this unsuccessful attempt to obtain permission from either Parks Australia and/or the MCC to enter Mutitjulu was the latest of recent attempts:

*"Other attempts by ABC staff to enter Mutitjulu have been similarly unsuccessful. Matthew Carney, a journalist from the ABC's Four Corners program, tried unsuccessfully to get permission to film in Mutitjulu. He made many attempts between September 2005 and March 2006 and was informed that the Council 'hated the media' and that he would not be allowed to interview anyone in the community until further notice".*<sup>62</sup>

The Panel's letter to the Complainants of 11 April 2007 sought comments on the ABC's response. No answer has been received.

### **Panel's view**

The Complainants claim that "not one member of our community has ever spoken to Ms Smith in relation to her alleged request to visit Mutitjulu". The Complainants have advised the Panel that they do not speak for the community or the Community Council. In these circumstances, the Panel has difficulty in understanding how the Complainants can make a statement of this width.

Support for the claim that the ABC did contact Parks Australia is provided from the Editor of National Indigenous Times:

*“On July 8, 2006 I had a phone conversation with Margot Marshall, who is the head of media for Parks Australia. Ms Marshall told me that prior to the airing of the Lateline story, a Lateline representative (who she could not name) contacted Parks Australia officials in Central Australia to request permission to film in the Uluru-Kata Tjuta National Park, as is the normal practice.”<sup>63</sup>*

<sup>58</sup> Point 5 page 7 Complainants’ submission. Also comments in point 7 page 17. <sup>59</sup> Page 7 Complainants’ submission.

<sup>60</sup> Page 6 ABC 23 February 2007 submission

<sup>61</sup> Page 6 ABC 23 February 2007 submission

<sup>62</sup> Page 6 ABC 23 February 2007 submission <sup>63</sup> Attachment C Complainants’ submission.

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The Panel is of the view that there was no breach of the Policies. Sufficient information has been provided which indicates that unsuccessful efforts were made by Lateline to gain access to Mutitjulu for the purposes of the Program.

No breach of the ABC Editorial Policies has been demonstrated.

**Allegation 22: Timing and Knowledge of Paedophile was known by Lateline and they deliberately mislead viewers by claiming the paedophile was still operating in Mutitjulu.**

The Complainants claim that

*“the alleged paedophile at the centre of the Lateline program was forced out of the community by residents and his employer long before Lateline aired its story (at least seven months before). This fact was well known to Lateline (see attachment C) being a letter by National Indigenous Times Editor, Chris Graham dated 28 August 2006. Regardless, Lateline sought to mislead viewers by claiming the paedophile was still operating in Mutitjulu. This is a breach of ABC Editorial Policies 5.1.3 and 6.1.3.”*

The relevant section of this letter is:

*“We put it to Suzie that the alleged paedophile at the centre of the story had left Mutitjulu more than two years ago (thus, in about March 2004), based on discussions we had had with people based in the Northern Territory.*

*“Suzie told us that we were incorrect. She claimed that the man had left the community in October last year. On this basis, she claimed that it was clear that neither of us had ‘done the research’ and that when we had, we should come back to her.*

*“Our subsequent research confirmed that Suzie’s claim was much closer to the correct date – the man left Mutitjulu on or about November 27, 2005. Like you, it strikes me as dishonest that even though Suzie believed the man had left Mutitjulu in 2005, she reported that he was still active in the community in 2006.”*

The Complainants also alleged that the “deception regarding the ongoing alleged activities of the man in Mutitjulu was repeated in a subsequent Lateline story air on June 23 2006 authored by Jane Cowan which claimed the alleged paedophile had recently arrive in Amata in South Australia. This is



*a breach of Principle 1 of the MEAA Code of Ethics. This is also a breach of ABC Editorial Policies 5.1.3 and 6.1.3."*

The relevant part of the transcript from 23 June 2006 program segment titled (ABC Online) "Questions continue over NT child sex abuse cases" appears to be:

JANE COWAN: "As for the paedophile who abused children in Mutitjulu, South Australian police say a man fitting his description has recently arrived in the tiny community of Amata. But there's no sign it will be any easier to stop him there."

JAY WEATHERILL, SA ABORIGINAL AFFAIRS MINISTER: *They're allegations that there's a paedophile in South Australia and it would be obvious to people that we can only act on the basis of evidence.*

JANE COWAN: *The South Australian Government says the case shows the need for a national inquiry into child sexual abuse – an idea it plans to put to the summit in Canberra on Monday."*

In response the ABC stated:

*"at the time that the report was broadcast, Lateline was not aware of the specific whereabouts of the paedophile. On 22 June, Lateline reported - in two stories broadcast that night, transcripts of which are attached at M and N – its understanding that the same senior man who*

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*had been swapping petrol for sex with young girls in Mutitjulu was in the South Australian community of Amata."*<sup>64</sup>

And then, in its later submission, the ABC stated:

*"On 22 June, Lateline reported its understanding that the same senior man who had been swapping petrol for sex with young girls in Mutitjulu was now in the South Australian community of Amata. This information was able to be reported on 22 June only because a person contacted the program after seeing the 21 June story and advised Lateline that the man was in Amata. The program verified this information with the South Australian Police before broadcasting the information."*<sup>65</sup>

The Panel's letter to the Complainants of 11 April 2007 sought further information relating to the claim that the paedophile had been "forced" to leave the community some months before the broadcast. No information was provided.

### **Panel's view**

A review of the transcript of the Program indicates that no direct reference is made to whether the alleged paedophile is still in the community or has left. A portion of the transcript, arguably, carries the suggestion that he was still at Mutitjulu at the time of the broadcast, where Suzanne Smith asks, "How young are the girls that this man is giving petrol to?"

However, the Panel can find no portion of the broadcast which positively asserts that the paedophile was then active in the Mutitjulu community. The following reference is typical:

SUZANNE SMITH "...she (Jane Lloyd) notified local police, the South Australian Government and the Northern Territory Government about the activities of the paedophile, as recently as April last year..."<sup>66</sup>

Clarification of the situation occurred the following day when the *Lateline* program, on 22 June, included a segment entitled "Paedophile moved interstate, GP says". The relevant section of this interview with Dr Richard Janus states:

SUZANNE SMITH: *"Now, Dr Richard Janus, a Sydney GP who worked as a locum at the Mutitjulu health clinic in October last year, has contacted Lateline. Dr Janus says he met the paedophile when he came to the clinic, seeking a prescription for Viagra"*

... SUZANNE SMITH: *"Lateline has been told the paedophile has moved from Mutitjulu in the Northern Territory, to the tiny community of Amata, just over the border in South Australia."*

The Panel considers that uncertainty as to whether the paedophile was still operating within the Mutitjulu community was not apparent to the production staff prior to the Program. The open-ended nature of Ms Smith's comment could possibly have created the impression that the paedophile was still operating in the Mutitjulu community. However, the program management moved quickly to clarify the issue on the following evening.

In these circumstances, the Panel believes that there was no breach of any of the provisions of Section 5 of the Policies since the program manager corrected any incorrect perception in a timely manner.

Moreover, even if the paedophile had left the community in 2005, there was, apparently, nothing to prevent him from returning. Amata was in the Anangu lands and people readily and regularly travelled between and stayed in the two settlements.

<sup>64</sup> Page 12 ABC 18 June 2007 submission.

<sup>65</sup> Page 10 ABC 18 June 2007 submission.

<sup>66</sup> Page 2 of 21/06/07 Lateline transcript "Sexual Slavery (later Abuse) reported in Indigenous community"

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**Allegation 23: Mr Greg Andrews was incorrectly portrayed as 'former youth worker' on the program and was not a credible person to comment.**<sup>67</sup>

The Complainants argue that breaches of Section 5 and 6 of the Policies occurred because:

*"Lateline mislead its viewers by falsely describing Greg Andrews as a 'former youth worker' in its original 21 June 2006 program. Mr Andrews "has never worked as a youth worker neither at Mutitjulu nor anywhere else, a fact eventually conceded by Lateline and Mr Andrews. Mr Andrews is an Assistant Secretary in the Office of Indigenous Policy Coordination. His Minister is Mal Brough, Indigenous Affairs. This fact was well known to Lateline prior to the broadcast of its story. In addition to this, Mr Andrews' identity was concealed on the program with his face blacked out and his voice digitally altered. He made statements on the program that backed Mr Brough's comments about paedophile rings. The depiction of Mr Andrews and the false description of his employment is a flagrant breach of principles 1 & 9 of the MEAA Code of Ethics, in addition to a clear breach of principle 3..."*

The question of Mr Andrews' credibility has already been dealt with. The following material may be added on this topic. It comes from the Lateline program of 1 August 2006:

STEPHEN McDONELL: *"In August 2005, the Northern Territory coroner investigated the deaths of three petrol sniffers at the remote Aboriginal community of Mutitjulu. A key witness was Gregory Andrews."*

GREGORY ANDREWS, 'WORKING TOGETHER PROJECT' (12 AUGUST, 2004): *"I think governments have a moral obligation to do something because there's 120 young people in this region who will be in wheelchairs or be dead in the next few years if nothing's done."*

STEPHEN McDONELL: *"Mr Andrews, who would later appear on Lateline, was praised in the coroner's report. The coroner said of him: "I have rarely met a more qualified, committed and emotionally and culturally supportive advisor, in terms of Aboriginal substance abuse, than Mr Andrews. His work is simply outstanding." Mr Andrews ran the "Working Together" project in Mutitjulu. According to the coroner, the project's achievements included establishing a childcare centre, which gave children a safe place to be; finding employment for young local women; recruiting a youth worker; and obtaining funding for a substance abuse worker. Because of this work, when he asked us to protect his identity, Lateline used the generic term 'former youth worker'.*

*Gregory Andrews had already upset some community members when he told the coronial inquiry about Mutitjulu's problems, including the exchanging of petrol for sex. In a statement released today, Mr Andrews said after his appearance at the coronial inquiry (31 July 2006): "I was threatened with violence and intimidated on a number of occasions. This abuse extended to harassment of my wife and me when we were in hospital with our newborn son." Last month, Lateline reported on allegations of extensive child abuse at Mutitjulu, including that a particular paedophile was allowed to operate unchecked in the community. By now, fearing for his safety, Andrews agreed to appear on the program only on condition of anonymity, because of the flack he received after the coroner's inquiry."*

Greg Andrews was employed as the coordinator for the *Working Together* project at Mutitjulu. In relation to his being described in the Program as a "former youth worker", the Panel accepts that arose from his desire to appear anonymously because of his fears for the safety of himself and his family. This has not been challenged by the Complainants.

In his response on behalf of *Lateline*, Tony Jones has conceded the description of Mr Andrews "as a 'former youth worker' was a misjudgement, though a minor one. It's one of those issues that

<sup>67</sup> Issue 8 page 8 and point 9 page 17 Complainants' submission.

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conspiracy theorists use to build their house of cards. And they have done so. In retrospect, 'former

project worker' would have saved us a good deal of trouble."<sup>68</sup> The ABC has also submitted that:

*"the complaint implies that Greg Andrews was motivated to appear on the program in order to provide support for comments made by the Minister for Indigenous Affairs in an earlier Lateline interview. The facts do not support this claim. Firstly, Greg Andrews had been making these comments about Mutitjulu and violence in Indigenous communities for some time, and certainly since well before he commenced work in the Office of Indigenous Policy Coordination. These comments were a matter of public record. Secondly, he was subjected to threats after his initial comments to the Coronial Inquiry, and these threats resumed after his appearance on Lateline. It is evident that Greg Andrews had good reason to be concerned about drawing further attention to himself in making comments about his experiences in Mutitjulu. Thirdly, referring to Greg Andrews as a 'former your worker' did not mislead the audience in any way, nor did it detract from his evidence. While, as Tony Jones acknowledges, in retrospect the descriptor 'former project worker' would have been preferable, the difference between these terms does not amount to an inaccuracy, and certain not a "serious factual inaccuracy" of the sort that the Panel's jurisdiction covers."<sup>69</sup>*

### **Panel's view**

The Panel considers that there was no serious breach of the requirements for accuracy in the Policies. The title given to Mr Andrews was not significantly different from his actual role at Mutitjulu. Furthermore, this variation in title would not have misled the audience and was adopted for good and sufficient reason.

No breach of the ABC Editorial Policies has been established.

**Allegation 24: There was an incorrect assertion as to who was the main witness.**

The Complainants argue that the Presenter incorrectly asserted on 1 August 2006 that Mr Andrews was not the main witness in the Program; rather that Dr Stewart was the main witness.

*“The headline of the June 21 story is ‘Sexual slavery report in Indigenous community’. That claim was made by Mr Andrews and Mr Andrews alone. Dr Stewart explicitly rejected claims that paedophile rings were operating in Aboriginal communities.”<sup>70</sup>*

In response to this issue the ABC states:

*“that the reference to ‘sexual slavery’ in the initial headline was not the work of the Lateline editorial team. While Lateline editorial staff are responsible for the content that is broadcast on television, ABC Online staff are responsible for titling the transcripts, and did so on this occasion. Shortly after the transcript was made available online, Suzanne Smith became aware of the title and personally contacted ABC Online to have it amended. This was not prompted by any complaint, and indeed, the reference to ‘sexual slavery’ accurately reflects comments made by Greg Andrews in his interview on the program. However, Ms Smith believed the term ‘sexual abuse’ better reflected the broad range of testimony included in the program and the central theme of the story.”<sup>71</sup>*

68. <sup>68</sup> Page 14 and 5 ABC 23 February 2007 submission, extract from Crickey Newsletter.

69. <sup>69</sup> Page 16 of the ABC 23 February 2007 submission.

<sup>70</sup> Page 9 Complainants’ submission.

<sup>71</sup> Page 17 ABC 23 February 2007 submission

**Page 39 of 47 Panel’s view**

It would appear that the ABC has satisfactorily explained its view that Dr Stewart was the main witness. In any event, the Panel considers that this is not a question falling within its jurisdiction under Section 12.6.1 of the Policies.

**Allegation 25: The Presenter incorrectly asserted that *Lateline* did not back the claims of Minister for Indigenous Affairs who stated that paedophile rings were operating through Aboriginal communities. *Lateline*’s statement that what they found corroborates what the Minister said is incorrect.<sup>72</sup>**

The Complainants state that “on August 1 2006, Tony Jones asserted that *Lateline* never backed the claims of Minister for Indigenous Affairs, Mal Brough, that paedophile rings were operating throughout Aboriginal communities. On June 21, on the ABC PM program, Suzanne Smith in an interview with Mark Colvin stated ‘Mal Brough was attacked for his claim about paedophile rings. But what we have found corroborates what he said.’ What *Lateline* found in no way corroborates what Mal Brough said and what Tony Jones claimed on August 1 2006 in no way resembles what actually happened.”<sup>73</sup>

The relevant transcript extract for the August 1 segment is:

TONY JONES: “A recent *Lateline* report dealing with the activities of a paedophile in a remote Aboriginal community generated fresh controversy over the weekend when Sydney Morning Herald columnist, Alan Ramsay, took us to task for using an anonymous source. In the course of his critique, Mr Ramsay outed this person as Mr Gregory Andrews, an Aboriginal man who works as a senior public servant in the Department of Indigenous Affairs. Following his outing by Mr Ramsay and some other media outlets, Gregory Andrews has given us permission to confirm that he was indeed interviewed by *Lateline*, and this evening has released a statement defending himself. But before we get to Mr Andrews’ story, *Lateline* would like to address a few of the criticisms levelled against us by

*Alan Ramsay. The Herald's senior Canberra columnist said Mr Andrews was our "star interviewee". In fact, he was just one of six people who spoke to us about the abuse of children in Mutitjulu. Our main witness - for the record - was Dr Geoff Stewart, whom we interviewed for more than 20 minutes. Moreover, contrary to Mr Ramsay's assertion, Lateline never supported the view of the Indigenous Affairs Minister Mal Brough that there were organised paedophile rings operating in Aboriginal communities. The story only ever identified one paedophile...".*

In its response, the ABC states that Indigenous Affairs Minister Mal Brough first made reference to paedophile rings operating in Indigenous communities in an interview with Tony Jones on *Lateline* on 16 May 2006. In that interview it was the Minister who raised the issue of paedophile ring operating in Indigenous communities:

TONY JONES: *"When is it going to happen across the entire Territory? We know there is extra money in the budget. When will that be spent? When will we see a situation when there's only one petrol station in Alice Springs with Opal fuel?"*

MAL BROUGH: *"I don't think that's the fundamental issue. Wherever you draw the boundaries, as one of the people on the program mentioned earlier, when you get leaders - and that's what they are - so-called leaders in these communities that bring it in, children don't drive out and bring in un-sniffable or sniffable petrol. You have Opal there and they still get hold of it. Until you get out the root cause and it comes back to the fundamental issue I keep speaking about, and that's law and order and maintaining it. Everybody in those communities knows who runs the paedophile rings. They know who brings in the petrol and they know who sells the ganja. They need to be taken out of the community and dealt with, not by tribal law, but by the judicial system that operates throughout Australia. We're all equal in this country and we should all be treated the same way."*

<sup>72</sup> Item 10 page 9 Complainants' submission. <sup>73</sup> Item 10 page 9 Complainants' submission

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TONY JONES: *"I'm sorry, you just said something which astonished me. You said paedophile*

*rings that operate in these communities. What evidence is there of that?"*

MAL BROUGH: *"There is considerable evidence of that. If you only have to look at your own reports over the last two days, these are not isolated incidents. Some of them are, but there are examples of people who've been operating at a very senior level within Indigenous communities that have such power over those communities and use children at their own whim and they've been dealt with in some cases. In other cases they are still free and you need to get the evidence. When you finally nail someone to be able to have an individual stand up and actually stand in the dock and say, "This person is guilty," they refuse to do so, you're back to where you started."*

TONY JONES: *"If this is right why aren't the Federal Government involved? Clearly, you don't trust the Territory Government and their police force."*

MAL BROUGH: *"I'm working as best as I possibly can with the Territory Government, as I've just said to you. We shouldn't and won't restrict ourselves to anything that will address these issues. I've been in this portfolio for less than three months and I believe it's best to try and work with other levels of Government, all states and territories, but we are talking about the welfare of the next generation. They've got no chance if their parents are rolling drunk, up to their ears in ganja and not in any way looking at the welfare of their children. I won't stand by and simply say that law and order is just the responsibility of the states and territories. If we have the power and they refuse to move we should consider those issues. I'm not in a position tonight to tell you (a) I have the power and (b) I am part of a Government that would take such positions."*

TONY JONES: *"One final question, because I'll come back to this issue of paedophile rings. It appears to me that's the first time any senior politician has said any such thing. Is that the case?"*

MAL BROUGH: *"I don't know. What I would say to you is what you reported last night, I've been saying directly to the media in the last few weeks and asked them to report it and people haven't. I think the fact that Lateline has, has done a justice to the Australian community because if we don't peel the scab away, we're not going to get to the root cause and I'm determined to get to the root cause or at least do my very best to get there."*

TONY JONES: *"Mal Brough, we'll have to leave you there. We thank you very much for coming in to talk"*<sup>74</sup>

The ABC also states that:

*"to examine whether there was support for the Minister's claim in its discussions with witnesses in the 21 June story. First Suzanne Smith put the question to Jane Lloyd:*

SUZANNE SMITH: *"As far as Lateline knows, there is one paedophile and he relies on his kinship and ceremonial connections for protection. Would you describe it as a paedophile ring operating in Mutitjulu?"*

JANE LLOYD: *"Not in the sense that we understand a paedophile ring, but in a sense that they are organised. They are protected by their relationships to these - to their victims. They are protected by their relationships to other men in the communities and to other women."*

The issue was also put to Dr Geoff Stewart by Tony Jones on 21 June:

TONY JONES: *"The anthropologist Jane Lloyd responded to the question, "Was there a paedophile ring operating in Mutitjulu?" with the answer that they're organised, in the sense that they are protected by their relationships to the victims and to other men. I mean, do you think that's right? Does that - we've heard Mal Brough making these claims of paedophile rings in the Northern Territory."*

<sup>74</sup> <http://www.abc.net.au/lateline/content/2006/s164148.htm>.

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DR GEOFF STEWART: *"Yeah, well, I think - I don't believe that's the case and I don't believe they exist with the connotations that go with that term. I mean, we've described one - an individual who's been engaged in that sort of paedophilic behaviour. So, no, they don't exist and I'm confident that they don't exist in that way, but Jane is correct in saying that there are systemic and structural issues at play within the community that have allowed his behaviour to continue and in some ways to be - well, it's never officially condoned, but they've certainly been inactive in terms of dealing with it."*

There is no basis for the claim that *Lateline* supported Mal Brough's allegation about paedophile rings.

The Complainants' reference to an interview with Suzanne Smith on *PM* on 21 June 2006<sup>75</sup> neglects to consider the context of Ms Smith's comments:

SUZANNE SMITH: *"... I think also there's a sense that it's too hard from all the participants in my story. I think there's been police who sincerely wanted to do something ... but didn't have the resources or actually found other senior men in the community to be thwarting their investigations. See, what the women have told me is it is a paedophile ring, but not in our sense, it's in an Indigenous*

sense. You have a predatory paedophile who then through his ceremonial and kinship relationships with other men and victims is protected. So it's not a white paedophile ring in the sense that they've got computers and all that sort of thing. So when Mal Brough, after Lateline's Nanette Rogers story made that claim ..."

MARK COLVIN: "... used the expression "paedophile ring", and was ... SUZANNE SMITH: That's right."

MARK COLVIN: "... attacked for it."

SUZANNE SMITH: "He was attacked for it. But what we have found corroborates what he said. Basically there was a paedophile and he was protected by senior men, and we've also discovered that many of those senior men have serious criminal records."

### **Panel's view**

The Panel believes that there is no breach of the Policies, since *Lateline* handled the issue in a balanced and appropriate way. The Minister first raised the issue of the existence of a 'paedophile ring' and *Lateline* and *PM* programs explored this allegation, clarified the Minister's statement and provided the necessary balance to the opinions. The Program did not support the suggestion that paedophile rings, in the accepted sense, existed in Aboriginal communities.

No breach of the ABC Editorial Policies has been established.

### **Allegation 26: Non-resident witnesses were inappropriately used and depicted in the program as people who are aware of the situation on the ground today.<sup>76</sup>**

The Complainants stated that *Lateline* asserted its critical witnesses had lived in Mutitjulu. Some of the witnesses portrayed in the *Lateline* story have not lived in Mutitjulu for many years but are depicted as people who are aware of the situation on the ground today, when clearly they are not. Dr Geoff Stewart and Mantatjara Wilson are relied upon as primary or main witnesses. Neither of these persons has lived in Mutitjulu for several years. The same is the case for Ms Lloyd. The Complainants alleged a breach of ABC Editorial Policies of section 5 and 6 has therefore occurred.

<sup>75</sup> STIs found in remote community children: doctor program segment <sup>76</sup> Item 11 page 9 Complainants' submission.

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In response the ABC states:

"The 21 June program described the six witnesses as having 'all lived in Mutitjulu and the central deserts between 2000 and early 2006...All but one of the witnesses had lived or stayed in Mutitjulu for various periods between 2000 and 2006. The remaining witnesses had worked in Mutitjulu and lived nearby.

The ABC is satisfied that each of the six witnesses featured had first hand experience of events in Mutitjulu and were credible and reliable in their recall of these events. The Complainants question the credibility of four of the witnesses – Mantatjara Wilson, Greg Andrews, Dr Geoff Stewart and Jane Lloyd – on the basis that they do not live at Mutitjulu."<sup>77</sup>

### **Panel's view**

The Panel has reviewed the profiles of all four interviewees and considers that they are qualified to comment on their relevant experience with the Mutitjulu community.

In relation to whether the interviewees were capable of commenting on the current situation in Mutitjulu, the transcript from the Program is as follows:

SUZANNE SMITH: *“This story contains the oral and written testimony of six people – white and black – who all lived in Mutitjulu and the central deserts between 2000 and early 2006. They are a doctor, a youth worker, a domestic violence worker, a park ranger, a schoolteacher and an Aboriginal elder. What they saw and experienced in this physically beautiful place will stay with them forever, as will their sense of guilt for having in their minds, failed a people they love.”*

Also, the 22 June 2006 program segment (“Paedophile requested Viagra, GP says”) clearly states that the oral and written testimony related to the 2000 to early 2006 period:

SUZANNE SMITH: *“On Lateline last night, we revealed a story of government failure, of a predatory paedophile unchecked by authorities. This story contained the oral and written testimony of six people – white and black – who lived in Mutitjulu in the central deserts between 2000 and early 2006. But the dramatic testimony came from elder Mantatjara Wilson. She says the paedophile was trading petrol for sex with under-aged girls.”*

The failure of the MCC to respond to *Lateline*’s request to enter Mutitjulu meant that *Lateline* could not interview persons actually in Mutitjulu. Therefore, it was reasonable for them to rely on persons not presently resident in Mutitjulu but who had, nevertheless, relevant experience and first hand knowledge of the Mutitjulu environment.

The Panel believes that the interviewees' factual comments or opinions all drew on their direct experience in and around the Mutitjulu community. Also, the Panel’s letter to the Complainants of 11 April 2007 sought comments and information as to the situation in Mutitjulu at the time of the broadcast. The Complainants did not respond.

Moreover, the Maggie Kavanagh report of May 2006, already referred to, makes it clear that serious social problems relating to violence, drugs, alcohol and petrol existed in Mutitjulu at that time and was well known to the Complainants and persons in authority. It would be highly improbable that significant changes in relation to these problems would have occurred in the short period before the broadcast.

Also, the material made available to the Panel indicates that Mantatjara Wilson, although not solely resident in Mutitjulu over the seven year period prior to the broadcast of the Program, nevertheless, was able to travel extensively between and stay in the Anangu communities in the area. Also, she maintained significant awareness of the problems in Mutitjulu as she had grandchildren who resided there and were caught up in those problems.

<sup>77</sup> Page 20 ABC 23 February 2007 submission.

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No breach of the ABC Editorial Policies has been demonstrated.

**Allegation 27: The statement that Parks Australia, the man’s employer, also took no action when it was notified of the man’s alleged paedophile activities is false.**<sup>78</sup>

**Furthermore, if *Lateline* did seek comment from National Parks, this was not declared as part of the story.**<sup>79</sup>

The relevant transcript extract appears to be:

SUZANNE SMITH: *“A National Parks ranger, who does not want to be named for fear of retribution, also followed the paedophile through the bush in his vehicle. He has provided Lateline with a written statement. He believes the man in question was using his Commonwealth Government car to procure*



young girls. The park ranger lived near the paedophile in Mutitjulu and saw underage petrol sniffers loitering inside and outside his house. He told Lateline the man was employed as a ranger for the Uluru-Kata Tjuta National Park. He notified the head office of Parks Australia in Canberra about the paedophile's activities, but the bureaucrats refused to stand him down.

He writes:

"I then requested that the NT police provide female staff, or persons who could liaise with the allegedly affected women and children, to secure statements to allow the laying of charges. I also requested they establish a formal CIB investigation... This did not occur and the NT police did not, in my view, have any real capacity to deal with issues affecting these women."

SUZANNE SMITH: "The park ranger left the community and was threatened with legal action. The Aboriginal youth worker also attempted to expose this man and highlight the illegal drug trade in Mutitjulu. This came at a terrible personal cost."<sup>80</sup>

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The Lateline segment titled 'Minister orders probe into Uluru Kata Tjuta management' dated 27 June is also relevant:

JOHN STEWART:" Lateline has spoken with two rangers from the Uluru-Kata Tjuta National Park who tried to stop the paedophile from using a work vehicle to pick up girls as young as 10. They say that over a 7-month period last year, they repeatedly contacted the Director of Parks, Peter Cochrane, by telephone and email and asked for the ranger to be suspended on full pay. The rangers say they were told by Mr Cochrane this was a matter for the police and there was nothing the Park's administrators could do. One of the rangers provided this statement to Lateline: "After a public meeting the Park Manager again informed his superiors and again asked whether a suspension was warranted. [...] The agency responded as before that no suspension could be enacted because of the principles of natural justice. He continued to wear the uniform." The other ranger has told Lateline she discovered two young girls in the back of a National Parks vehicle driven by the paedophile. The situation continued until late last year when the paedophile resigned. The Opposition says the Federal Government needs to investigate the matter."

SENATOR CHRIS EVANS, OPPOSITION SPOKESMAN FOR INDIGENOUS AFFAIRS: "Well, the Commonwealth has got an obligation for its own employees. They want to lecture the states and Aboriginal bodies, but they've also got to take responsibility for their own actions. And if they, quite frankly, haven't taken the appropriate action in making sure their own rangers aren't behaving in an illegal manner then they've got questions to answer."

<sup>78</sup> Item 12 page 10 Complainants' submission.

<sup>79</sup> Item 13 page 10 Complainants' submission.

<sup>80</sup> 'Sexual Slavery (later Abuse) reported in Indigenous community' segment 21 June 2006

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JOHN STEWART: "The Commonwealth Director of Parks, Peter Cochrane, declined to be interviewed, but said in a written statement: "When informed of the allegations against a park ranger, we advised the Park Manager that allegations of this nature, involving serious criminal offences, should be referred to and managed by the Northern Territory Police." The National Park is jointly managed by Parks Australia and the Uluru-Kata Tjuta Board of Management made up of the land's traditional owners."

In response the ABC states:

*“The statement that the “bureaucrats refused to stand him down” is accurate and is in fact supported by the statement from Peter Cochrane which is provided at Attachment K of the complainants’ submission.*

*A copy of the anonymous park ranger’s written statement is provided at Attachment N. It is clear that this statement provides significant support for the observations made by Greg Andrews, Mantatjara Wilson, Dr Geoff Stewart and Jane Lloyd about the extent of violence and dysfunction in the Mutitjulu community. This park ranger left the Uluru-Kata-Tjuta National Park in February 2006.*

*...The paedophile had been employed as a ranger at the park since 2001, and he worked as a casual before that. Both rangers who contacted Lateline after the 21 June program reported that they had been told by their superiors that the police had to deal with the matter. In the end, they took matter into their own hands and kept records of his work hours and started a performance review. They eventually forced him to resign over his performance.”<sup>81</sup>*

The Complainants also raised the issue of counter arguments:

*“If Lateline did seek comment from Parks Australia before the story of 21 June 2006, then it does not declare this in its story. ABC Editorial Policy 6.4.7 is very clear on this principle.”<sup>82</sup>*

In response the ABC states:

*“As the 21 June story developed, Lateline became aware that the involvement of Parks Australia was an interesting part of the story, and its viewpoint on the matters discussed in the program would also be relevant. Lateline dutifully pursued this angle and reported Parks Australia’s comments in a separate report on 27 June. The decision to run the story in this way was entirely consistent with ABC Editorial Policy requirement s.5.1.4 and 5.1.5 – balance and impartiality.*

*...The program made a judgement to pursue the Parks Australia element of the story in a later report, as it was entitled to do. Commonwealth Director of Parks, Peter Cochrane, declined to be interviewed, but provided a written statement (after the 21 June program went to air), excerpts of which were read on the 27 June program. The program also included a statement from Source B which confirmed the testimony of the anonymous ranger who had been a witness on the 21 June program. Comments from Senator Chris Evans, Opposition Spokesman for Indigenous Affairs, were also included.”*

In response to the Preliminary Report findings, the ABC stated:

*“The matter of Parks Australia’s involvement was a question of balance as there were clearly different views about the adequacy of that organisation’s response. These views cannot be ‘right’ or ‘wrong’; they are not subject to the test of accuracy. The rangers’ view was that management had not done enough. This was reported in the program. Management’s view was that they had done all they could. This was reported in a subsequent program, as soon as reasonably possible after the original broadcast. The ABC does not consider the original program to have been inaccurate and certainly did not consider the subsequent broadcast a ‘correction’.”<sup>83</sup>*

<sup>81</sup> Page 25 ABC 23 February 2007 submission.

<sup>82</sup> Page 10 Complainant’s submission

<sup>83</sup> P3 3 December 2007 letter from ABC to Panel

## **Page 45 of 47 Panel’s view**

From the information set out above it is clear that National Parks management declined to be interviewed before the program went to air on 21 June 2006 and provided a statement post

broadcast. This program did not mention that Mr Cochrane declined to be interviewed, hence the only information a viewer had was that provided by the ranger.

By stating that the '*bureaucrats refused to stand him down*' the Program may have given some viewers the impression that National Parks management sat on their hands and did nothing, while the individual ranger took action on his own volition. The ABC primarily relied on the ranger's recollection of events and did not refer to the fact that the ABC had sought a response from management, which was not provided before the broadcast deadline,.. It was not until the program broadcast on 27 June that ambiguity surrounding Parks' Australia position was clarified.

The question here is whether the ABC exercised reasonable effort to ensure accuracy in the content of the 21 June Program. The Panel believes it did achieve balance in its coverage of the Parks response by clarifying this issue in its 27 June program segment, albeit six days after the initial broadcast. While the Panel considers that the use of the words '*refused to stand him down*' was unfortunate, it does not believe the ambiguity was sufficient to constitute a breach of Editorial Policy.

In respect to this allegation, the Panel finds there has been no relevant breach of the ABC Editorial Policies.

**Allegation 28: Re-enactments or old footage were not labelled as such in the program in question<sup>84</sup>.**

The Complainants state *Lateline* depicts one of its witnesses, Jane Lloyd, "trailing the paedophile as he cruised the community in his car". This file footage is not labelled as such and, therefore, is a breach of ABC Editorial Policy Section 6.

The relevant part of the transcript for 21 June 2006 segment is:

SUZANNE SMITH: "*Frustrated by a lack of police action, Jane Lloyd trailed the paedophile as*

*he cruised the community in his car.* "

JANE LLOYD: "*I followed him around, just to see where he was going, what he was doing. It was unusual for me that an elderly senior man was just driving around by himself.*"

The actual footage involved the image of a person driving a car across the desert with another person in the front seat. There was no clear indication that the car was pursuing another vehicle.

In response the ABC states:

*"The 21 June story included footage of Jane Lloyd driving her car. It was file footage sourced from ABC archives. The use of this footage did not mislead viewers: it did not purport to be anything other than Jane Lloyd driving her car. It was not presented as a "re-enactment" and the ABC believes that viewers would not have confused it for one. Surely, if it had been intended as a "re-enactment", the paedophile's car would also have been depicted in the footage.*

*There has been no breach of ABC Editorial Policies in the use of this footage, and there was no requirement for it to be labelled in the program.*

*As the footage was indeed file footage, the additional allegations made by the Complainants are clearly without substance and need not be addressed.*

<sup>84</sup> Item14 page 11 Complainants' submission

*There is no suggestion or inference in the program that the footage of Jane Lloyd is of her driving around Mutitjulu. Viewers were not misled, and there was no reason to declare to viewers the location in which the footage was shot.*

*Lateline did not illegally enter Aboriginal land at any point during the preparation of this story, and did not coerce anyone into obtaining this footage.*<sup>85</sup>

### **Panel's view**

The Panel has, with some hesitation, accepted the ABC's response. It considers that it would have been prudent and reasonable to label the footage to avoid any possibility of misleading the viewers. However, it is not, on balance, prepared to find a breach of the Policies.

### **Allegation 29: *Lateline's* response since the program on 21 June was broadcast has been inadequate, since it has failed to address key facts as they have emerged.**<sup>86</sup>

The Complainants state that although the *Lateline* story was grossly flawed, the conduct of *Lateline* [staff] since the airing of the story and its failure to report key facts that have emerged have compounded serious failings on the part of *Lateline* and the ABC more generally<sup>87</sup>.

The Complainants have provided considerable additional information in support of this allegation. In summary their allegations are:

1. Greg Andrews has been forced to apologise for misleading the federal Senate about his time in Mutitjulu and FACISA emails indicate questionable conduct, yet *Lateline* continued to promote Mr Andrews as a credible source.
2. *Lateline* failed to report Clare Martin's serious allegation about the credibility of Mr Andrews, since it is claimed he did report sexual abuse and violence he witnessed to the police, but actually withdrew statements after claiming that threats were made on his life.
3. *Lateline* has not reported that petrol sniffing has been eliminated from the Mutitjulu community.
4. *Lateline* claimed that its story led to the creation of a police taskforce but has failed to report the facts surrounding the use of their story and the appointment of an administrator.<sup>88</sup>  
<sup>89</sup>Parliamentarians' criticism of *Lateline* coverage of Mutitjulu was not adequately covered.
5. Parks Australia statement dated 28 June 2006 refuting *Lateline* claims was not covered in *Lateline* broadcasts.
6. *Lateline* ignored the fact that a key witness provided Viagra to the alleged paedophile at the centre of *Lateline's* 21 June 2006 story. (See Paedophile request Viagra, GP Says story on 22 June 2006).

In response the ABC comments, in general, by stating:

*"The Complainants list a number of other allegations, stating that "Lateline has ignored, misreported or refused to report" various issues which the Complainants believe to be relevant. The ABC is an independent news-gathering organisation. Programs like Lateline make their own editorial judgements about the range of stories which are suitable for broadcast, the way in which they will be presented, and the extent of coverage provided. The fact that a program may not cover every conceivable aspect of a story is not ipso facto evidence of bias or partiality.*<sup>90</sup>

<sup>85</sup> Page 27 ABC 23 February 2007 submission.

<sup>86</sup> Pages 12 and 13 Complainants' submission.

<sup>87</sup> Page 11 Complainants' submission.

<sup>88</sup> NT Orders inquiry into child abuse claims, *Lateline* segment 22/06/06

<sup>89</sup> Mutitjulu takes administration fight to court, *Lateline* segment 21/07/06 <sup>90</sup> Page 28 ABC 23 February 2007 submission.

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The Complainants did not specify exactly how the ABC's alleged inadequacy of coverage of the emerging issues falls within the Policies. Section 5.1.4 of the Policies deals with balance being sought within a presentation and states that this "requirement may not always be reached within a single program or news bulletin but will be reached as soon as possible.

In the Panel's view that ABC has over a considerable period of time, covered the plight of Indigenous people and in particular the Mutitjulu community. More recently the coverage has continued including major announcements by NT and Federal Governments and Indigenous community responses.

Editorial judgement on what information should be broadcast is a matter for management. It is only when the balance or accuracy of a particular program is criticised that the Panel's reviewing role is engaged.

No breach of the ABC Editorial Policies has been demonstrated.

### **Allegation 30: *Lateline* management was warned against using Mr Andrews as a source prior to the story being broadcast.**

The Complainants state that these breaches and procedural failures [Allegations 1-29] are further compounded by reports in the *Sydney Morning Herald* that two of the *Lateline*'s sources, Dr Geoff Stewart and Jane Lloyd, both warned *Lateline* against using Mr Andrews as a source prior to the story being broadcast.<sup>91</sup>

### **Panel's View**

This is not a matter that falls within the Panel's jurisdiction. It would be inappropriate for the Panel to make any comment.

### **Conclusion**

The Panel has reviewed the Complaint. It has identified 30 allegations for consideration. This report has set out each of these allegations together with the Panel's findings on each of them.

The Panel has found no breach of the ABC Editorial Policies 2002 to have occurred, except to the extent referred to in its consideration of Allegation 19.

Michael L Foster QC  
Convenor  
Independent Complaints Review Panel 24 January 2008

<sup>91</sup> Page 14 Complainants' submission