In the High Court

Auckland Registry

No: CIV

Under the: Judicial Review Procedure Act of 2016

In the matter of seeking a mandatory interim injunction to restrain Television New Zealand Limited from screening an election debate on its television show "1 NEWS" on the evening of Friday, 8 September 2017.

The Internet Party of New Zealand, 40 Hartford Crescent, Upper Hutt, Aotearoa 5018, New Zealand

(first plaintiff)

And Suzie Dawson, of 40 Hartford Crescent, Upper Hutt, Aotesroa 5018, New Zealand, Party Leader of the Internet Party of New Zealand

(second plaintiff)

And Television New Zealand Limited, incorporated in New Zealand and having its registered office at TVNZ Television Centre, 100 Victoria Street West, PO Box 3819 Auckland 1140.

Statement of claim

Filed by Bruce James King, an authorised officer for the Internet Party of New Zealand, in person.

The plaintiff claims:

Background:

1. On the 26th May, 2017 the Internet Party of New Zealand confirmed that it would be contending the general election, via a press release distributed to media.

2. On 17th June, 2017 the Internet Party of New Zealand announced its new Party Leader, Suzie Dawson, would be leading the Party in the general election, via a press release distributed to media.

3. On the same day, TVNZ published the only known One News election coverage of Internet Party's campaign, in a 146-word article on its website tvnz.co.nz, which features "OneNews Now" branding. The article was a partial rewrite of information contained in an NZ Herald article about Ms Dawson's leadership. TVNZ did not itself request to interview Ms Dawson or the Internet Party, nor has it since.

4. On August 6th, 2017 the first in an ongoing series of Internet Party campaign events featuring luminaries from around the globe was watched live by over 10,000 viewers, had a Facebook reach of nearly 500,000, and achieved 3.3million social media impressions, despite having received no prior promotion by New Zealand media organisations.

5. On August 10th, 2017 the Internet Party issued a press release, titled "Internet Party lauds phenomenal success of [event], confirms next" was also sent to TVNZ but still resulted in no coverage.

6. On August 20th, 2017 a subsequent Internet Party campaign event trended at #1 in New Zealand on the social media platform Twitter and accrued over 5.8million social media impressions within the span of the three-hour event — nearly doubling the prior results and surpassing other trending topics including the Labour Party campaign event of the same day, as well as the passing of Sir Colin Meads.

7. On August 27th, 2017 yet another press release confirmed this. The release quoted Party Leader Suzie Dawson saying "In recent weeks, the Internet Party of New Zealand has hosted some of the most significant voices of our time. Our last event nearly doubled the reach of the first; gaining over 5.8million impressions in just a few hours…" This release too, was ignored by media, with the exception of an off-topic, 103-word article written by NewstalkZB which failed to name the event, hashtag or the guests.

8. On Tuesday, 5th September 2017, after learning of the action by The Opportunities Party to be included, and of the established case law surrounding the issue of inclusion, the Internet Party of New Zealand formally requested of TVNZ management that its Party Leader be invited to participate in the televised debate to be held by TVNZ on its television show "1 News" on the evening of Friday, 8th September 2017.

9. On Tuesday, 5th September 2017 John Gillespie of TVNZ declined to extend an invitation to the Internet Party.

10. To date, the Internet Party of New Zealand has issued approximately twelve press releases to national media regarding its campaign, to a press list that contains two contacts at TVNZ - a Planning Producer for One News, and a Producer for 7 Sharp.

11. Neither producer has responded to, acknowledged, nor their programs apparently covered the contents of any of those releases, even where those releases related to events of significance that are clearly of interest to the public.

Cause(s) of action:

12. The Internet Party of New Zealand asserts that it is in the public interest; in the interest of preserving the integrity of the electoral process; and/or in the interest of democracy at large that its Party Leader Suzie Dawson be invited to participate in the televised debate to be held by TVNZ on its television show "1 News" on the evening of Friday, 8th September 2017.

13. The Internet Party asserts that it is a breach of TVNZ's duties of care to arbitrarily exclude the Internet Party from participation in the debate and that such exclusion limits the ability of the Internet Party to make the public aware of its campaign and policies, thereby materially undermining the effectiveness of the Internet Party election campaign.

14. The Internet Party asserts that TVNZ is performing a public function by holding televised debates immediately prior to a general election and that placing its own editorial considerations, priorities, internal rules and regulations and conveniences above its duty to the public interest, especially during an election cycle, could amount to, or risk the appearance of, TVNZ effectively meddling in electoral outcomes, thereby undermining the electoral process as a whole, in which the Internet Party has a fundamental right to participate and be treated fairly.

Public Interest

15. The Internet Party of New Zealand asserts that the level of public interest it has achieved with its own campaign events, in the face of a near total blackout by mainstream media of its campaign, conclusively demonstrates the New Zealand public's interest in the Internet Party's campaign and policies, when given opportunity to show such interest.

16. Furthermore the Internet Party points to the Tuesday 5th September public release by the Public Services Association of that organisation's policy analysis of registered Parties contending the general election, which placed Internet Party policies in the #1 position for compliance with the needs and goals of the public services. A result which clearly is both newsworthy and in the public interest, but again appears to have been ignored by TVNZ.

Discrimination Against Parties Outside Of Government

17. According to the correspondence Internet Party received from TVNZ's John Gillespie in his refusal to include the Party in the debate, TVNZ's considerations for inclusion are for:

a) "The leaders of parties currently represented in the Parliament"
b) "Members of Parliament elected to Parliament in 2014 who are leaders of parties registered on the Register of Political Parties", and
c) "The leaders of registered parties not represented in Parliament that score 3% in at least one of the two 1 News Colmar Brunton polls preceding the debate"

18. As condition a) and b) above both require an existing presence in Parliament, they effectively discriminate against registered Parties who are outside Parliament. Condition c) is reliant upon a sufficient level of public exposure to the campaign of the Party in question, which in the absence of 1 News having provided such (or in this case, any) coverage, is again clearly prejudicial and insufficient criteria to solely base assessments on whether Parties outside Parliament should be included in the debate.

19. Lack of coverage being followed by a poll of the public produces a *fait accompli* situation. Whereby exclusion from election coverage limits public awareness; that limited public awareness produces a muted poll response; then that muted poll response is used as justification for the exclusion from election coverage. Making it virtually impossible for a Party outside Parliament to ever achieve the 3% poll quota, let alone get into Parliament, in order to thus qualify for inclusion.

20. The Internet Party asserts that the above constitutes a vicious and self-fulfilling cycle which serves the interests of the status quo, rather than the public.

Established Precedents

21. The Internet Party references prior case law including upheld provisions and judgements in CIV 2005-495-1596 & CIV 2014-404-001972 as relating to the duties of care of media organisations; fundamental rights of parties contesting elections; the public interest, in the context of arbitrary decisions by media organisations in excluding certain parties from televised election debates.

"Ready, Willing and Able"

22. In the communication from TVNZ's John Gillespie to the Internet Party of New Zealand, Gillespie acknowledges that the Internet Party is "ready, willing and able" to participate in the debate.

Application for relief

On the above basis the plaintiff seeks the following relief or remedy:

23. That the Court grant an interim injunction compelling TVNZ to review its decision and extend an invitation to the excluded Party Leader, Suzie Dawson, to participate in the televised debate on Friday 8th September, 2017.

Date: 07/09/2017

Signature: _____

Name: Bruce King, authorised officer of the Internet Party of New Zealand

Address for service:

[redacted]