

The New Zealand Media Council  
93 Boulcott Street  
Wellington 6011

29 August 2019

**Formal complaint against Newshub regarding Peter Williams: “The science is never settled on climate change”**

1. This complaint is submitted by Lawyers for Climate Action NZ Inc. (the **Society**), regarding an opinion piece by Peter Williams, “The science is never settled on climate change”, which was first published on [www.newshub.co.nz](http://www.newshub.co.nz) on 17 July 2019 and is still available on that website.
2. The Society made a complaint to Newshub on 19 July 2019, that the publication breached Principle 1 by being inaccurate and misleading. In its reply dated 2 August 2019, the MediaWorks Standards Committee acknowledged that there were “serious shortcomings” in Mr Williams’ understanding of climate change. However, it contended that it was clearly an opinion piece, Mr Williams was entitled to express his opinion and Newshub was entitled to publish it. In justifying this by reference to an earlier decision by the Media Council (*Peter Waring Against The Dominion Post*), MediaWorks appears to have taken the position that if what was published was an opinion, the accuracy or otherwise of the facts on which the opinion is based is not relevant.
3. Although the Society’s original complaint was based on Principle 1, because of Newshub’s reliance on the right to publish an opinion, the Media Council is now asked to determine the complaint under Principle 4.
4. Principle 4 sets out two requirements. First, the publication must clearly distinguish between fact and opinion. Second, the material facts on which the opinion is based should be accurate. The importance of accurately recording the facts on which the opinion is based is reinforced by Principle 5, which states that the “*requirements for a foundation of fact pertain*”.
5. Mr Williams’ piece breaches Principle 4 in both ways. First, by failing to draw a clear distinction between factual information and comment or opinion. Second, by inaccurately stating the facts on which the opinion is based.
6. Whether Principle 4 (and 5) requires the facts on which an opinion is based to be distinctly set out and be accurate is an issue of great significance, particularly in the era

of “fake news”, and the Media Council is asked to make a ruling on this and to then find that the Williams piece breached Principle 4.

7. The recent decisions of the Media Council in *Aunty Ro Mudyin Godwin against Stuff*<sup>1</sup> and *Clark v New Zealand Herald*<sup>2</sup>, both support the Society’s position that when an opinion is said to be based on facts, these facts must be accurate. In *Clark* the Council notably stated in upholding a complaint under Principle 4: “Readers should be able to rely on the mainstream media for accuracy.” There is a clear implication in that decision that a statement of fact requires evidence to validate it.
8. The requirement that an opinion must make clear the facts on which the opinion is based, and that those facts must be correct, is also consistent with the approach that has been taken by the New Zealand courts to the defence of honest opinion under the Defamation Act. This enables a reader to assess the weight to be given to the opinion in light of the facts that are said to validate that opinion. This serves the public interest in freedom of expression.
9. The Williams’ piece relies on a number of facts that Mr Williams asserts or implies in support of his opinion. These facts are inaccurate and are not clearly separated from the opinions that Mr Williams expresses, in contravention of Principle 4. In particular, Mr Williams makes the following statements:
  - 9.1. “...CO2 may not be the cause of the earth’s warming”. The important role of CO2 in global warming is an established scientific fact, as Professor James Renwick has pointed out in his rebuttal of Mr Williams.<sup>3</sup> There are innumerable studies and papers supporting this;<sup>4</sup>
  - 9.2. “...all those other predictions of 30 years ago which have not come true”. In the context in which this is stated, this is clearly a reference to predictions about climate change. As Professor Renwick states, the predictions made about global temperature increases 30 years ago have been proven to be remarkably accurate;
  - 9.3. “...the sun could be the major player” in climate change. Again, this is not correct, as Professor Renwick points out. There have been virtually no changes in the amount of sunlight falling on the earth, but greenhouse gas levels (and temperatures) are going up significantly.<sup>5</sup> The lack of any significant relationship

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<sup>1</sup> <https://mediacouncil.org.nz/rulings/aunty-ro-mudyin-godwin-against-stuff> (Paragraph 20 and 23)

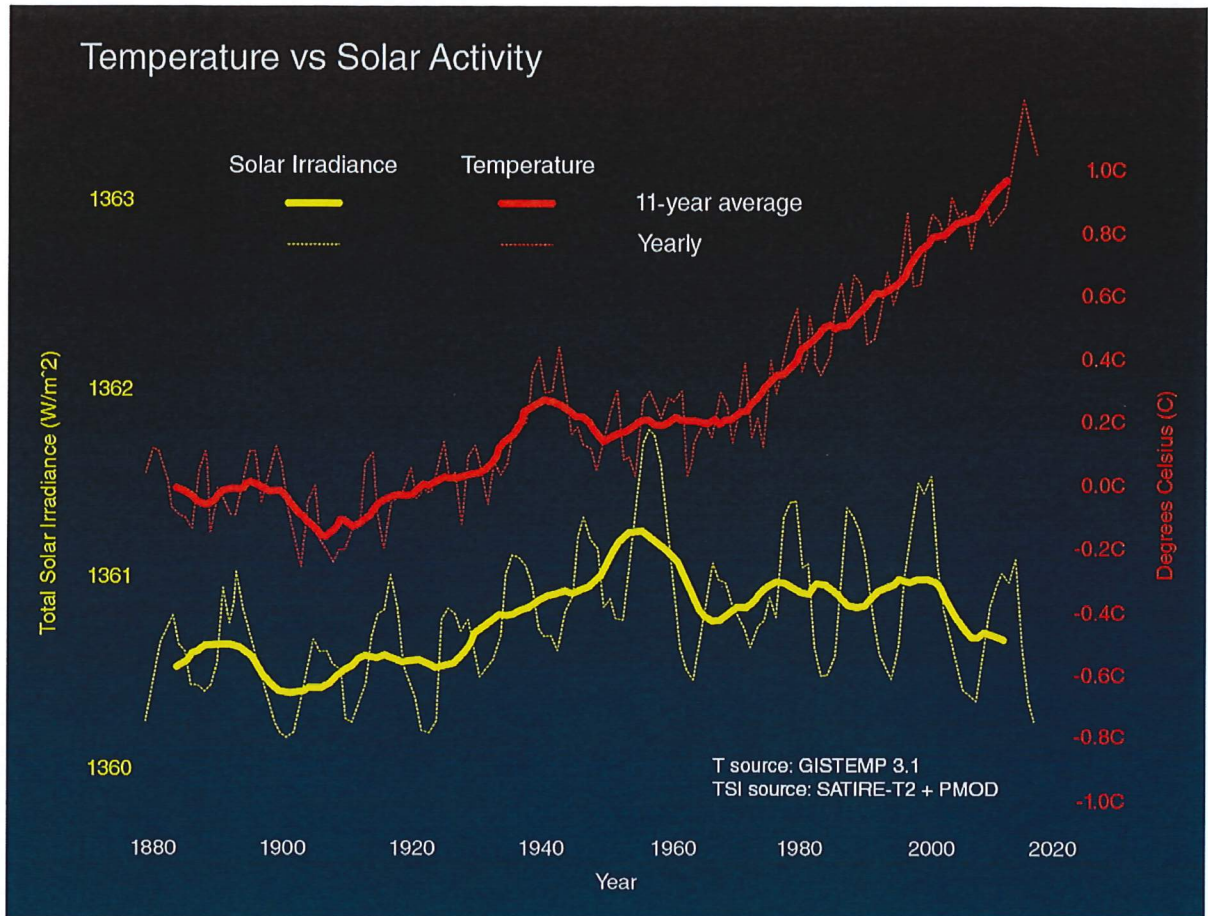
<sup>2</sup> <https://mediacouncil.org.nz/rulings/eddie-clark-against-new-zealand-herald> (Paragraph 17)

<sup>3</sup> James Renwick: “Climate change deniers’ arguments are ‘fact-free’”, published on [www.newshub.co.nz](http://www.newshub.co.nz) on 19 July 2019.

<sup>4</sup> For an authoritative overview, see the special report by the Intergovernmental Panel on Climate Change (IPCC), “Global Warming of 1.5°C”, published in October 2018, available at [www.ipcc.ch](http://www.ipcc.ch).

<sup>5</sup> The IPCC report referred to above states (at 59) that studies quantifying solar and volcanic contributions to global warming from 1890 to 2010 have found their net impact on warming over the full period to be less than plus or minus 0.1 degrees Celsius.

between solar activity and recent increases in global temperature is illustrated by the graph below from NASA's website:<sup>6</sup>



- 9.4. “the earth in the last 2000 years has been through multiple warming and cooling periods”, which implies that current warming is not unusual. This is also not correct. The IPCC report “Global Warming of 1.5°C” states “...global-level rates of human-driven change far exceed the rates of change driven by geophysical or biosphere forces that have altered the Earth System trajectory in the past; even abrupt geophysical events do not approach current rates of human-driven change”<sup>7</sup>;
- 9.5. there is no “physical evidence” of climate change and/or that it is being caused by human activity. Again, although embedded in the opinion, this is an inference of fact that Peter Williams asserts by reference to the Holocaust. This is not correct. Both evidence of a changing climate and the human role in it (principally by the burning of fossil fuels) has been documented and reported by leading institutions and climate change scientists around the world, as illustrated by the references cited above;
- 9.6. the warming of the Earth is no more than a steady progression since the first half of the 19<sup>th</sup> Century. Once again, although embedded in the opinion piece, this is

<sup>6</sup> [https://climate.nasa.gov/climate\\_resources/189/graphic-temperature-vs-solar-activity](https://climate.nasa.gov/climate_resources/189/graphic-temperature-vs-solar-activity)

<sup>7</sup> Op. cit. at 54, citations omitted.

an inference of fact when read in context. Again, this is not correct. The Earth's temperature has risen sharply since the middle of this century, as set out in detail in the IPCC report and illustrated by the graph from NASA reproduced above;

- 9.7. "Science can never be settled" and "it's the same with weather and climate." The implication that there is no settled science in relation to climate change is not correct. While science is always open to new information, the modern world could not function without "settled" science on a wide range of subjects and climate change is no exception. As detailed in our letter to Newshub of 19 July 2019, there is an extremely high level of consensus amongst climate scientists, and leading institutions working in this field around the world, on both the existence of climate change and the fact that it is being caused by human activity.<sup>8</sup>
10. The preamble to the Media Council's Statement of Principles emphasises the importance of the New Zealand Media Council in promoting media freedoms and maintaining the press in accordance with the highest professional standards. Fundamental to this is that the media maintain high standards of accuracy. Maintaining distinctions between fact, on the one hand, and opinion on the other hand, must be maintained. Freedom of expression is not in issue in the complaint the Society brings to the Council. We acknowledge Mr Williams' right to hold and disseminate his opinions. However, this right to express an opinion needs to be grounded in accurate facts so that the public is not misinformed and misled.
11. Readers should be able to rely on the mainstream media to check the accuracy of such facts, or at least to require that the alleged facts are clearly stated. If an opinion is based on a view of the facts that is contrary to the weight of evidence and expert opinion, then that should be explicitly acknowledged. The public interest is not served by allowing incorrect factual statements to be published as supportive of the opinions expressed (as they are here), especially when given the authority of a reputable news platform like Newshub.
12. As Cook has observed: *"Misinformation about climate change has been observed to reduce climate literacy levels, and manufacturing doubt about the scientific consensus on climate change is one of the most effective means of reducing acceptance of climate change and support for mitigation policies."*<sup>9</sup>
13. We acknowledge that Newshub published a rebuttal piece by Professor Renwick two days after Mr Williams' piece. However, that does not excuse the original flawed decision to publish Mr Williams' piece, nor does it go far enough to redress the harm caused by its publication.
14. We request that the Council issues a ruling that Mr Williams' piece is in breach of Principle 4 and that Newshub must publish an acknowledgement to this effect on its website with equal prominence as the original article, as well as adding such a

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<sup>8</sup> See in particular "The scientific consensus on climate change" N. Oreskes, *Science*, Vol. 306 no. 5702, p. 1686 (2004), and "Consensus on consensus: a synthesis of consensus estimates on human-caused global warming" J. Cook et al., *Environ. Res. Lett.* 11 (2016) 048002, pp 1–7.

<sup>9</sup> J. Cook et al., *Environ. Res. Lett.* 11 (2016) 048002, pp 1–7,

statement to the existing article. We further request that the Media Council confirms the principle that is stated in Principles 4 and 5, that correct facts are a precondition of a right to state opinions and that opinion pieces must clearly distinguish between facts and opinion. Mr Williams' piece does not do this.

15. We would be happy to appear before the Council in support of this complaint or to provide further submissions if it would assist the Council.



Stephen Mills QC/Jenny Cooper QC  
On behalf of Lawyers for Climate Action NZ Inc.