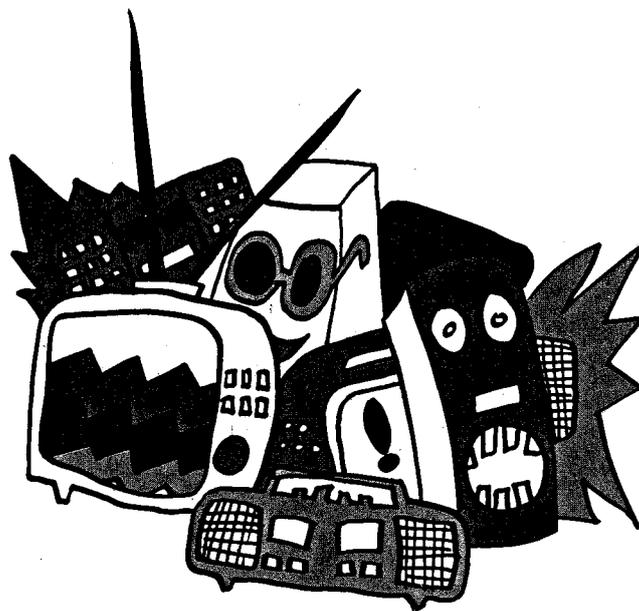


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1990

**BROADCASTING
STANDARDS AUTHORITY**

TE MANA WHANONGA KAIPĀHO



**ANNUAL REPORT
FOR THE YEAR ENDED 30 JUNE 1990**

Submitted to the Minister of Broadcasting for presentation to the House of Representatives pursuant to item 14 of the First Schedule of the Broadcasting Act 1989.

Iain Gallaway
Chairperson

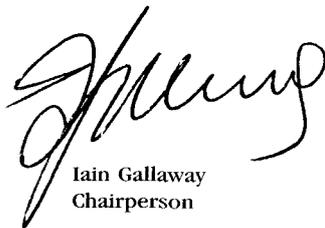
CHAIRMAN'S FOREWORD

The Broadcasting Standards Authority has safely survived its first year in existence and it now presents a summary of its activities and experiences during that period.

I accepted the Minister of Broadcasting's invitation to become its Chairperson with some apprehension as no one could know just what was in store. Whilst it has been an arduous year, I have not regretted my decision for it has also been stimulating and satisfying. It has been a period of learning as well as teaching and whilst our attitude and approach might at times have appeared to some to be a little conservative, I have no apologies in this respect. I believe that it has been important to establish a degree of credibility at the outset and I hope and believe that this has been achieved.

The main purpose of this introduction is to express my appreciation to those who have been so helpful to the Authority during this formative period. First and foremost the Minister, The Right Honourable Jonathan Hunt, whose support, encouragement and lack of interference at all times has been deeply appreciated. The Government and Parliament have also provided encouraging support as has the Ministry of Commerce from whom we received invaluable assistance during our establishment process, particularly in the persons of Mr David Galt and Ms Helen Beaglehole.

Broadcasters and the public have been helpful and co-operative and my fellow members together with our Executive Officer and staff have provided warming loyalty and much valued efficiency.



Iain Gallaway
Chairperson



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THE AUTHORITY

MEMBERS

Collectively Members of the Broadcasting Standards Authority have a wide range of interests and experiences.

The Chairperson Mr **Iain Gallaway**, Q.S.O., M.B.E., a Dunedin barrister and solicitor has been Chancellor of the Anglican Diocese of Dunedin for 30 years and has been involved with numerous national charitable trusts. He has had almost 40 years experience as a sports and current affairs commentator, principally on radio but also on television, and served on the board of the Broadcasting Corporation of New Zealand for two non consecutive terms.

Mrs **Jocelyn Fish**, B.A., a farmer and trained teacher from the Waikato, is president of the National Council of Women of New Zealand. She has served as an elected representative in local government and as an appointee on the Film Censorship Board of Review.

Ms **Joanne Morris**, LL.M (First Class Honours), a university senior law lecturer from Wellington, chaired the Ministerial Inquiry into Pornography and is a member of the Waitangi Tribunal.

Ms **Jan Hardie**, B.A., an educationalist, has had experience in children's television production, bicultural issues, media education and community action.

Members have been appointed for staggered terms, one to three years and Ms Morris, originally appointed for one year, has been reappointed.

EXTENDED AUTHORITY MEMBERS

For the implementation of Part VI, relating to the allocation of broadcasting time and funds to political parties during election campaigns, two additional Members have been appointed to the Authority, Mr Lloyd Falck nominated by the Prime Minister and Mr David Beatson nominated by the Leader of the Opposition.

The addition of Members with experience in political matters has been most valuable.

EXECUTIVE OFFICER

Ms **Gail Powell**, M.A., has a diverse background in teaching, consumer and health education, recreation administration, women's issues and social and market research. She has had management experience in the private, voluntary and public sectors.

Collectively Members and staff have a wide range of experiences and interests, with an emphasis on legal and social issues.

INTRODUCTION AND ROLE

INTRODUCTION

At the end of its first year the Broadcasting Standards Authority looks back at its considerable achievements with a sense of satisfaction. Although its role may seem narrowly defined and it is a small body, its potential to influence the media, which has such a powerful part in shaping New Zealand society, is significant. Members and staff are well aware of the responsibility this entails.

The establishment of the Authority was germane to the changes which occurred due to deregulation of the industry and the advent of increased competition. Broadcasters were faced with a myriad of new forces from all directions, including a new standards regime with its power to impose sanctions which they considered unreasonable. Consequently they vigorously opposed the establishment of the Authority and not unexpectedly they approached the Authority initially with a degree of apprehension, wariness and suspicion.

Members therefore began their work not only in this climate of apprehension from a powerful industry, but also with a degree of uncertainty as to what their role really was, both as defined in statute and also in relation to what the public of viewers and listeners needed and wanted from the Authority. In addition, these members and staff who were unknown to each other and unfamiliar with the position to which they had been appointed, had the task of setting up and making functional an entirely new body. Because 1990 is general elections year, the Authority has not had the luxury of learning to deal with its primary function related to programme standards, but instead, within the first six months, had to begin to implement Part VI of the Act dealing with political programmes as well.

The first year has been indeed a challenging one for the Authority.

ROLE

The Authority decided to focus on establishing the office, developing policies and procedures in specific areas, disseminating information, talking with interested people and hearing some complaints before it attempted to develop a formal statement of purpose and goals.

This experience has been beneficial in that after some months the mission and goals of the Authority evolved and have become relatively simple to formulate in words. It has adopted as its mission statement:

To establish and maintain acceptable standards of broadcasting in New Zealand radio and television broadcasts, within the context of current social values, research and the principle of self-regulation in a changing and deregulated broadcasting industry.

The goals of the Authority emphasise the concepts of self-regulation by broadcasters, principled and fair decisions, accessibility, the principles of natural justice, openness, accountability, responsiveness to change, keeping the public informed, partnership under the Treaty of Waitangi and sensitivity to public opinion.

The Authority identified five major areas of responsibility under the Broadcasting Act 1989.

1. to work with broadcasters in the development and observance of codes
2. to hear and determine formal complaints
3. to publish codes and information about complaint procedures
4. to become informed about standards issues, conduct research and disseminate information
5. to determine eligibility of political parties and to allocate the free time and funds appropriated by Parliament for party political advertising.

To establish and maintain acceptable standards of broadcasting in New Zealand radio and television broadcasts, within the context of current social values, research and the principle of self-regulation in a changing and deregulated broadcasting industry

REVIEW OF THE WORK OF THE AUTHORITY

CODES

Although Members met several times informally, their first official meeting after the Authority came into being on July 1, 1989 was with television broadcasters to discuss the Codes of Broadcasting Practice. At a meeting later in July the Authority gave **pro forma, interim** approval to the *Codes of Broadcasting Practice for Radio* and the *Codes of Broadcasting Practice for Television*. Both sets of codes had been developed by a joint standards committee comprised, in the case of radio, of representatives from Radio New Zealand and the Independent Broadcasters Association and, in the case of television, of representatives from Television New Zealand Limited and TV3.

The Chairperson, when announcing the **pro forma, interim** approval, was careful to stress that the Authority was not at that stage giving a stamp of approval to the codes because it wished to study each code in detail together with current research and thinking about each issue before indicating approval. However, because this would take considerable time to do thoroughly and effectively, the Authority had given **pro forma, interim** approval to the codes developed by the broadcasters so that the industry and the public would have a basis for assessing programmes in the meantime.

The *Codes of Broadcasting Practice* as submitted by both radio and television, include standards for both advertisements and programmes and also include the Codes of Practice developed by the Committee of Advertising Practice, the advertising industry body for self regulation.

The Broadcasting Standards Authority and the Advertising Standards Council have co-operated in developing their publicity material to try to clarify in the public's mind the roles of the two bodies. One is a statutory body which deals only with those advertisements broadcast over air, and has nothing to do with the print media and advertising agencies whereas the other is an independent self-regulating body established by the advertising industry, which can hear complaints about radio and television advertisements as well as print advertisements. Compliance with the Authority's decisions are enforceable by law whereas compliance with the decision of the Advertising Standards Council is voluntary. The two bodies have also co-operated to avoid hearing complaints on the same advertisement.

The Authority published the codes, individually and in a combined form containing both the television and radio codes, and has advertised widely that they are available for purchase from the Authority for a modest fee. The style of publication was kept simple and relatively inexpensive to achieve as wide a distribution as possible and to enable the codes to be updated as required.

The Authority has distributed a copy free of charge to all the main public libraries in New Zealand in order to ensure that the public has access to the Codes.

COMPLAINTS

The public confusion about the Authority's role is reflected in the number of complaints which the Authority has received about a wide range of issues which have nothing to do with programme standards. These include a host of complaints about Sunday advertising, the lack of television coverage of certain sporting events, the scheduling of programmes, the amount of advertising and the choice of programmes. The Authority also has had to explain to a number of complainants that the Authority can only hear a formal complaint based on a specific code, not a generalised statement of disagreement with the tenor of a programme.

*The codes presented by radio and television broadcasters were given **pro forma** approval as an **interim** measure until each code can be examined in detail.*

Except for those complaints alleging a breach of privacy the Authority can determine only those complaints referred to it after the broadcaster has heard the complaint first and given a decision. The Authority recognises that the vast majority of complaints, both formal and informal, are satisfactorily dealt with by the broadcaster and do not reach the Authority.

Appendix One is a list of complaints determined, the subject matter, and the outcome. The Authority only twice has refused to hear a complaint in the exercising of its discretion, once because it was "frivolous, vexatious or trivial" and once because the subject, on close examination, was outside the Authority's jurisdiction. In addition to those decisions finalised and issued, the Authority had 26 other formal complaints in various stages of determination at the end of June.

Members have spent considerable time developing procedures which reflect the Act's dual mandate of maintaining informality and observing the "principles of natural justice". It has been indeed challenging to attempt to develop procedures which are "friendly" for complainants and allow Members the best opportunity to consider all the relevant aspects of a complaint whilst at the same time complying with the more rigorous procedures which would protect the Authority's decisions if a judicial review were sought or a decision appealed in the High Court.

The Authority also has deliberated for a considerable time over these first complaints, as it worked to refine its collective view. It has provided well reasoned arguments for its decisions, both to inform broadcasters of this view and to provide a sound basis for future decisions.

The two privacy complaints were two of the more complex complaints which the Authority considered, partly because the decisions had to be based on the legal concepts of privacy rather than the broadcasting codes.

A little over midway through the year, the Authority evaluated its performance and was concerned about the delay between the time a programme is screened and a final decision issued. This is due to a number of factors including the statutory length of time a broadcaster is allowed for its initial reply, the Authority's insistence on issuing carefully considered decisions and the time some broadcasters take in providing comments to the Authority. The Authority has sought the broadcasters' co-operation in speeding up the process of determining formal complaints.

There were no complaints, on which decisions were issued in the first year, for which members felt additional expertise and experience were needed through the involvement of co-opted members. However, deliberations were begun before the end of the year on complaints which did involve co-opted Members.

PUBLICATIONS

One of the goals of the Authority is to raise public awareness of standards issues and the correct procedures for making complaints.

In addition to publishing the *Codes of Broadcasting Practice*, the Authority published a colourful pamphlet explaining the complaints procedures in detail in the English, Maori and Samoan languages. An eye-catching poster was also produced to enable libraries and other public places to prepare a display about the complaint procedures. The pamphlets and posters were sent to all libraries free of charge along with the *Codes*, and copies of the pamphlets have been offered to broadcasters free of charge to assist them in responding to inquiries or complaints.

The Authority has taken considerable care in writing up its decisions and has sought to disseminate those decisions widely, as part of its effort to provide broadcasters, the media, the legal profession and other interested parties with its interpretation of the codes and rationale for its decisions. The Authority offers a yearly subscription for its decisions at \$100 or sells individual decisions for \$5 each.

As part of its efforts to raise public awareness of standards issues, the Authority has decided to make the *background papers* prepared for the Authority on various codes available to the public for a modest fee. Thus far it has produced a paper on television violence and on alcohol advertising which will be advertised widely during the consultation phase on these issues.

One of the goals of the Authority is to raise public awareness of standards issues and the correct procedures for making complaints.

RESEARCH

The Authority recognises that in order to make well-informed and fair decisions on standards issues it must be aware of current research in the areas concerned, of practices in other countries and it must also know what the New Zealand public thinks. The Act in fact instructs the Authority to conduct research about standards issues and to publish those findings.

Three areas were identified for priority attention: television violence, alcohol advertising/sponsorship and the use of coarse and blasphemous language on radio and television. These areas, specifically referred to in the Act, were selected either because they are areas about which the public is concerned, or because the codes are inadequate i.e. they do not reflect public opinion or they are ambivalent and confusing.

The Authority has received more unsolicited letters about current **language standards**, which viewers and listeners feel are contrary to *the observance of good taste and decency*, than any single other standards issue. Although the Authority recognises that this is a simple issue which respondents find easier to write about than some of the other more complex standards issues, it nevertheless has commissioned a small qualitative research project to ascertain the parameters of the public's concern and to identify the contextual issues. It also has written to all the radio broadcasters expressing its concern and has discussed the matter informally with television broadcasters. Radio talkback programmes are a consistent source of complaints, in this respect.

The other two areas of **alcohol advertising/sponsorship and television violence** are very complex issues which require more in-depth consideration. In both cases an overview research paper was commissioned to summarise three areas for the Authority:

1. the thinking in current research on the correlation between what is broadcast and behaviour and attitudes
2. the content of recent submissions to Parliamentary and Royal Commission inquiries on these subjects
3. the broadcasting codes in other countries.

As noted earlier, these papers – *Research into the Effects of Television Violence: An Overview* and *Alcohol Advertising on Radio and Television* can be ordered from the Authority for \$15 each.

The next step will be to hold public consultations, to invite very limited submissions on issues the Authority has identified as within its scope of jurisdiction, and to meet with professionals, including broadcasters and other interested parties. In this respect, the Authority has planned its first public consultation in Dunedin in September.

To supplement the understandings which Members would gain from public consultations the Authority has commissioned a national public opinion survey to gauge community attitudes and perceptions about television violence and, to a more limited extent, other standards issues.

POLITICAL PROGRAMMES

The most frustrating part of the Authority's work has been the responsibility for determining first the eligibility of political parties for free or subsidised broadcasting time and secondly, the "formula" for the allocation of that time and money appropriated by Parliament for party political broadcasts, amongst the eligible parties.

This role not only has the potential of involving the Authority in conflict with broadcasters because it has the responsibility to adjudicate in disputes but it also has brought the Authority into the political arena. Both situations are undesirable and affects the Authority's ability to fulfil its other functions as effectively and efficiently as it would like in election years.

The recent changes to Part VI of the Broadcasting Act and the impending new bill, at the end of the reporting year, meant that all the preliminary work carried out by the Authority in that area had to be put "on hold". This in turn created problems for the political parties which needed decisions to enable them to plan their advertising campaigns, and for the broadcasters. As a result of several "false starts" the Authority has not made a lot of progress in this area as it had hoped and frenetic action may be required in the "run up" to the elections.

However the amendment process has provided the Authority with the opportunity to advise the Government of some problems in the implementation of the legislation, which needed clarification.

The three issues selected for priority study are television violence, alcohol advertising/sponsorship and language standards.

ADMINISTRATION AND PERSONNEL

ADMINISTRATION

The goals for this area of the Authority's work, in its strategic plan, stress the accountability of each Member and staff for outcomes, the value of creativity, initiative and courage, a client-driven approach, developing a reputation for accessibility, adequate training and valuing Members and staff.

One of the most pressing challenges when establishing a new organisation is that of identifying staffing needs and recruiting the right people, before there is experience with actual work requirements.

A further challenge is to establish an office and office procedures at the same time that all the other things have to be "kick started". After considerable time and energy the Authority has achieved a high degree of harmony in a comfortable and tasteful office which meets the needs of Members and staff. The office is located in the new New Zealand Lotteries Commission building.

The decision by the Ministry of Commerce to have the Broadcasting Standards Authority share premises with NZ On Air was a good one because the shared tenancy not only uses the resources more efficiently but also provides a larger entity which is useful for cross fertilisation of ideas and office energy.

One of the most pressing challenges for a new organization is to identify staffing needs and to recruit the right people before there is any experience with actual work requirements.

PERSONNEL

The Executive Officer made the following appointments within the first few months:

Advisory Officer (Complaints)		Alan Doyle LL.B (Honours)
Administration Officer (Clerical and Financial Administration)		Ann Hensley
Wordprocessor Operator/ Office Assistant	(Part Time)	Deborah Houston
Receptionist/Wordprocessor Operator	(Shared with NZ On Air)	Caron Mills

In addition to her management and public relations functions, the Executive Officer is responsible for code development.

A part time Research Officer to handle research administration and consultations is to be appointed.

The Authority has been very fortunate in retaining the services of Mr Ian McLean, former secretary of the BCNZ, as a consultant and his experience in broadcasting administration and legislation has been invaluable, particularly in the implementation of Part VI of the Broadcasting Act.

Because the secretariat has been kept very small and tight all staff have a wide range of responsibilities which leads to a high degree of activity at times. The Authority has delegated a number of tasks to consultants on contract including financial reporting, research, computer and legal services.

The Authority has developed a comprehensive personnel policy including a remuneration policy and a recruitment policy which reflects the principles of equal employment opportunity. However, as in all new organisations these policies will have to be fine tuned with experience.

Some of the challenges in the personnel areas are those shared by all very small organisations: finding good staff with a wide range of skills, the difficulty of attracting and appointing people from minority groups with such a limited number of positions to fill, the division of responsibility between Members and staff, the lack of any "slack" to fill in for an absent person and the challenge to maintain the office "energy level" and vitality with so few people.

On the other hand, it is exciting to be part of a small, well-qualified team, with each member having a large degree of autonomy and responsibility for output.

B R O A D C A S T I N G S T A N D A R D S A U T H O R I T Y

APPENDIX I

COMPLAINTS DETERMINED BY THE AUTHORITY

Complainant	Programme	Nature of Complaint	Decision	Number and Date
Mr CR Turner (Group Opposed to Advertising Liquor)	Lion Red (Rugby) League advert TVNZ	Breach of liquor advertising rules	Not upheld	Dec No: 1/90 19.1.90
Miss PM Bartlett (Soc. for the Promotion of Community Standards)	'Nightworkers' documentary TVNZ	Inconsistent with the observance of good taste and decency	Not upheld	Dec No: 2/90 19.1.90
Dr J Ritchie	Bluebird Lite Potato Chips advert TVNZ	Women's sexual appeal used in breach of the relevant rules	Upheld	Dec No: 3/90 8.3.90
Mr PW Hamilton	<i>Sons and Daughters'</i> TVNZ	Scenes of violence unsuitable for children's viewing	Upheld	Dec No: 4/90 26.3.90
Mrs FC McAllister	Item in Network News TVNZ	Inconsistent with the privacy of the individual	Not upheld	Dec No: 5/90 3.5.90
Dr RJ Walker	Item in <i>Top Marks</i> Radio 89FM, Auckland	Inconsistent with the privacy of the individual	Upheld	Dec No: 6/90 6.6.90
Mrs JF Forbes (Children's Television Foundation)	Lion Brown Limited rugby union advert TVNZ	Breach of liquor advertising rules	Not upheld	Dec No: 7/90 23.5.90
Mr CR Turner (GOAL)	Wilson's Whisky advert TVNZ	Breach of liquor advertising rules	Not upheld	Dec No: 8/90 23.5.90
Mr CR Turner (GOAL)	DB Draught Limited Commonwealth Games Report advert Radio Pacific (Waikato) Ltd	Breach of liquor advertising rules	Upheld	Dec No: 9/90 23.5.90
Mr CR Turner (GOAL)	DB Draught Limited Waikato Harness Racing Club advert Radio Pacific (Waikato) Ltd	Breach of liquor advertising rules	Upheld	Dec No: 10/90 23.5.90
Mr CR Turner	Item in <i>Public Eye</i> TVNZ	Inconsistent with the observance of good taste and decency	Not Upheld	Dec No: 11/90 6.6.90
Mr GS Wood	Item in <i>IZB Newstalk</i> RNZ	Inconsistent with the observance of good taste and decency	Upheld in part	Dec No: 12/90 18.6.90

COMPLAINTS WHICH THE AUTHORITY DECLINED TO DETERMINE

Complainant	Programme	Nature of Complaint	Reason for Non-determination	Date
Mr MJ Shierlaw	Independent Radio Sports Radio Windy, Wellington	Racial discrimination	Trivial complaint	19.1.90
Mr CR Turner (GOAL)	Robbie Burns Liquor Stores advert, Radio 89FM, Auckland	Breach of liquor advertising rules	Lack of jurisdiction	25.5.90

Three formal complaints were withdrawn before a decision was issued.

The annual financial reports have been published separately and can be obtained from the Authority, as can any other material mentioned in this document, by writing

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