

**BROADCASTING
STANDARDS
AUTHORITY**

**ANNUAL
REPORT**

For the year ended
31st March 1997

ANNUAL REPORT

FOR THE YEAR ENDED
30 JUNE 1997

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MISSION STATEMENT

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

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

FOREWORD

OUTGOING CHAIRPERSON

The first day of the financial year to which the report relates, 1 July 1996, was also the date on which the Broadcasting Amendment Act 1996 came into effect.

The Amendment has had a major influence on the Broadcasting Standards Authority's operations since that time. Unfortunately for the Authority's planning, some of the issues dealt with in the Amendment were politically contentious. One such matter was the proposal to transfer the responsibility for the distribution of government funding for election advertising from the Authority to the Electoral Commission. Because of the political uncertainty as to exactly what the Amendment would contain until it was actually passed, before July 1996 the Authority could not entertain any new projects or incur any new expenditure.

My foreword will focus principally on the impact of the Amendment on the Authority.

THE LEVY

The most important provision in the Amendment, from the Authority's point of view, was the introduction of a levy on broadcasters. Broadcasters with a total operating annual revenue in excess of \$500,000 are now required to pay an annual levy of 0.00051 percent of operating revenue.

Before the introduction of the levy, the Ministry of Commerce which was responsible for the Bill estimated that it could generate about \$350,000 annually exclusive of GST. In fact, the income from the levy for the past financial year (exclusive of GST) totalled \$342,780, which was not far short of the sum estimated.

The levy provisions in the Amendment acknowledge the concerns often expressed by businesses, that requirements imposed by legislation can unwittingly impose substantial compliance costs.

To minimise these concerns, the Amendment provides that the Authority, which is responsible for the collection of the levy, shall inform each broadcaster annually of the requirement that the levy is to be paid by 31 July each year. Each broadcaster in advising the Authority, first, whether its annual operating revenue exceeds \$500,000 and, if so, in paying the levy, is required only either to provide the Authority with a copy of its financial statements for the past year, or to have the return signed by an auditor to the effect that the figure for the total operating revenue provided to the Authority is true and fair.

The Authority is aware that the introduction of the levy was opposed by broadcasters, and indeed that some opposition persists. However, it has not become aware of any substantial concern that complying with the levy imposes undue effort or expense.

AUTHORITY'S FINANCIAL STATE

Lamentations about the state of the Authority's funding have been an ongoing theme in the Authority's past annual reports. It is not repeated on this occasion and, at the time of my retirement, the Authority was expecting to finish the year with adequate reserves.

There are two main reasons for this state of affairs. The first, noted above, relates to the late enactment of the Amendment and the consequent restraints on the Authority's forward planning. The second refers to the parsimonious manner in which the Authority has been required in the past to use its resources. The Authority's deeply ingrained insistence that expenditure brings value inculcates all its financial transactions.

RESEARCH

An examination of research reports which carry the Authority's imprint discloses that, especially in recent years, its role has tended to be that of a funding agent for others' research. Given its reasonably sound financial position following the introduction of the levy, the Authority has re-examined its role and has decided that it will take a more active part in deciding, first, on what matters it spends its research funds, and secondly, on how the research will be conducted. Research is one of the Authority's statutory functions.

PAY CODE

This revised approach is apparent in the Authority's review of the Pay Code of Broadcasting Practice. Although submissions had been sought and hearings held in the 1995/96 financial year, progress on the review came to a stop at that time because of financial constraints. The review was revived only after funding was secured with the enactment of the Amendment.

The next stage, undertaken during the past year, was the survey of public opinion using both qualitative and quantitative methodology. The Authority is fortunate in having the work supervised on its behalf by Linda Sheldon, a research consultant. Ms Sheldon returned to New Zealand in 1996 after working for the Australian Broadcasting Authority for some years where she held the position as Research Director.

Under her competent supervision, the Authority carried out the research which it believed was essential to help it reach decisions on the issues raised by the Pay Code review. I have been fully involved in this work which was substantially completed by the time of my retirement. Should, however, any further issues emerge for determination before the release of the review, the Minister of Communications, under s.28 of the Broadcasting Act, has requested that my appointment to the Authority continue solely to participate in their resolution, and the finalisation of the Pay Code review.

COMPLAINTS

Whereas adequate funding has allowed the Authority's research programme again to be pursued, the determination of complaints is the Authority's core function. The number of decisions issued during the past year, 199, is an increase of 16% over the previous year.

Public awareness of the Authority undoubtedly has increased since its establishment in 1989. Over the past two years or so, the practice of TVNZ and TV3 to carry advertisements which referred to the Authority has added to the public awareness. Further, the 1996 Amendment included a statutory obligation on all broadcasters to carry daily a brief announcement of the Authority and its complaints function.

One criticism about the complaints process in the past has been the time which some broadcasters have allowed to elapse before they were required to respond to a complaint. Until the 1996 Amendment, broadcasters were allowed to defer responding for 60 working days or, in effect, three months. Fortunately, this has been less of an issue in recent years as broadcasters - especially the television companies - have responded to complaints conscientiously and without delay. This practice, displayed in particular by TVNZ and TV3, is now a legal requirement for all broadcasters as the Amendment requires them to respond to complainants within 20 working days.

SERIES

The Authority has taken care in the past to advise potential complainants that it is not involved in censorship - ie the examination of material before it is broadcast. The philosophy inherent in the Broadcasting Act provides for the Authority to be involved in the development of Codes but, before the broadcast of any particular programme, it is for the broadcaster to decide whether the programme complies with the standards. The legislative complaints process enabled viewers to challenge the broadcaster's decision - but not until after the event.

The 1996 Amendment moved away from this philosophy. It allows the Authority, after upholding a complaint about one programme in a series, to order a broadcaster to make available for inspection other programmes in the series, and following review, to ban the broadcast of future programmes. However, the Authority may use this power only if the programme about which a complaint is upheld contains material which it decides "is likely to be injurious to the public good". This standard is markedly more strict than the one it currently applies in determining complaints and which is set out in s.4(1)(a) of the Broadcasting Act. That requires broadcasters to maintain programme standards which are consistent with "the observance of good taste and decency". Because of the high threshold, the Authority does not expect, other than in extraordinary circumstances, to avail itself of this power to censor, and to date, has not considered any programme or series under the provision.

FUNDING FOR ELECTION PROGRAMMES

I mentioned above that the Amendment transferred the responsibility for the distribution of government funding and advertising time for election programmes from the Authority to the Electoral Commission. Because of the lengthy process involved in carrying out the requirements in the legislation, the Authority initiated the process in 1996 in case the proposed Amendment was not enacted. When this finally occurred, the Authority ceded all jurisdiction for this task. It is a responsibility which it has handled conscientiously since 1989 but, given the Electoral Commission's direct involvement in this area, it believes that the task is best dealt with by that body.

COMPLAINTS ABOUT ELECTION PROGRAMMES

Although the funding decisions on election advertising have been transferred to the Electoral Commission, the Authority still

retains jurisdiction to determine complaints about election advertisements which are broadcast on radio and television during the election period. Because of the immediate importance of such matters to the political parties, a complainant may refer complaints to the Authority should it not receive the broadcaster's response within 48 hours. The effect of this requirement is to ensure broadcasters deal with the complaint within 48 hours. Although the Authority is not required to meet the same time limit, it has adopted a policy to do so. A written decision on the three complaints received about election advertisements in 1996 were in the hands of the parties within 48 hours of the complaint being lodged with the Authority.

MEMBERSHIP

As I have chaired the Authority for nearly the full financial year, I believe it is appropriate that I dealt with the major impacts of the 1996 Amendment. My final comments, nevertheless, are the most important.

The Authority consists of four Members. I have been most fortunate that the membership has remained the same in the past year. While membership of the Authority can be seen to involve some status, it also involves reading often comprehensive and detailed papers on complaints, viewing and listening to tapes of the programmes complained about (a task which ranges from the interesting to the tedious), reviewing research reports, and maintaining an interest in the Authority's administrative functions. As well it is necessary to keep abreast of developments in the industry. It is appropriate to record that the administrative tasks have involved greatly increased work during the past year given the political focus on matters relating to the governance of Crown entities.

In dealing with these varied tasks, the Members of the Authority have acted in a way which has always been harmonious, constructive, willing and informed. As the Members bring differing perspectives to the range of issues covered, views are not always, indeed they are seldom, homogeneous. Taking into account the scope of the research and the issues raised in the complaints, I am relieved that this is so. However, I am also pleased that our differences are debated constructively and the differences which persist, do not intrude on the next issue or complaint to be debated.

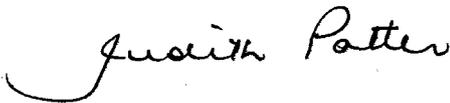
My sincere thanks to Lyndsay Loates, Rosemary McLeod and Allan Martin. Mr Martin was appointed after consultation with the broadcasting industry and his contributions have reflected his depth of experience both as a broadcaster and as a member of the community. I shall miss our monthly meetings.

STAFF

The changes in the Authority's structure which came into effect last year were detailed in last year's annual report. The changes also involved some variations to the Authority's personnel. In November 1996, Ms Felicity Steel joined the staff as a part-time Complaints Executive. I would again like to use the adjective harmonious to describe relations between the Members and the staff. They have all invariably acted in a way which has ensured that the Authority functions efficiently and effectively. They give of their best under the competent leadership of Dr Michael Stace.

CONCLUSION

It was with considerable regret that I resigned as the Authority's Chair after two years to take up an appointment to the High Court bench. While at times it was a challenging task, it was always stimulating. Whether the issue was a complaint about privacy or good taste and decency, or whether the matter raised dealt with an aspect of pay television, or indeed, whether the administration of the Authority was to be discussed, the environment was conducive to debate. Varying approaches were advanced, dissected and, generally, a consensus was reached. Such debate took place in an atmosphere of both respect and consideration. They were values which the Authority had developed before my appointment. I trust they have been nurtured and will remain core values in the future. I believe the Broadcasting Standards Authority has an important role to play and it performs that role well.



Judith Potter
Chairperson (until 31 May 1997)

INCOMING CHAIRPERSON

When given the opportunity to allow my name to go forward as Chair of the Broadcasting Standards Authority, I had no hesitation. Despite the financial constraints under which it has worked in past years, the Authority has garnered a reputation for acting both responsibly and constructively. As an organisation which faces diverse demands from broadcasters and the public, it must listen carefully and be alert in order to respond in a way which meets both the requirements of these parties and its obligations under the Broadcasting Act. The previous Chair, and indeed her predecessor, have built an organisation which has

taken care to remain relevant in an era of rapidly changing technology.

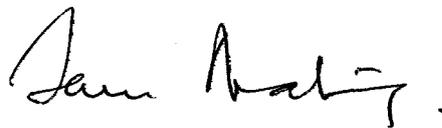
In addition, the Authority is a Crown entity. Accordingly, it has requirements under the Public Finance Act in regard not only to financing, but also to meeting the Crown's concerns with regard to what are described as "governance" issues.

On her appointment, Judith Potter wrote:

Broadcasting impacts upon and influences the daily lives of all of us in the community. It changes to reflect developments in society, and more importantly, it influences those developments. Broadcasting standards must therefore provide active, living guidance for broadcasters. They must reflect the expectations of the community, and take account as far as is realistic, of the important advances in technology which will impact upon broadcasting as we know it. This presents continuing challenges which it must meet. I welcome those challenges and look forward to my involvement with the Authority.

It is a challenge I too accept. I find an Authority in very good heart and in a sound financial position. I would like the Authority, with its roles of code development, research and the determination of complaints, to maintain a close interest in broadcasting developments both in New Zealand and overseas and to become even more relevant to both the industry, and the viewing and listening public.

My first few weeks with the Authority have shown me a steep learning curve and a stimulating environment. I have much to learn. But already I can report with confidence upon the quality of the contribution made by the Executive Director and his staff. They have made the transition easy. So too have the Members of the Authority. That bodes well for the future.



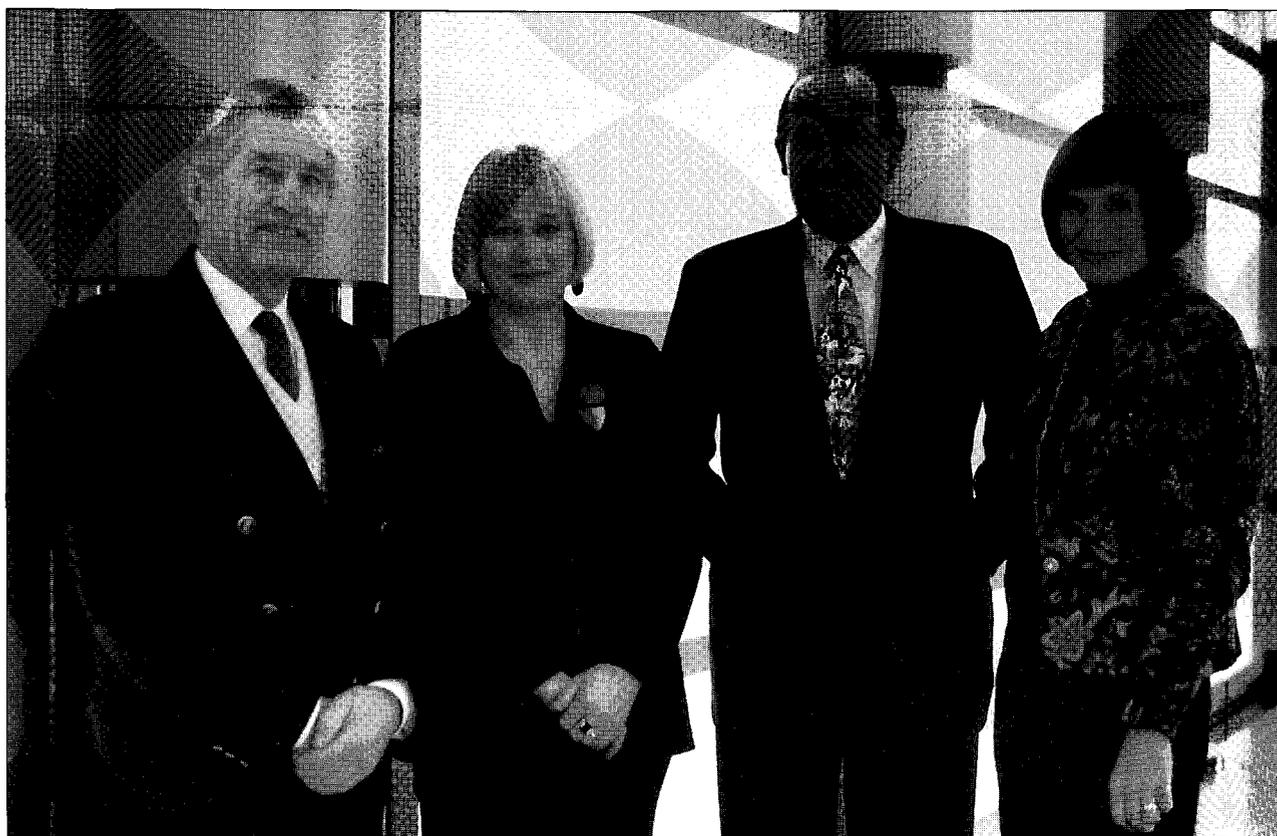
Sam Maling
Chairperson (from 1 June 1997)

MEMBERS



Judith Potter

CBE, LL.B, a senior commercial partner in the Auckland office of the law firm Kensington Swan and past president of the New Zealand Law Society 1991-1994, was appointed Chairperson of the Authority in June 1995. Ms Potter resigned her position as Chairperson of the Authority on 31 May 1997 to take up an appointment to the High Court bench.



Allan Martin

OBE, of Auckland, a former television executive, was appointed to the Authority in January 1996. He was appointed after consultation with the broadcasting industry. Mr Martin has wide experience in the areas of production and administration in public service and commercial broadcasting organisations, having held senior executive positions within the industry both in New Zealand and overseas.

Rosemary McLeod

A Wellington-based journalist, was appointed to the Authority in May 1995. She has won numerous journalism awards for investigative reporting, feature writing and column writing. She has also had extensive experience as a television drama script writer and editor and has worked as a news reporter for both television and radio.

Sam Maling

Sam Maling LL.B, a senior litigation partner in the Christchurch law firm of Lane Neave Ronaldson, was appointed Chairperson of the Authority in June 1997. He is a director of Pyne Gould Corporation Ltd and Aspinall (NZ) Ltd. He is also a Vice President of the New Zealand Law Society.

Lyndsay Loates

Auckland, began her term on the Authority in July 1994. She has worked as a professional journalist both in New Zealand and overseas and has won several national journalism awards. After a period as deputy editor and senior feature writer with *More Magazine*, she has worked as a freelance journalist.

FORMAL COMPLAINTS

Between 1 July 1996 and 30 June 1997, 199 decisions were released by the Authority. This is a 16% increase over the previous year's total of 171 - which in itself was nearly a 20% increase over the previous year when 144 decisions were released.

An increase of almost 40% in the past two years can be explained in a variety of ways.

Since the enactment in 1996 of the Amendment to the Broadcasting Act, all broadcasters are required each day to broadcast a brief announcement about the complaints process. Although TVNZ and TV3 began broadcasting such announcements before they were legally required to do so, there appears to be little doubt that increased awareness has played some role in the increase of the number of complaints referred to the Authority.

Some may argue that the increase in complaints results from an acceptance of more relaxed standards. Others contend that the increase does not so much reflect a change in actual programme standards as a community reaction to changing social conditions, and that there is a demand for higher or stricter programme standards to bolster the changing social climate. The Authority acknowledges these arguments but does not consider either of them to be the major cause in the increased number of complaints.

Rather, the Authority is of the view that at different times varying issues rise to the surface of the community's interests and expectations. For the Authority, this is reflected in the basis of the concerns to which a complaint refers. These bases range from good taste and decency, to balance, through to sexism and racism.

TRENDS

Complaints referred to the Authority are categorised by way of the central issue raised, and the details are included in Appendix I. The main changes during the past year have been the increases in the numbers which refer, first, to balance, fairness and accuracy (which have risen from 40% of the total in 1995/96 up to 50%), and secondly, privacy (5% in 1995/96 up to 9%). Decreases have occurred in the categories of good taste and decency (from 40% of the total in 1995/96 down to 31%), and incidental liquor promotion (from 8% down to 4%). There has been a slight decrease in the number of complaints about the portrayal of violence - from 6% in 1995/96 to 4% this year.

Dealing first with the categories which show a decline, the Authority notes that there is an active community group which monitors incidental liquor promotion, especially during the broadcasts of sports events. Owing to this group's vigilance over the years, the rules about incidental liquor promotion have been interpreted with sufficient clarity that broadcasters are well aware of the limits of the rules. The Authority believes that the number of complaints has decreased largely because broadcasters have displayed an increasingly responsible attitude, and have tried hard to ensure that they comply with the standards in this area.

The decline in the percentage of good taste and decency complaints could suggest on the one hand that broadcasters are displaying more constraint with the contents of the material which is broadcast or, on the other, that viewers have broadened their own concepts as to what they find acceptable in programmes. Nevertheless, at the same time that the overall proportion of good taste and decency complaints has dropped, there has been a small increase in the number of complaints which refer to the lyrics of some songs which are broadcast.

Turning to the categories in which the percentages of complaints have increased, the Authority is of the view that the question of privacy in the broadcast media warrants further discussion. It is returned to in the next section of this report.

Complaints which allege a lack of balance, fairness, and/or accuracy tend to be made by the person or organisation referred to in the item, or because the programme canvasses an issue about which the complainant has a particular interest or belief. Complaints about *Fair Go* are examples of the former category. Examples of the latter are those received from community groups concerned about news coverage, for example, of Middle East affairs, and complaints from diverse sources when an item refers in some way to such contentious matters as gun control or euthanasia.

Included in this balance and fairness subgroup are complaints about election advertisements (three during the 1996 general election campaign), and about alleged inadequate and unfair coverage of a political party during the election campaign (another three).

The Authority advances the following factors as possibly relevant to the increased proportion of complaints during the past year alleging a transgression of the balance, fairness, or accuracy standards:

- increased awareness of complaints process;
- increased emphasis on investigative journalism skills displayed by broadcasters in the preparation of programmes which may result in the exposure of practices, and the broadcast of critical comments, which the organisation under investigation interprets as unfair;
- conversely, superficial and unsatisfactory investigative journalism;
- increased interest by organisations investigated to challenge real or imagined slights; and
- increased expectation in standards of the fairness and accuracy in news and current affairs in the broadcast media.

There have also been changes in the frequency with which any particular broadcaster is a party to a complaint. (see Appendix I)

TV3 is the broadcaster which has recorded the biggest increase in the number of complaints referred to the Authority - up from 14% in 1995/96 to 25%. The percentage which focus on TVNZ is down slightly, as is the number relating to RNZ. Although the commercial side of RNZ is now listed in the category The Radio Network of New Zealand Ltd since its sale, the proportion of complaints relating to both private radio and television companies, other than TVNZ, RNZ, and TV3, has declined from 20% to 15%.

In last year's report, the Authority observed that complaints which alleged a breach of balance, accuracy, and fairness tended to take longer to investigate and determine than those relating to good taste. This observation remains true. Complaints which allege a breach of an individual's privacy often involve a similar use of extensive resources.

Finally, the Authority notes the proportion of complaints upheld in the current year. The number of complaints upheld (all or in part) remained relatively consistent from 1990 until 1996 at about or just below one third (between 29 - 35%). This year the same figure is 22%. From upholding about one in three

complaints for a number of years, the proportion in one year has dropped to a little less than one in four.

As recorded above, balance, fairness, and accuracy are now the focus of half of the complaints determined by the Authority. This category is now substantially larger than the issues of good taste and decency in spite of the apparent increase in complaints about language, particularly on radio. While increasing awareness of the complaints process might be postulated as a reason for suggesting that nudity, blasphemy and language would be the issues raised in an increasing proportion of formal complaints, this has not been so. Perhaps it is a concern for the rights of the individual, rather than a concern for community standards, which is reflected in the Authority's statistics.

ORDERS

The Broadcasting Standards Authority is a Crown entity. It is established by the Broadcasting Act 1989 which guarantees its independence, and the determination of complaints is the task which takes up most of its resources. As an independent Authority it regards its task, having upheld a complaint, as educational rather than punitive.

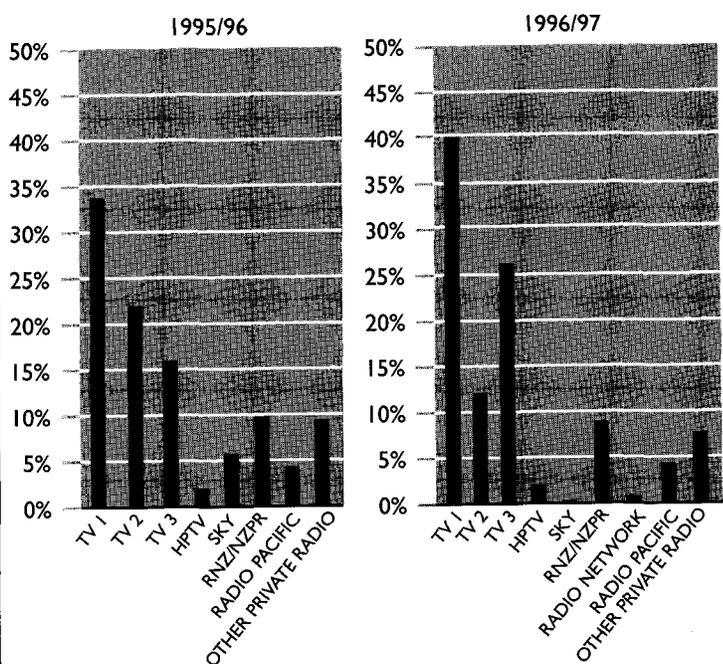
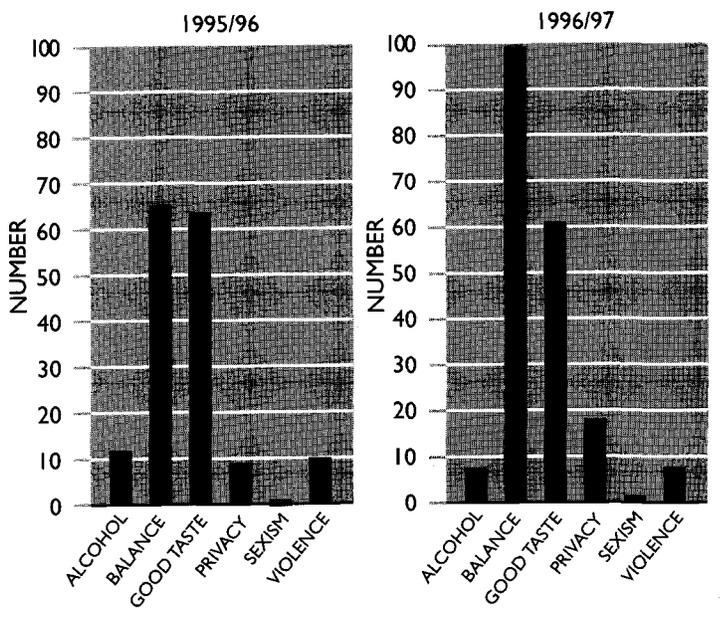
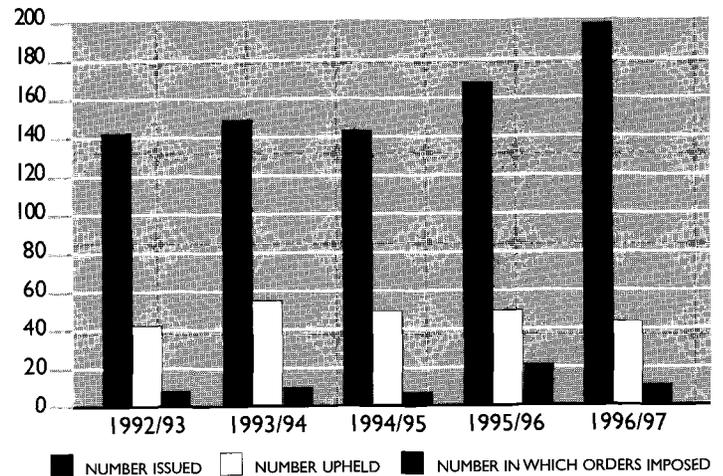
The Act in 1989 gave the Authority the power to order compensation only when upholding a complaint alleging a breach of the privacy of an individual, and then only up to a maximum of \$5,000. It also included the power to order a broadcaster off the air for up to 24 hours. The Authority has never exercised this penalty. In the majority of upheld complaints, the Authority believes that its decision to uphold is sufficient in itself to draw the broadcaster's attention to the limits set by the standards.

However, there are also complaints where the Authority concludes that the breach is reasonably clear, if not blatant, and it is in instances of this kind that it considers that the broadcast of a correction or an apology is appropriate. This penalty is particularly appropriate when the complaint alleges an inaccuracy, or a lack of balance and fairness.

The range of orders which the Authority is able to impose was expanded in the 1996 Amendment. A provision was added (s.16(4)) which enables the Authority, having upheld a complaint, to order the broadcaster to pay costs to the Crown of up to a maximum of \$5,000. The Authority has used the provision to impose costs on five occasions in the past year, and has imposed costs in the sum of \$250, \$500 (x2), \$3,000 and \$5,000.

The Authority, as in past years, has also imposed a number of other orders under s.13(1) of the Act. These include seven requiring the broadcast of a summary of the Authority's decision (one of which included an apology), and two orders for compensation when a privacy complaint was upheld (\$1,000 and \$500 respectively). One of these upheld privacy complaints also involved an order to broadcast a summary of the decision.

When the new power to impose orders for costs under s.16(4) is combined with the powers it has held



since 1989, the Authority records that the total number of orders imposed in the 1996/97 year was 13.

This is slightly less than the number of orders imposed last year - 19 - both in terms of absolute numbers and as a proportion of the upheld complaints in which an order is imposed. It has decreased from 38% in 1995/96 (then a record) to 28% this year. This has occurred alongside the substantial decline in the proportion of complaints upheld.

APPEALS

Two of the Authority's decisions were appealed in the last financial year (as compared with three the previous year). Two appeals filed earlier were resolved after a hearing. Both were dismissed.

Justice McGechan's decision in the second appeal decided dealt with a number of matters with which the Authority has been concerned (TVNZ v MAF Wellington HC 13.2.97, AP 89/95). Extracts from this decision are quoted to ensure wide dissemination of the rulings. His Honour cited McKay J in Comalco New Zealand Ltd v BSA and Anor (1995) 9 PRNZ 153, 161-162 who said:

Section 18(4) of the Broadcasting Act requires the Court to hear and determine an appeal "as if the decision or order appealed against had been made in the exercise of a discretion". This means that the appeal should only be allowed if the Authority has proceeded on a wrong principle, given undue weight to some factor or insufficient weight to another, or is plainly wrong.

He also referred to Eichelbaum CJ in TV3 Network Services Ltd v BSA [1995] 2 NZLR 720 at p 727:

Under s18 of the Act there is a right of appeal to this Court. The section provides that the Court is to deal with the appeal as if the decision appealed against had been made in the exercise of a discretion. This means the appellant needs to show the Authority based its conclusion on some error of principle (including an error of law, for example an error in the interpretation of statute) that it took irrelevant considerations into account or failed to consider appropriate ones, or was plainly wrong. What the Court is not allowed to do is simply substitute its own view for the Authority's.

He noted Temm J's remark in Jardine Insurance Brokers Ltd v TVNZ (HC 176/94 and HC 189/94, Auckland 3.11.95) that the BSA was a specialist tribunal.

In the appeal by TVNZ which he was hearing, McGechan J did not accept that the Authority was plainly wrong, or took into account irrelevant considerations, or failed to take into account relevant considerations. Moreover, in regard to s.14 of the New Zealand Bill of Rights Act 1990, he stated:

I do not disregard s14, of the Bill of Rights, confirming the right to "freedom of expression", and within that "to impart information and opinions". It appears the relationship between the complaint provisions of the broadcasting legislation and s14 are not the subject of previous authority. The cases of Liddell and Bain cited do not much assist. The point, accordingly, must be approached in principle. ...

There is no doubt the provisions of the broadcasting legislation dealing with complaints stand, and in their terms, notwithstanding the generality of s14 freedom. Their priority is preserved under secs 4 and 5. The most that can be said is that where questions of interpretation arise, the legislation is to be construed most consistently with freedom of expression. This is not a question of downstream subjection of some untrammelled freedom of expression within reasonable limits under s5: it is a matter of statutory override by the broadcasting legislation from outset.

The relevant, and predominant, broadcasting legislation provisions stipulate for standards under s4, and empower a code of practice under s21. This legislation expressly imposes limits - e.g. good taste, decency, law and order, privacy, balance and the like - on freedom of expression which broadcasters otherwise would have. Broadcasters are made subject to certain limits in that respect which do not apply more generally in life. This is not a situation where the broadcaster has some complete freedom which the Authority then somehow seeks to restrain on a basis that restraints are reasonably justified. The broadcaster is constrained by the Broadcasting Act

from outset, with general s14 freedoms constrained correspondingly.

The most which can be said is that in approaching a decision whether statutory (including Code) standards are met the Authority should, where room exists, prefer approaches consistent with freedom of speech. Where there genuinely is room for interpretation, freedom is to be protected. That is not a small or unimportant obligation, but that is its limit. ...

The Authority is entitled, indeed obliged, under the Broadcasting legislation to apply its current and complaint provisions even if such action might, objectively, be said to limit freedoms contrary to s14. Its statutory duties predominate under secs 4 and 5. The

Authority could well give attention to s14 in interpreting the provisions under which it is operating. Section 14 could be a proper discretionary factor in weighing up remedial orders to be made, no longer an issue. The Authority was not further obliged.

The appeal against the Authority's decision was dismissed. In view of the respondent's acceptance that the order imposed was not "still appropriate" given the lapse of time between its imposition and date of hearing of the appeal, the order for a corrective statement was quashed in the public interest.

Since last year's report on the progress of Comalco's appeal, it has involved, first, a substantially unsuccessful interlocutory application in the High Court by Comalco in relation to an amended Statement of Claim, and, secondly, dismissal in February 1997 by the Court of Appeal of Comalco's appeal against the High Court decision. The Authority awaits Comalco's next step in this action, which consists of both an appeal and an application for judicial review of the Authority's decision.

Two of the Authority's decisions were appealed in the last financial year (as compared with three the previous year).

The Broadcasting Act, in s.4(1)(c), requires broadcasters to maintain standards consistent with the privacy of the individual but does not elaborate on this point, and there are few legal precedents. Because broadcasters are excluded from the Privacy Act 1993 while pursuing their news gathering activities, the Authority was required some years ago to develop relevant and applicable privacy principles. Increasingly, complaints require the Authority to resolve the conflict between “the public interest”, claimed by the media, and “the privacy of the individual” who wishes that some material not be broadcast.

The legislation accepts that complaints which allege a breach of s.4(1)(c) of the Act - the requirement to maintain standards consistent with the privacy of the individual - belong in a different category to all other complaints. First, they are the only ones which may be made direct to the Authority, rather than requiring the broadcaster to determine the complaint initially, and, secondly, they are the only category of complaint where the Authority is entitled to order the broadcaster to pay compensation (up to \$5,000) to the complainant.

Concepts of privacy and fairness can overlap. For this reason when dealing with this type of complaint, it is the Authority's practice, on receipt of a privacy complaint, to suggest to complainants that they should consider complaining directly to the broadcaster under the standard which requires that people referred to in a broadcast be dealt with fairly and justly. The privacy aspect of the complaint might not be upheld in due course because, for example, the information disclosed was already in the public arena. But it would still be open to the Authority to uphold the fairness aspect.

In dealing with privacy complaints, the Authority has developed a number of privacy principles and, in May 1996, the Authority released its expanded privacy principles by way of an Advisory Opinion. As the Act, in s.21, does not refer to privacy as a matter on which a Code of Broadcasting Practice may be developed, the Authority has not been able to promulgate the principles as a Code.

There are four recent decisions during which the Authority has explored the application of these privacy principles. They will be dealt with chronologically.

The first (Decision No: 1996-087) involved a television news item reporting the sentence imposed on a former sportsman for supplying drugs. The coverage included a shot of his partner (who was named and occupation reported) and their child outside the courthouse. The complainant (the sportsman's mother) argued, first, that the sportsman should not have been named, and, secondly, that his partner and child should neither have been filmed nor named.

The Authority accepted without hesitation that the public interest defence applied to the identification of the sportsman and was equally of the view that his partner should not have been identified by name and occupation as she was not said to be involved with the offending. While the filming of members of the offender's family leaving the court was not considered to be a breach, the Authority upheld as a breach of privacy the identification of the sportsman's partner. In the Authority's view, the identification was unrelated to the central matter with which the item dealt.

In Decision Nos: 1996-130 to 132, the Authority considered a privacy complaint in which the person interviewed for a current affairs programme complained that he had been filmed,

without his knowledge or permission, by a hidden camera carried in a bag by the item's presenter after he had invited her and another person into his office.

The broadcaster advanced the public interest defence, which the Authority rejected. It reached its decision on the basis that there was no compelling reason to film the complainant without his knowledge after he had agreed to discuss in his office the questions which were put to him. It considered that the broadcaster had also contravened the requirement to be fair to the person who it was investigating. The public interest, as opposed to public curiosity, did not override his right to privacy. The broadcaster was ordered to pay compensation of \$1,500 to the complainant.

In the next decision to be mentioned (Decision No: 1996-172), the Authority was faced with the broadcaster's strongly advanced argument that the complaint, as it was made by a person who was not involved in any way with the matters dealt with in the item, should be dismissed. The broadcaster accepted that the news item disclosed information which was of no interest to the issue being addressed in the item.

The Authority acknowledged in the decision that the legislation in the United Kingdom states that privacy complaints “shall not be entertained ... unless made by the person affected”. However, it pointed out, the New Zealand legislation did not contain a similar provision. Therefore, it decided, it had the jurisdiction and could determine the complaint. It upheld the complaint. Because the complainant was not involved with the family referred to in the news item, it decided that the complainant was not aggravated in any way and exercised its discretion not to impose an order of any kind.

The question of whether a politician who alleged a breach of privacy should be dealt with in the same way as a private citizen was an issue adjudicated on in Decision No: 1997-024. The politician who complained had opened his front door to find a television news crew standing outside with a camera rolling. He considered that the broadcast of the pictures of him opening the door involved an intentional intrusion in his interest in solitude or seclusion (privacy principle iii). The broadcaster argued that the public interest defence applied, because the politician approached had been the subject of rather strong criticism at the time from some fellow party members, and was claimed by them to be at the centre of the events which were the subject of the item.

The Authority decided that because of the extraordinary degree of political interest then current (because of the general election), and the specific focus on the named politician, the privacy principles were not contravened. The Authority accepted that politicians and the media have a symbiotic relationship, and wrote:

The intensity of public interest in this very current issue

The
Broadcasting
Act in s.4(1)(c)
requires
broadcasters
to maintain
standards
consistent
with the
privacy
of the
individual

meant that persistent approaches from the media were not unreasonable, and indeed, were to be expected. The Authority considers that people such as [...] who are experienced in public life and involved in issues of high public interest, can be expected to deal with robust persistence on the part of the media that might otherwise be unacceptable.

The final decision to which the Authority wishes to draw attention (Decision No: 1997-035) also involved a news item. It dealt with an armed robbery and showed a police officer, from behind, shooting the offender at the time of the offence. The Authority accepted that the officer would be identifiable by those who knew him, for example, his neighbours. It was also accepted that the police are accountable for their use of weapons, but that there were compelling arguments why the specific officer should not have been identified in this instance.

The Authority accepted that the identification of individual police officers is not usual police practice but, given the police's extraordinary power to use weapons, it did not uphold the complaint that the item amounted to a breach of the police officer's privacy when he was filmed by a television crew using a weapon.

The Authority also acknowledged that the complaint raised ethical issues - rather than standards matters - which it intimated could well be a matter for discussion between the police and the broadcaster.

The Authority has found that the privacy principles which have been developed and adopted have provided it with a useful framework when considering complaints which allege a breach of privacy.

The principles enunciated in 1996 record:

i) The protection of privacy includes protection against the public disclosure of private facts where the facts disclosed are highly offensive and objectionable to a reasonable person of ordinary sensibilities.

ii) The protection of privacy also protects against the public disclosure of some kinds of public facts. The "public" facts contemplated concern events (such as criminal behaviour) which have, in effect, become private again, for example through the passage of time. Nevertheless, the public disclosure of public facts will have to be highly offensive to a reasonable person.

iii) There is a separate ground for a complaint, in addition to a complaint for the public disclosure of private and public facts, in factual situations involving the intentional interference (in the nature of prying) with an individual's interest in solitude or seclusion. The intrusion must be offensive to the ordinary person but an individual's interest in solitude or seclusion does not provide the basis for a privacy action for an individual to complain about being observed or followed or photographed in a public place.

iv) The protection of privacy also protects against the disclosure of private facts to abuse, denigrate or ridicule personally an identifiable person. This principle is of particular relevance should a broadcaster use the airwaves to deal with a private dispute.

However, the existence of a prior relationship between the broadcaster and the named individual is not an essential criterion.

v) The protection of privacy includes the protection against the disclosure by the broadcaster, without consent, of the name and/or address and/or telephone number of an identifiable person. This principle does not apply to details which are public information, or to news and current affairs reporting, and is subject to the "public interest" defence in principle (vi).

vi) Discussing the matter in the "public interest", defined as of legitimate concern or interest to the public, is a defence to an individual's claim for privacy.

vii) An individual who consents to the invasion of his or her privacy, cannot later succeed in a claim for a breach of privacy.

The Authority has found that the privacy principles which have been developed and adopted have provided it with a useful framework

CODE REVIEWS

REVIEW OF THE PAY TELEVISION CODE

This review has accounted for a substantial part of the Authority's time and resources in the past year. Nevertheless, the core business of complaints, responding to complaints from members of the public, must always take priority.

The Pay Code review was announced in March 1995, submissions sought, and hearings held in Auckland and Wellington before the end of that year. Early on the Authority formed the view that it was essential to survey public opinion on the issues before reaching its conclusions.

As reported in last year's report, financial constraints meant

that the survey could not proceed until this year. In July 1996 the Authority began preparing for a public opinion survey about attitudes towards pay television.

The Authority was fortunate in being able to use Linda Sheldon as a research consultant for the survey. Ms Sheldon has recently returned to Auckland after some years in Sydney, where she had held the position of research director with the Australian Broadcasting Authority. Her extensive and directly relevant experience was invaluable to the Authority.

The Authority also established a Consultative Committee to give advice as the research proceeded through the qualitative and quantitative stages.

The members of the committee comprised: Garry Dickinson, Chief Mathematical Advisor, Statistics New Zealand; Reece Walters, Institute of Criminology, Victoria University; Bill Hastings, Deputy Dean, Law Faculty, Victoria University and member of the Film and Literature Board of Review; Rosemary McLeod, Authority member; Tony O'Brien, Sky Network Television; Linda Sheldon, Research Consultant to the Authority; and Phillipa Ballard, Complaints Manager for the Broadcasting Standards Authority.

The qualitative stage consisted of Focus Groups held in Auckland, Napier, Christchurch, and Invercargill which were supervised by Ms Sheldon and Ms Ballard. The Groups were shown clips from seven films and the discussions enabled the Authority to determine the appropriate questions and approaches to be taken on the issues in the public opinion survey.

The quantitative stage was conducted by AGB McNair. A total of seventeen hundred people were interviewed in April - May 1997 and each was asked to complete a questionnaire, covering some specific aspects of films screened on television, and to forward it to the research company. A total of 1,000 self-completed questionnaires was received by the research company. The Authority intends to release its findings and recommendations in the 1997/1998 financial year.

In summary, the Authority records that it gave the review of the Pay Code high priority as soon as finances became available to enable the review to be completed. It has consulted widely. Through the use of a consultative committee, it has made sure that the methodology used during the research phase is as sound as possible. Furthermore, as Sky is the dominant provider of pay television in New Zealand, the Authority has worked closely with that company to ensure that it has been kept fully informed of the process.

OTHER REVIEWS

The Pay Code review has pushed to one side the planned consultations with broadcasters on standards for talkback radio. The Authority regrets this but has no doubt, given the rapid expansion of pay television subscription services in New Zealand, that the review of the Pay Code justified the focus of its research resources.

The issue of standards on talkback radio has been deferred, not dismissed.

The appropriateness of the television code for the protection of children continues to be an issue which occurs not infrequently in complaints. There, the focus is often on the promotion of programmes - especially AO classified programmes - in PGR or G timeslots.

The standards require that promos contain material which is suitable for the timeslot in which the promo is screened. However, showing excerpts from a programme sometimes involves screening a segment from a programme which, out of context, might be thought to push the limits of the standards. Not unnaturally the broadcasters, when preparing promos, choose an excerpt which is intended to arouse the interest of viewers.

This is an issue which has arisen in the review of the Code for Pay Television, and which the Authority intends to address, at least to some extent, in its report.

CHILDREN'S TELEVISION VIEWING

Children's television viewing is listed as an area for the Authority to address in its outputs both under code review and research. The frequently expressed concern about promos for AO programmes screened in PGR or G time is noted above.

The effect of television on children has been an internationally contentious issue for some decades, and where, given the range of methodologies employed, it is important for researchers and commentators to acknowledge their biases when examining the relationships between children and television. It is also an area where inconclusive and ambiguous results are frequent. The reference to the long history of interest and research in the area, along with the lack of unequivocal findings, shows that innovative approaches to the issues are necessary.

Representatives from the Authority attended the first World Summit on Television and Children in Melbourne in 1995. One of the main focuses was programming and the provision of appropriate programmes for age specific groups. In April 1997, following on from the Melbourne conference, a forum was held in Paris entitled Youth and the Media Tomorrow - Problems and Perspectives which was attended by 200 delegates from 60 countries. The Authority was not represented but intends to give careful thought to attending the second World Summit in London in March 1998.

Following the Melbourne Summit, the Authority invested some funding in the establishment of a group to consider the application to New Zealand of the Children's Charter approved at the Summit.

The group started with some enthusiasm for the project and offers of ongoing financial support were received from advertisers and programme makers. However, the interests represented by the groups involved proved to be too diverse for an agreement on the approach to be adopted. A suggestion that stakeholders in the area be interviewed in a thorough way to examine the different expectations held about television for children was unable to gain majority support.

The protection of children is one of the central foundations for the Authority's existence. The current lack of shared commitment among interested bodies is not surprising given the lack of adequate funding and the variety of ways advanced to achieve the goals.

Nevertheless, while the Authority is not able to report substantial progress under the specific heading "Protection of Children", it is a matter which has played an important role in its review of the Pay Code.

The variety of classification codes used in New Zealand, for example, by free-to-air broadcasters, pay television broadcasters, and cinemas appears to result in a lack of understanding by viewers. While the Authority considered at one time the possibility of a

Children's television viewing is listed as an area for the Authority to address in its outputs both under code review and research.

unified system, it no longer believes a single system is possible. The system used by the Office of Film and Literature Classification (OFLC), for example to classify films shown in cinemas, is a penal one. Cinema operators who admit people under the age of 18 years to a film restricted to those over the age of 18 years (R18), risk penal sanctions, as do operators of rental video stores if they rent an R18 video to a person under the age of 18 years. Sky uses the R18 classification, but it is exempt from the legislation covering the OFLC. Thus, Sky has no legal responsibility should a young viewer

at home watch a film rated R18 on the HBO channel.

Viewers who interpret Sky's use of the R18 classification as a recommendation, rather than a restriction, are applying common sense. Free to air broadcasters impose an AO label which is clearly advisory. It may well be used in conjunction with a written and verbal warning. It is not intended to be, nor could it practically operate, as a penal provision.

The Authority's efforts to deal with the issue of a classification code for television in New Zealand will be an issue addressed in the Pay Code review.

INTERNATIONAL

The globalisation of television and radio broadcasts has been accepted for many years. Transborder satellite broadcasts are a more immediate issue. Without strict laws backed up with stringent technological controls, there is no ready way to prevent residents of any one country from being able to view the satellite broadcasts from other countries. It is an issue which for each country involves national integrity and sovereignty.

At the same time that broadcasting is becoming increasingly global, there is an awareness that the positive aspects of broadcasting, such as informing and entertaining, could well be encouraged in such a way that does not forego too much of countries' individual and cultural identities. Similar issues are faced by a number of countries. This allows the opportunity for shared solutions.

In the above section dealing with children's television viewing, there is reference to the proposed summit in London early next year. The Authority's representatives in Melbourne in 1995 found it beneficial to share concerns. Although it has not been able to facilitate the implementation of the Children's Charter in New Zealand, the Authority will give serious thought to attending the London Summit in order to make use of the widest range of knowledge when giving effect to its statutory responsibility to develop codes which are applicable to the protection of children.

The Authority is a member of the UNESCO-supported International Clearinghouse on Children and Violence on the Screen. This organisation, which collects and disseminates information on these matters, is based in Sweden. It is a valuable source of information on a topic which is a major concern not only in New Zealand, but also in many other countries.

Subscription television and the issues and problems it raises are not unique to New Zealand. It is of particular concern in Australia, where satellite and cable are not yet as developed as they are in New Zealand. New Zealand continues to interact

positively with the media regulators and politicians in Australia whose concern about the relationship between on-screen violence and violence in the community was spurred recently by the slayings in Tasmania.

In November 1996, Authority member, Rosemary McLeod, and Complaints Manager, Phillipa Ballard, attended the hearings in Canberra of the Select Committee on Community Standards relevant to the Supply of Services utilising Electronic Technologies. It is proposed that the results and recommendations of the Authority's Pay Code review will be presented to a conference on Cultural and Media Policy in Sydney in November of this year.

In June last year, the Authority's Chairperson attended an exploratory meeting in Singapore to discuss the establishment of a Broadcasting Regulatory Roundtable for Asia and the Pacific. That meeting decided that such a Roundtable should be established.

The Authority's Executive Director attended the first meeting of the Broadcasting Regulatory Roundtable for Asia and the Pacific in Tokyo in June 1997. While each country which participates faces specific issues, there were a number of important and shared concerns. Moreover, because of internationalisation of broadcasting and the rapid advances in technology, it was felt that legislation enacted in isolation in a country which failed to recognise these matters could well be ineffective. However, while making the best efforts to capture the positive international influences, and to avoid the unwanted, no country was prepared to give up its sovereignty, or to abandon its independence and the right to make its own rules.

In-depth discussions, the sharing of policies and, in particular, the sharing of solutions were the themes of the Roundtable. The Authority believes that it is valuable to participate in such events.

Other countries represented were Australia, India, Japan, Korea, Malaysia, Philippines, Singapore and Thailand. The other member countries are Brunei, China, Hong Kong, Indonesia, Pakistan, United States and Vietnam.

STAFF

The Authority is fortunate in that the staffing is stable. Phillipa Ballard, the Complaints Manager, has conscientiously and competently dealt with the large increase in the number of complaints. In November 1996, Felicity Steel was appointed Complaints Executive. In view of her previous experience in the Office of the Ombudsman and with the Insurance and Savings Ombudsman, Ms Steel quickly adapted to her task with the Authority.

Elizabeth Wallace, the Finance Controller, was responsible for devising and putting into effect a system for collecting the levy contained in the 1996 Amendment. There were inevitably a few questions of interpretation for the Authority to resolve but, overall, the levy was collected efficiently and, as

designed in the legislation, with the broadcasters' compliance costs kept as low as reasonably possible.

The expeditious operation of most organisations depends on the competence of the Office Manager. Not only does Deborah Houston ensure that a myriad variety of tasks are assigned and completed, she is responsible in these days of increasing technology for ensuring that the Authority's systems function efficiently.

Finally, to the voice of the Authority, receptionist Madeline Palmer, the Authority records its appreciation of her unfailing good humour and ability to ease tensions in an office where pressures are forever present.



STAFF

Michael Stace LL.M, D. Jur.
Phillipa Ballard M.A., LL.B
Felicity Steel LL.B
Elizabeth Wallace
Deborah Houston
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APPENDIX 1 ANALYSIS OF DECISIONS

July 1996 - June 1997	Complaints Received : 206	Decisions Issued : 199
July 1995 - June 1996	Complaints Received : 179	Decisions Issued : 171
July 1994 - June 1995	Complaints Received : 162	Decisions Issued : 144
July 1993 - June 1994	Complaints Received : 168	Decisions Issued : 151
July 1992 - June 1993	Complaints Received : 159	Decisions Issued : 144
July 1991 - June 1992	Complaints Received : 106	Decisions Issued : 76
July 1990 - June 1991	Complaints Received : 52	Decisions Issued : 45
July 1989 - June 1990	Complaints Received : 43	Decisions Issued : 12

July 1996 - June 1997

BASIS OF COMPLAINT

(1995 - 1996 Figures in brackets)

	Total	Good Taste & Decency (including language)	Balance, Fairness and Accuracy
Declined	157 (121)	50 (51)	80 (40)
Upheld (all or in part)	42 (50)	11 (13)	20 (26)
Declined Jurisdiction	8 (13)		
Complaint Withdrawn	8 (4)		

	Alcohol Advertising	Violence	Privacy
Declined	5 (11)	6 (7)	13 (3)
Upheld (all or in part)	3 (2)	2 (3)	5 (6)

	Racism	Other	Sexism
Declined	- (4)	1 (5)	2 (-)
Upheld (all or in part)	- (-)	1 (-)	- (-)

Thirteen orders were made by the Authority after a complaint had been upheld. Three related to complaints about comments made on talkback radio and, in each case, the broadcaster was required to broadcast a summary of the decision. In one instance, the broadcaster was also ordered to pay costs to the Crown of \$5,000. One current affairs item gave rise to three complaints which were upheld. Two concerned privacy and the broadcaster was ordered to pay \$1,500 compensation to the complainant. Having also upheld the fairness aspect of the complaint, the Authority ordered the broadcaster to broadcast a summary of the decision. With regard to another two balance complaints upheld, the Authority ordered the broadcast of a summary of each decision. Costs to the Crown of \$500 in each instance were imposed in two upheld complaints relating to alcohol promotion. Costs of \$3,000 were imposed after the broadcast of an excessively violent film at an inappropriate hour, and of \$250 when a radio broadcaster broadcast some denigratory comments. Finally, compensation of \$750 was ordered in regard to a privacy complaint which the broadcaster had upheld, and the Authority decided that the broadcaster's action was insufficient.

BY BROADCASTER AND PROGRAMME

TVNZ	Total	News	Current Affairs	Holmes	Talk Back	Documentary	Other
Declined	84 (73)	37 (16)	9 (10)	4 (2)		3 (-)	31 (45)
Upheld (all or in part)	19 (21)	4 (5)	4 (7)	2 (-)		- (-)	9 (9)
TV3			Current Affairs				
Declined	39 (18)	9 (4)	9 (3)			- (-)	21 (11)
Upheld (all or in part)	13 (6)	2 (2)	5 (1)			- (1)	6 (3)
HPTV							
Declined	3	2					1
Upheld (all or in part)	1	1					
Sky							
Declined	- (9)						- (9)
Upheld (all or in part)	- (3)						- (3)
RNZ							
Declined	15 (12)	6 (6)	1 (1)	1 (1)		1 (-)	7 (4)
Upheld (all or in part)	1 (5)	1 (1)	-	- (-)		- (-)	- (1)
Radio Network							
Declined	3	1					2
Upheld (all or in part)	-	-					-
Private & Other Radio							
Declined	13 (8)	3 (7)			4 (7)		6 (1)
Upheld (all or in part)	8 (12)	- (5)			5 (4)		3 (7)

APPENDIX 11

COMPLAINTS DETERMINED BY THE AUTHORITY

JULY 1996 - JUNE 1997

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1996-071	John Lowe	Tonight, item on naked artist, TVNZ	Unfair editing	Not Upheld
1996-072	Gerald Sheehy	Friends, episode on 24.4.96, TVNZ	Indecent and not mindful of the effect on children	Not Upheld
1996-073	Karen Dawkins	Good Morning, item on Rape Crisis, TVNZ	Unbalanced, partial and unfair	Declined to Determine
1996-074	GALA	Ad break during episode of X files, 25.4.96, TVNZ	Saturation of liquor promotions	Upheld
1996-075	Knights of the Southern Cross	Film, A Few Good Men, TVNZ	Blasphemy and discrimination against Christians	Not Upheld
1996-076	Caum Sawyers	Banksie on Sunday, talkback on abortion, Radio Pacific	Inaccurate, unbalanced and unfair, denigrated doctors	Upheld in Part, Broadcast of apology ordered
1996-077	Women in Film & Television (Auckland) Inc.	3 National News, item on rape, TV3	Action taken insufficient	Not Upheld
1996-078	Stephanie Johnson	Film, Basic Instinct, TV3	Indecent and excessive violence	Not Upheld
1996-079	Murray Johnson	Film, Basic Instinct, TV3	Indecent and excessive violence	Not Upheld
1996-080	Julia King	Film, Basic Instinct, TV3	Indecent and excessive violence	Not Upheld
1996-081	Frances Dunham	Party of five, episode on 11.4.96, TVNZ	Indecent and not mindful of the effect on children	Not Upheld
1996-082	Healthlink South	Promo for 20/20 item about a murder/suicide, TV3	Inaccurate	Not Upheld
1996-083	Healthlink South	20/20, item about a murder/suicide, TV3	Unbalanced, inaccurate and likely to cause alarm	Not Upheld
1996-084	Elizabeth Paton-Simpson	3 National News, item on sexual encounter, TV3	Pornographic and denigratory to women	Upheld in Part
1996-085	Credo Society Inc	In the Pink on 18.3.96, 95bFM	Offensive language	Declined to determine
1996-086	J B Williamson	News item in which the Queen called "Lizzie", RNZ	Offensive and in poor taste	Not Upheld
1996-087	Enid Bancroft	Midday, news item about sentence for drug supplier, TVNZ	Breach of privacy	Upheld in Part
1996-088	Minister of Housing (Hon Murray McCully MP)	Morning Report, item on state housing rental policy, RNZ	Unbalanced, partial and dealing with people unfairly	Upheld in Part
1996-089	Tom Frewen	One Network News and Holmes, items about free-to-air rugby, TVNZ	Inaccurate, partial and likely to cause alarm	Upheld in Part
1996-090	Waco Coatings and Chemicals Limited	Fair Go, item about protective coating on roof, TVNZ	Unbalanced and dealt with people unfairly	Not Upheld
1996-091	Ron Mills	"Erotica", poem broadcast on correspondence school programme, RNZ	Offensive language and not mindful of the effect on children	Not Upheld
1996-092	Maire Davenport	The Key of David, episode on 18.2.96, TV3	Not mindful of the effect on children	Not Upheld
1996-093	P F Noble	Holmes, item on sex education, TVNZ	Poor taste and dealt with people unfairly	Not Upheld
1996-094	Allied Mutual Insurance Limited	Promo for Fair Go item on insurance claim, TVNZ	Action taken insufficient	Not Upheld
1996-095	Allied Mutual Insurance Limited	Fair Go, item on insurance claim, TVNZ	Unbalanced, partial and unfair, employed a deceptive programme practice, and caused unnecessary alarm	Upheld in Part, Broadcast of summary of decision ordered
1996-096	Sylvia Gates	Nightline, item on immigration, TV3	Inaccurate, partial and distorted editing	Not Upheld
1996-097	John Fowle	World at War, episode on 9.6.96, TVNZ	Not mindful of the effect on children	Not Upheld

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1996-098	Phillip Dunlop	One Network News, item on gun control, TVNZ	Inaccurate, partial and distorted editing	Not Upheld
1996-099	The National Collective of Rape Crisis and Related Groups of Aotearoa Inc	60 Minutes, item on rape case, TVNZ	Unbalanced, dealt unfairly with people and employed deceptive programme practice	Not Upheld
1996-100	Ruby Woodward	60 Minutes, item on rape case, TVNZ	Unbalanced, dealt unfairly with people	Not Upheld
1996-101	M R Brider	One World of Sport, 25.5.96, TVNZ	Inaccurate	Not Upheld
1996-102	Chris Norman	Nine to Noon, item on NZ First's immigration policy, RNZ	Inaccurate, unbalanced, and dealt unfairly with people	Not Upheld
1996-103	Wellington Palestine Group	One Network News, item on the Middle East, 15.4.96, TVNZ	Inaccurate and unbalanced	Not Upheld
1996-104	Wellington Palestine Group	One Network News, item on the Middle East, 26.4.96, TVNZ	Inaccurate and unbalanced	Not Upheld
1996-105	MD Stenson	Nine to Noon, male attitudes to childrearing, RNZ	Offensive and sexist	Not Upheld
1996-106	Royal Australasian College of Surgeons	20/20, item about dismissal of Robert Phipps, 24.7.96, TV3	Inaccurate, unbalanced and not dealt with fairly	Not Upheld
1996-107	Royal Australasian College of Surgeons	20/20, Mailbag item about dismissal of Robert Phipps, TV3	Unbalanced and not dealt with fairly	Not Upheld
1996-108	Healthcare Otago	20/20, item about dismissal of Robert Phipps, 24.7.96, TV3	Action taken insufficient	Not Upheld
1996-109	Healthcare Otago	20/20, item about dismissal of Robert Phipps, 24.7.96, TV3	Inaccurate and unbalanced and not dealt with fairly	Upheld in Part
1996-110	John Clements	Tonight, items on serial rape inquiry, and helicopter groundings, TVNZ	Inaccurate	Not Upheld
1996-111	M Fraser	Promo for Ansett Time of Your Life, 2.6.96, TV3	Inaccurate, not respectful of principles of law and not mindful of the effect on children	Not Upheld
1996-112	M Fraser	Ansett Time of Your Life, 2.6.96, TV3	Inaccurate, not respectful of principles of law and not mindful of the effect on children	Not Upheld
1996-113	A S & J A Baker	News item on business closure, 4.4.96, Mix 100FM (Tauranga)	Lacked taste and invasion of privacy	Not Upheld
1996-114	A S & J A Baker	News item on business closure, 5.4.96, Mix 100FM (Tauranga)	Lack of good taste and invasion of privacy	Not Upheld
1996-115	Steve Conway	3 National News, item on motorcycle accident, 9.6.96, TV3	Unnecessary intrusion into grief and caused unnecessary alarm	Not Upheld
1996-116	Steve Conway	3 National News, item on motorcycle accident, 9.6.96, TV3	Breach of privacy	Not Upheld
1996-117	Heather Howard	Samurai Pizza Cats, episode on 23.5.96, TVNZ	Offensive and denigrated women	Not Upheld
1996-118	J D'Errico	Good Morning, discussion of drinking hours in Buenos Aires, 4.6.96, TVNZ	Denigrated Italians	Declined to Determine
1996-119	John Konings	Express Report, item on health, 29.4.96, HPTV	Offensive	Not Upheld
1996-120	J D'Errico	Local Edition, on 29.5.96, HPTV	Offensive, inaccurate and denigrated Italians	Not Upheld
1996-121	P G Curran	One Network News, item on bombings in Northern Ireland in June 1996, TVNZ	Inaccurate and partial	Not Upheld
1996-122	P G Curran	One Network News, item on bombings in Northern Ireland in July 1996, TVNZ	Inaccurate and partial	Not Upheld
1996-123	DuPont (New Zealand) Ltd	20/20, item on Benlate, 3.6.96, TV3	Inaccurate, unbalanced, dealt unfairly with people, and distorted editing	Not Upheld

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1996-124	DuPont (New Zealand) Ltd	20/20, follow-up item on Benlate, 10.6.96,TV3	Inaccurate,unbalanced, dealt unfairly with people, and distorted editing	Not Upheld
1996-125	Diip Rupa	Assignment, item on government's policy on rental housing,TVNZ	Unbalanced	Not Upheld
1996-126	Kristian Harang	One Network News, item on anti-homosexual film, TVNZ	Unbalanced	Not Upheld
1996-127	Brian Thomas	3 National News, item on NZ First's immigration policy, TV3	Offensive and encouraged discrimination	Not Upheld
1996-128	Janet Middlemiss	National Party advertisement, TVNZ	Misleading	Not Upheld
1996-129	Green Society	Progressive Green Party advertisement, 2.10.96, Mai FM	Misleading	Upheld
1996-130	Nick Drury	20/20, item about youth's suicide,TV3	Breach of privacy	Upheld; Order for compensation in the amount of \$1,500
1996-131	Nick Drury	20/20, item about youth's suicide,TV3	Inaccurate,unbalanced and unfair	Upheld in Part; Broadcast of summary of decision ordered
1996-132	C Daisley	20/20, item about youth's suicide,TV3	Breach of privacy	Upheld
1996-133	Alexis Keir	Banksie on Sunday, talkback about Peter Mwai, Radio Pacific	Encouraged discrimination	Upheld
1996-134	New Zealand Labour Party	National Party advertisement, 5.10.96,TVNZ	Not truthful, inaccurate and misleading	Not Upheld
1996-135	Children's Media Watch	City Life, episode on 15.7.96,TVNZ	Poor taste, inappropriately classified and not mindful of the effect on children	Upheld in Part
1996-136	GA Sparks	City Life, episode on 15.7.96, TVNZ	Poor taste, and not mindful of the effect on children	Upheld in Part
1996-137	James Hippolite	Assignment, item on brothel keeping,TVNZ	Unbalanced, partial and unfair	Not Upheld
1996-138	J G Rawson	60 Minutes, item on Danyon Loader,TVNZ	Poor taste and unfair	Not Upheld
1996-139	GALA	Ad break during 2 Sports Action: Lion Red League,TVNZ	Saturation of liquor promotions	Not Upheld
1996-140	GALA	One Network News, item on Ranfurly Shield,TVNZ	Incidental liquor promotion	Not Upheld
1996-141	C R Turner	Banksie on Sunday, talkback comments about "Showcase", Radio Pacific	Unbalanced and unfair	Not Upheld
1996-142	Sandra Robb	Topp Twins, episode on 26.7.96,TV3	Disrespectful of principles of law	Not Upheld
1996-143	Phillip Dunlop	Top of the Morning, comments about gun ownership, RNZ	Discrimination against gun owners	Not Upheld
1996-144	Allan Golden	In Touch with New Zealand, discussion on Domestic Violence Act, RNZ	Unbalanced and denigrated men	Not Upheld
1996-145	Fr Frank Downs	Nightline, photo of dead girl,TV3	Unnecessary intrusion into grief	Not Upheld
1996-146	Graeme Andrews	Nightline, comment about the Queen Mother,TV3	Inaccurate and denigratory	Upheld in Part
1996-147	Cheryl Philips	Ice TV, comments about road safety,TV3	Inaccurate and not mindful of the effect on children	Not Upheld
1996-148	Geoff Holding	Beyond 2000, item on women sunbathing topless, TV3	Poor taste and not mindful of the effect on children	Not Upheld
1996-149	Peter Kossen	Muppets Tonight, dialogue about balloons,TV3	Offensive	Not Upheld

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1996-150	Lieutenant Commander B I Fotheringham	Holmes, interview with author of paedophile index,TVNZ	Lack of good taste, disrespect for the principles of law and harmful to children	Not Upheld
1996-151	Morris Cheer	Film, Side Out, TVNZ	Not mindful of the effects on children	Not Upheld
1996-152	Ratewatch	ATV News, item on rates, HPTV	Unbalanced and unfair	Not upheld
1996-153	Phillip Dunlop	News item on firearms, More FM	Unbalanced	Declined to Determine
1996-154	John Turney	One Network News, item on medical bills for long-term hospital care of the elderly, TVNZ	Unbalanced, unfair and partial	Upheld in Part
1996-155	Calum Sawyers	Assignment, item on "Sexual Healing",TVNZ	Unbalanced, partial and unfair	Upheld in Part
1996-156	A J Hughes & A J Walker	Assignment, item on "Sexual Healing",TVNZ	Unbalanced, partial and unfair	Upheld in Part
1996-157	Rosemary Segegin	Assignment, item on "Sexual Healing",TVNZ	Unbalanced, partial and unfair	Upheld in Part
1996-158	R Dale	Taped conversation about tickets to wearable art event in Nelson, Fifehire FM	Breach of Privacy	Not Upheld
1996-159	R Dale	Taped conversation about tickets to wearable art event in Nelson, Fifehire FM	Broadcast of taped conversation without permission	Not Upheld
1996-160	Siegfried Bauer	One Network News, item on search for child in flood, TVNZ	Unnecessary intrusion into grief and unfair	Not Upheld
1996-161	New Zealand Conservative Party	Assignment, profile of political parties, TVNZ	Unbalanced and unfair	Not Upheld
1996-162	New Zealand Conservative Party	Meet the Press, Leaders' Debate, TVNZ	Unbalanced and unfair	Not Upheld
1996-163	Allied Mutual Insurance Limited	Fair Go, award of costs re Decisions 1996-094/095, TVNZ		Award of Costs in the amount of \$3,000
1996-164	Brendan Tuohy	NewsNight, item about the Dalai Lama,TVNZ	Unbalanced and inaccurate	Not Upheld
1996-165	Brendan Tuohy	60 Minutes, item about the Dalai Lama,TVNZ	Unbalanced and inaccurate	Not Upheld
1996-166	Mary Kennedy	Cover Story, episode depicting cigarette smoking, TVNZ	Did not respect the principles of law	Not Upheld
1996-167	Friends of the Earth	Assignment, item on 8.8.96 about economic crisis for farmers,TVNZ	Unbalanced and unfair	Not Upheld
1996-168	Dr John Read	Documentary, False Memories, about recovered memories of sexual abuse, TVNZ	Inaccurate, unbalanced and likely to cause unnecessary alarm or distress	Not Upheld
1996-169	New Zealand Psychological Society Inc	Documentary, False Memories, about recovered memories of sexual abuse,TVNZ	Unbalanced and likely to disturb children	Not Upheld
1996-170	Anne Baker	Epitaph, story on 10.10.96 about body snatching,TVNZ	Poor taste	Not Upheld
1996-171	Anne Baker	Epitaph, story on 10.10.96 about body snatching, TVNZ	Breach of privacy	Not Upheld
1996-172	George W Gray	One Network News, item showing family home of air crash victim,TVNZ	Breach of privacy	Upheld
1996-173	Malcolm Craigie	Police Stop: Caught in the Action, theft by employee, TV3	Discriminated against employees	Not Upheld
1996-174	Clive Hayward	One Network News, item on protest against Employment Contracts Act,TVNZ	Inaccurate and unfair	Not Upheld

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1996-175	Temaloti Fakaosi	Fair Go, item on travel agent's refusal to refund, TVNZ	Breach of privacy	Not Upheld
1996-176	Temaloti Fakaosi	Fair Go, item on travel agent's refusal to refund, TVNZ	Inaccurate and unfair	Not Upheld
1996-177	Don Borrie	Newstalk ZB, comments about conduct of City Councillors, Radio Network	Action taken Insufficient	Not Upheld
1996-178	RCD Applicant Group	Tonight, item about the release of rabbit calicivirus in NZ, TVNZ	Unbalanced and inaccurate	Not Upheld
1996-179	Otago Regional Council	Tonight, item about release of rabbit calicivirus in Australia, TVNZ	Poor taste and unbalanced	Not Upheld
1996-180	Trevor Dustan	One Network News and Tonight, item about release of rabbit calicivirus in Australia, TVNZ	Unbalanced and inaccurate	Not Upheld
1996-181	Geoff Holding	Sex Life, AQ classified promo, TV3	Inappropriate classification for timeband	Upheld
1996-182	New Zealand Fire Service	20/20, item on fire appliance accident, TV3	Inaccurate, unbalanced and unfair	Upheld; Broadcast of summary of decision ordered
1996-183	Bob Atkinson	Sex/Life, episodes on 16.9.96 and 2.10.96, TV3	Broadcast too early in the evening	Upheld
1996-184	Evan Davies	Sex/Life, series as a whole and promo on 20.8.96, TV3	Series and promo degrading	Not Upheld
1996-185	Maria Dove	Sex/Life, episodes on 16.9.96 and 2.10.96, TV3	Broadcast too early in the evening	Upheld
1996-186	Wellington Palestine Group	Morning Report, item about tourist tunnel in East Jerusalem, RNZ	Inaccurate and misleading	Not Upheld
1997-001	Karen Dawkins	Ricki Lake Show, men parading in "hunk search", TVNZ	Offensive and discriminated against men	Not Upheld
1997-002	Robert Clarkson	Holmes, item about student protest against fee increase, TVNZ	Unbalanced, partial and unfair	Not Upheld
1997-003	David Aitchison	Midday, item about gun control, TVNZ	Unbalanced and unfair	Not Upheld
1997-004	Dennis Wilkinson	The Bill, episode on 19.10.96, about a killing in prison, TVNZ	Violent and not mindful of the effect on children	Not Upheld
1997-005	GALA	One Network News, liquor signage during news conference, TVNZ	Insufficient action taken	Upheld; Costs of \$500 ordered
1997-006	N E Archer	Holmes Special, Leaders' Debate, 7.10.96, TVNZ	Unbalanced, unfair and distorted editing	Upheld in Part
1997-007	J and J McDonagh	Assignment, item on 12.9.96, about juvenile offenders, TVNZ	Insufficient action taken	Upheld; Costs of \$500 ordered
1997-008	Credo Society Inc	In the Pink, criticism of mayor and councillors, 95bFM	Offensive and denigratory	Upheld in Part; Costs of \$250 ordered
1997-009	Wellington Palestine Group	One Network News, item on 30.10.96, about incident in Israel, TVNZ	Insufficient action taken	Not Upheld
1997-010	Allen J Little	Midday, item with excessive details of murder, TVNZ	Lack of good taste and not objective	Not Upheld
1997-011	GALA	Alcohol advertisements broadcast consecutively, TVNZ	Insufficient action taken	Upheld; Costs of \$500 ordered
1997-012	GALA	Weddings, episode on 17.12.96, featuring stag parties, TVNZ	Incidental promotion of liquor not minimised	Not Upheld
1997-013	C G Hayball	One Network News, item on dawn of next millenium, TVNZ	Inaccurate	Not Upheld

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1997-014	Christopher S Ingram	3 National News, George Best's comments at media conference, TV3	Bad taste, unbalanced, denigrated women and failed to respect principles of law	Not Upheld
1997-015	Auckland Trotting Club (Inc)	Holmes, items on 11 & 19.6.90, about wrongdoings at ATC, TVNZ	Unbalanced, inaccurate, unfair and distorted editing	Upheld in Part
1997-016	Piripi Whaanga	Talkback exchange, Aotearoa National Maori Radio	Insufficient action taken	Upheld; Costs of \$5,000 ordered and broadcast of apology and summary of decision ordered
1997-017	A J Dale	ATV's News Bulletin, item about Britomart project, HPTV	Offensive language	Upheld
1997-018	Sue White	The Gladiators, promo in children's viewing time, TVNZ	Not mindful of the effect on children	Not Upheld
1997-019	Credo Society Inc	G & T Show, alleged comment about "gays" during interview, Access Radio, Auckland	Inaccurate and unfair	Declined to Determine
1997-020	Children's Media Watch	3 Ninjas, film on 10.11.96, TV3	Excessive violence	Not Upheld
1997-021	Peggy Burton	Sex/Life, episode on 11.9.96, TV3	Inappropriate timeslot and lack of taste	Upheld
1997-022	Pam Sutton	ZB Newstalk, item about woman breastfeeding another woman's baby, Radio Network	Breach of privacy	Not Upheld
1997-023	Doug Bath	The Key of David, episode on 29.9.96, TV3	Person dealt with unfairly	Not Upheld
1997-024	Michael Laws	3 National News, item about resignation of NZ First candidate, 13.9.96, TV3	Breach of privacy	Not Upheld
1997-025	L Carter	Sex/Life, episode on 4.12.96, TV3	Invited imitation of a crime and discriminated against men	Not Upheld
1997-026	Dianne Browne	Film, Night Eyes, 9.11.96, TV3	Lack of taste and inappropriate in timeslot	Not Upheld
1997-027	Mike Gibson	One Network News and Tonight, item about election of deputy speaker, 13.12.96, TVNZ	Unfair and partial	Not Upheld
1997-028	V S Patrick	Top of the Morning, host's comment about weather, RNZ	Offensive language	Not Upheld
1997-029	D Steven Kerr	Song broadcast on 7.12.96, Radio One	Offensive language	Upheld
1997-030	A J Rule	The Great Kiwi Video Show, depicted toddler handling kitten, TVNZ	Gratuitous material likely to disturb or influence children	Not Upheld
1997-031	Peter Jackson	One Network News and Holmes, item about Protection Orders, 21 and 23.10.96, TVNZ	Disrespect for principles of law	Not Upheld
1997-032	J R Bowen	Holmes, item about noisy parrot, TVNZ	Breach of privacy	Not Upheld
1997-033	Robert Terry	One Network News, item on abolishing the right of appeal to Privy Council, TVNZ	Biased and unbalanced	Declined to Determine
1997-034	Robert Terry	One Network News, item on raising minimum pay rates, TVNZ	Biased and unbalanced	Declined to Determine

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1997-035	Stephen P Ihaka	3 National News, item about sentence of woman shot at the scene of a crime by Policeman, TV3	Breach of privacy	Not Upheld
1997-036	John Fowlie	Wishbone, episode on 17.12.96, TVNZ	Not mindful of the effect on children	Not Upheld
1997-037	Wellington Palestine Group	One Network News, item about internet connection with the "Wailing Wall", TVNZ	Inaccurate	Not Upheld
1997-038	D Thompson	Terry & June, episode on 28.12.96, TVNZ	Offensive language and not mindful of the effect on children	Not Upheld
1997-039	R F Allan	Spectrum documentary - "A Midwife's Story", RNZ	Lack of taste	Not Upheld
1997-040	Geoffrey Duffy	The Simpsons, episode on 16.1.97, TVNZ	Offensive language and not mindful of the effect on children	Not Upheld
1997-041	Nancy Lister	The Simpsons, episode on 16.1.97, TVNZ	Offensive language and not mindful of the effect on children	Not Upheld
1997-042	P M MacCallum	Mana News, item about Native Land Court, RNZ	Lacked balance and inaccurate	Not Upheld
1997-043	N E and M H Archer	One Network News, item on 9.10.96, TVNZ	Breach of privacy	Not Upheld
1997-044	N E and M H Archer	One Network News, item on 14.10.96, TVNZ	Breach of privacy	Declined to Determine
1997-045	GALA	One Network News, excerpts from cricket game, TVNZ	Saturation of liquor promotions	Not Upheld
1997-046	Power for our Future	In Touch with New Zealand, item about electricity pricing, RNZ	Action taken insufficient	Not Upheld
1997-047	Alan Lucy	Morning Report, comment about the British, RNZ	Offensive, unfair and discriminated against the British	Not Upheld
1997-048	Credo Society Inc	Checkpoint, news item about Disabled Persons' Assembly rally, RNZ	Inaccurate and unbalanced	Not Upheld
1997-049	Capital Coast Health	National Radio news bulletins about nursing students, RNZ	Untrue, unbalanced and unfair	Not Upheld
1997-050	Capital Coast Health	News bulletins about nurses, Radio Network	Unbalanced and unfair	Not Upheld
1997-051	Ministry of Education	Talkback session, comments about the Ministry of Education, Radio Pacific	Lacked taste and did not deal fairly with people	Upheld in Part; Broadcast of the decision ordered
1997-052	Statistics New Zealand	Talkback session, comments on Statistics New Zealand, Radio Pacific	Lacked taste and denigratory	Not Upheld
1997-053	W Forrest	Against the Odds, episode on 4.2.97, TV3	Lacked taste	Not Upheld
1997-054	Bishop P J Cullinane	20/20, item about physical and sexual abuse at Hato Paora College, TV3	Breach of privacy	Not Upheld
1997-055	Bishop P J Cullinane	20/20, item about physical and sexual abuse at Hato Paora College, TV3	Intrusion into grief	Not Upheld
1997-056	Philip Dunlop	One Network News, item about Raurimu killings, TVNZ	Unbalanced	Not Upheld
1997-057	Centre for Psycho-Sociological Development	One Network News, item about work for the dole scheme, TVNZ	Unbalanced and failed to respect the principles of law	Not Upheld
1997-058	Complainant D	Police Rescue, episode on 23.1.97, about a suicide attempt, TVNZ	Action taken insufficient	Not Upheld

Decision Number	Complainant	Programme	Nature of Complaint	Decision
1997-059	T K Anderson	Talkback, comments about Broadcasting Fee, Radio Pacific	Failed to respect principles of law	Not Upheld
1997-060	GALA	One Network News, item about selection of cricket team, TVNZ	Incidental liquor promotion	Not Upheld
1997-061	Murray Elston	One Network News, weather forecast, TVNZ	Partial and unfair as Central Otago omitted	Declined to Determine
1997-062	Daniel Lehrer	Talkback - "Seig Heil Awards", Radio Pacific	Offensive and distasteful language	Not Upheld
1997-063	B L Sinclair	One Network News, item about rites in US Marines, TVNZ	Offensive and not mindful of the effect on children	Not Upheld
1997-064	Richard Gale	One Network News, item about "shootout" in Los Angeles, TVNZ	Lacked taste and not mindful of the effect on children	Not Upheld
1997-065	Women's Action for Justice	One Network News, item on Gay Oakes' appeal, TVNZ	Inaccurate	Not Upheld
1997-066	Maurice Hoy	Billy Connolly's World Tour of Australia, episode on 11.2.97, TV3	Offensive language	Not Upheld
1997-067	K J Werder	Billy Connolly's World Tour of Australia, episode on 11.2.97, TV3	Offensive language	Not Upheld
1997-068	Michelle McBride	Who Dares Wins, sequence on 27.2.97, TVNZ	Lacked taste and not mindful of the effect on children	Not Upheld
1997-069	Robert Terry	Tonight, item about NZ dollar, TVNZ	Unbalanced and inaccurate	Not Upheld
1997-070	Dr B Balachandran	An Immigrant Nation: From Sri Lanka with Sorrow, documentary on 29.12.96, TVNZ	Inaccurate, unbalanced and distorted editing	Not Upheld
1997-071	Robert Terry	One Network News and Holmes, items about prisons, TVNZ	Unfair, inaccurate and encouraged denigration	Declined to Determine
1997-072	Ken Francis	Hip Hop Show, rap songs, Contact 89FM	Offensive language	Not Upheld
1997-073	Philip Dunlop	National Radio news item about Raurimu killings and gun control, RNZ	Unbalanced	Not Upheld
1997-074	EA Hawker	Midday, violent incident in Rugby Sevens Tournament, TVNZ	Glamorised violent behaviour	Not Upheld
1997-075	Geoffrey Prentice	Paul McKenna's Secrets of Hypnosis - promo, January 1997, TV3	Unfair and misleading	Upheld
1997-076	Geoffrey Prentice	Paul McKenna's Secrets of Hypnosis - programme, 13.1.97, TV3	Unfair and discriminated against members of the Unification Church	Not Upheld
1997-077	Gerard Roberts	Paul McKenna's Secrets of Hypnosis - promo, January 1997, TV3	Unfair and misleading	Upheld
1997-078	Gerard Roberts	Paul McKenna's Secrets of Hypnosis - programme, 13.1.97, TV3	Unfair and discriminated against members of the Unification Church	Not Upheld
1997-079	Trina Pietersma	Fair Go, item about fitness centre membership, TVNZ	Inaccurate and not dealt with fairly	Not Upheld
1997-080	John McGinley	Broadcast taped conversation about baldness, Channel Z	Not dealt with fairly and did not get permission for taped conversation to be broadcast	Not Upheld
1997-081	Auckland Trotting Club (Inc)	Award of Costs re Decision 1997-015, TVNZ		Costs of \$2,000 awarded
1997-082	K McIlroy	Film, True Romance, 5.3.97, TVNZ	Excessive violence in inappropriate timeslot	Upheld; Costs of \$3,000 ordered
1997-083	Kathrine Coles	Talkback about violence in rape death camps in Bosnia, 24.1.97, Radio Pacific	Material not appropriate for children	Upheld in Part

OUTPUT 1 DETERMINE FORMAL COMPLAINTS

The Authority will determine complaints referred after consideration by the broadcaster, or in the case of privacy complaints sent directly to the Authority, as promptly and informally as possible, mindful of the quasi-judicial nature of the Authority and following the principles of natural justice and other requirements of the Broadcasting Act 1989.

OUTCOME

Improved compliance with the broadcasting standards.

TIMELINESS

The Authority will issue decisions within 40 working days of receipt of final comment from all parties, unless delayed by court proceedings. Complaints on party political advertising will be fast-tracked and decisions issued within 48 hours of receipt. Decisions will be despatched to the parties within a day of the date of signature.

QUALITY

The Authority will recognise community standards and expectations, the production realities which broadcasters face, and take into account research findings and international practices when relevant.

Decisions will be and be seen to be principled, firm, just and relevant by the complainant, public and broadcasters. They will be written in a concise and logical manner and explain clearly the Authority's reasons and expectations. Complex decisions will be summarised for the media to ensure accurate reporting.

Sanctions will be fair and effective.

The Authority will respond to all queries about formal complaints procedures in a helpful, and user-friendly manner and provide accurate and full information while maintaining impartiality.

PERFORMANCE

Deal expeditiously with all complaints received	Achieved
Issue decisions within 40 days after receipt of final comments unless delayed by court proceedings	91%
Seek views of the formal complaints process under the Broadcasting Act	Postponed

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
COMPLAINTS RECEIVED	159	168	162	179	206
COMPLAINTS DETERMINED					
TOTAL DECISIONS ISSUED:	144	151	144	171	199
UPHELD (ALL OR IN PART)	43	54	50	50	42
NOT UPHELD	101	97	94	121	157 ²
INTERLOCUTORY DECISIONS	3	1	1	-	-
DECLINED JURISDICTION (TIME BAR, ETC)	8	12	9	13	8
WITHDRAWN	8	11	10	4	8
ORDERS	8	9	7	19	13
ADVISORY OPINIONS		2		1	
DECISIONS ISSUED WITHIN 40 WORKING DAYS	65% ¹	81%	84%	92%	91% ³

Financial	\$441,125	\$379,597
% of total resources	52%	54%
Members' time	80%	80%

- Notes**
1. Target was 60 working days
 2. Includes 10 decisions which the Authority declined to determine
 3. This includes the three decisions on the complaints received about political advertising which were each issued within 48 hours
 4. Includes a portion of overheads

OUTPUT 2 REVIEW CODES OF BROADCASTING PRACTICE

The Authority, mindful of public views, local and international practices and research findings, will assess the adequacy of the codes developed by the broadcasters. If the codes appear inadequate, the Authority will encourage broadcasters to develop new standards which meet the Authority's concerns. As a last resort, the Authority will impose codes.

● OUTCOME

Adequate and easily understood codes which contribute to acceptable standards on radio and television.

● TIMELINESS

A code will be reviewed when it is shown to be inadequate, either during consideration of formal complaints or where there is significant public demand for a review.

● QUALITY

The Authority will consult extensively when undertaking a formal review of a code. The review will be handled in a professional manner. It will be announced publicly and information provided to all known interested parties. Discussion papers about the parameters of the review and the time frame will be clearly written and distributed widely. Public input will be thoroughly assessed and all viewpoints given careful consideration.

● PERFORMANCE

Complete review of pay television codes	In progress
Consult with broadcasters on standards for talkback programmes	Postponed ¹
Continue the review to investigate the appropriateness of the television code for the <i>protection of children</i>	Ongoing

Financial	\$ 99,500	\$77,818
% of total resources	12%	11%
Members' time	12.5%	12.5%

- Notes
1. Consultation with broadcasters about the applicability of the current standards for talkback programmes deferred because of the priority given to the Pay Code review
 2. Includes portion of overheads

OUTPUT 3 RESEARCH

As finances permit, the Authority will use its own staff as well as commission trained researchers to conduct New Zealand-specific research on broadcasting standards and community views and publish the findings.

OUTCOME

Expanded knowledge which will enhance the Authority's ability to improve codes and determine complaints, and will assist broadcasters in maintaining standards acceptable to ordinary viewers and listeners.

QUALITY

Research priorities will be carefully assessed, based on the Authority's strategic goals, and public concerns. Both internal and commissioned research will meet appropriate professional criteria for quality research. Findings will be published as soon as they are available.

The Authority will use a range of consultation techniques which take account of geographical spread and minority views to keep in touch with the opinions of New Zealand viewers and listeners. Local consultations will be advertised widely and handled in a friendly and informal manner.

PERFORMANCE

Repeat monitor of television violence and examine trends	Not achieved ¹
Commission public opinion survey and focus group consultations re standards on pay television	Achieved
Investigate research on protection of children issues	Under way
Publish all relevant research reports	Achieved
Examine the different classification codes used in New Zealand and investigate the possibility of a unified system of classifications	Under way

Financial	\$231,000	\$173,550
% of total resources	27%	25%
Members' time	5%	5%

- Notes**
1. The repetition of the monitor on television violence was deferred given the focus on the research relating to pay television
 2. Includes portion of overheads

OUTPUT 4 PUBLICATIONS, INFORMATION AND PROMOTION

The Authority will use appropriate opportunities to stimulate public debate about standards matters, the role of the Authority and the way individuals and groups can influence broadcasters' decisions about standards issues, and provide information on the use of the formal complaints process.

● OUTCOME

Raised awareness about standards matters

● QUALITY

Published information will be easily understood, eye-catching and professionally produced. Essential material will be published in Maori and Samoan languages.

● TIMELINESS

The Authority will release public statements at every appropriate opportunity to publicise its work. New editions of the codes and brochures will be published as soon as is practicable after changes are made. Subscription copies of decisions will be despatched 48 hours after the decision is sent to the parties.

● PERFORMANCE

Continue to publish in English, Maori and Samoan the Complaints Procedures booklet and distribute the Codes of Broadcasting Practice	Achieved
Continue to publish and distribute widely, free of charge, the brochures about the procedures for making formal complaints	Achieved
Continue to offer a subscription service for the Authority's decisions	Achieved
Develop, in conjunction with appropriate groups, an educational kit to use in schools to increase understanding of standards issues	Under way
Develop the Authority's decisions and other information on the Internet	Achieved

Financial	\$ 80,000	\$ 67,981
% of total resources	9%	10%
Members' time	2.5%	2.5%

Note 1. Includes portion of overheads

**BROADCASTING STANDARDS AUTHORITY
FINANCIAL STATEMENTS
FOR THE YEAR ENDED JUNE 1997**

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STATEMENT OF RESPONSIBILITY

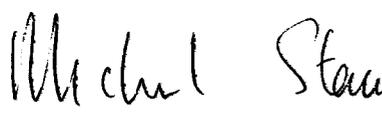
The Board and management of the Broadcasting Standards Authority is responsible for the preparation of these financial statements and the judgments used herein.

The Board and management of the Broadcasting Standards Authority is responsible for establishing and maintaining a system of internal control designed to provide reasonable assurances as to the integrity and reliability of financial reporting.

In the opinion of the Board and management,
these financial statements
fairly reflect the financial position and operations of the
Broadcasting Standards Authority for the
year ended 30 June 1997.



Sam Maling
CHAIRPERSON



Michael Stace
EXECUTIVE DIRECTOR



REPORT OF THE AUDIT OFFICE

TO THE READERS OF THE FINANCIAL STATEMENTS OF THE BROADCASTING STANDARDS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1997

We have audited the financial statements on pages 19 to 22 and 26 to 32. The financial statements provide information about the past financial and service performance of the Broadcasting Standards Authority and its financial position as at 30 June 1997. This information is stated in accordance with the accounting policies set out on page 29.

RESPONSIBILITIES OF THE AUTHORITY

The Public Finance Act 1989 and the Broadcasting Act 1989 requires the Authority to prepare financial statements in accordance with generally accepted accounting practice which fairly reflect the financial position of the Broadcasting Standards Authority as at 30 June 1997, the results of its operations and cash flows and the service performance achievements for the year ended 30 June 1997.

AUDITOR'S RESPONSIBILITIES

Section 43(1) of the Public Finance Act 1989 requires the Audit Office to audit the financial statements presented by the (Governing Body). It is the responsibility of the Audit Office to express an independent opinion on the financial statements and report its opinion to you.

The Controller and Auditor-General has appointed John O'Connell, of Audit New Zealand, to undertake the audit.

BASIS OF OPINION

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements; It also includes assessing:

- the significant estimates and judgements made by the Authority in the preparation of the financial statements; and
- whether the accounting policies are appropriate to the Broadcasting Standards Authority's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with generally accepted auditing standards in New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements and Broadcasting Standards Authority's compliance with significant legislative requirements.

Other than in our capacity as auditor acting on behalf of the Controller and Auditor-General, we have no relationship with or interest in the Broadcasting Standards Authority.

UNQUALIFIED OPINION

We have obtained all the information and explanations we have required.

In our opinion the financial statements of the Broadcasting Standards Authority on pages 19 to 22 and 26 to 32:

- comply with generally accepted accounting practice; and
- fairly reflect:
 - the financial position as at 30 June 1997;
 - the results of its operations and cash flows for the year ended on that date; and
 - the service performance achievements in relation to the performance targets and other measures adopted for the year ended on that date.

Our audit was completed on 3 October 1997 and our unqualified opinion is expressed as at that date.

John O'Connell
Audit New Zealand

On behalf of the Controller and Auditor-General
Wellington, New Zealand

STATEMENT OF FINANCIAL PERFORMANCE

BROADCASTING STANDARDS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1997

	NOTES	1997 Actual \$	1997 Budget \$	1996 Actual \$
INCOME				
Grant		488,889	488,889	594,666
Broadcasting Levy		342,780	351,111	-
Interest		31,514	11,000	12,210
Reimbursement for legal expenses		-	-	23,111
Publication Sales		7,261	6,500	7,689
Gain on Asset Sales		-	-	3,264
Funding for Part VI Functions		-	-	9,874
Other		461	-	3,336
TOTAL INCOME		870,905	857,500	654,150
LESS EXPENDITURE				
Human Resources	1	367,946	430,616	397,049
Other Expenses	2	302,198	402,300	190,979
Depreciation		28,802	20,000	19,948
Part VI Functions	3	-	-	9,037
TOTAL EXPENDITURE		698,946	852,916	617,013
SURPLUS OF INCOME OVER EXPENDITURE				
Transferred to Public Equity		\$171,959	\$4,584	\$37,137

STATEMENT OF MOVEMENT IN PUBLIC EQUITY

BROADCASTING STANDARDS AUTHORITY AS AT 30 JUNE 1997

	NOTES	1997 Actual \$	1997 Budget \$	1996 Actual \$
Public equity brought forward as at 1 July		72,328	72,328	35,191
Net operating surplus/(deficit)		171,959	4,584	37,137
Total recognised revenues and expenses for the year		171,959	4,584	37,137
TOTAL PUBLIC EQUITY		\$244,287	\$76,912	\$72,328

The statement of accounting policies and the notes form an integral part of and should be read in conjunction with these financial statements

STATEMENT OF FINANCIAL POSITION

BROADCASTING STANDARDS AUTHORITY AS AT 30 JUNE 1997

	NOTES	1997 Actual \$	1997 Budget \$	1996 Actual \$
● CURRENT ASSETS				
Cash, Bank & Term Deposits	4	283,579	119,080	100,596
Accounts Receivable & Accrued Interest		100	300	40
Prepayments		542	-	-
GST Receivable		15,050	6,000	5,821
		<u>299,271</u>	<u>125,380</u>	<u>106,457</u>
● LESS CURRENT LIABILITIES				
Accounts Payable & Accruals		68,705	80,565	69,781
Employee Entitlements		13,635	-	9,530
		<u>216,932</u>	<u>44,815</u>	<u>27,146</u>
● WORKING CAPITAL				
		216,932	44,815	27,146
● NON CURRENT ASSETS	5	27,355	32,097	45,182
		<u>244,287</u>	<u>76,912</u>	<u>72,328</u>
● NET ASSETS				
		244,287	76,912	72,328
● PUBLIC EQUITY				
		244,287	76,912	72,328
● TOTAL PUBLIC EQUITY		<u><u>\$244,287</u></u>	<u><u>\$76,912</u></u>	<u><u>\$72,328</u></u>

Sam Maling *Michael Stace*

Sam Maling
Chairperson

Michael Stace
Executive Director

Wellington
3 October 1997

The statement of accounting policies and the notes form an integral part of and should be read in conjunction with these financial statements

STATEMENT OF CASH FLOWS

BROADCASTING STANDARDS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1997

	NOTES	1997 Actual \$	1997 Budget \$	1996 Actual \$
CASH FLOWS FROM OPERATING ACTIVITIES				
Cash was provided from:				
Grants and Publication Sales		496,558	495,389	638,938
Broadcasting Levy		342,780	351,111	-
Interest Received		31,514	11,000	12,210
Net GST Received from IRD		-	-	4,554
Cash was disbursed to:				
Payments to Employees & Members		(333,175)	(387,116)	(343,046)
Payments to Suppliers & Other Operating Expenses		(335,455)	(445,800)	(242,293)
Net GST Paid to IRD		(12,654)	-	-
Net Cash Flow From Operating Activities	6	<u>189,568</u>	<u>24,584</u>	<u>70,363</u>
CASH FLOWS FROM INVESTING ACTIVITIES				
Cash was provided from:				
Sale of Fixed Assets		758	-	4,325
Finance on Hire Purchase		5,881	-	-
Cash was used for:				
Purchase of Fixed Assets		(11,828)	(6,000)	(31,765)
Repayment of Hire Purchase Loan		(1,396)	-	-
Net Cash Flows From Investing Activities		<u>(6,585)</u>	<u>(6,000)</u>	<u>(27,440)</u>
NET INCREASE IN CASH HELD		182,983	18,584	42,923
PLUS Opening Cash Brought Forward		100,596	100,596	57,673
ENDING CASH CARRIED FORWARD	4	<u><u>\$283,579</u></u>	<u><u>\$119,180</u></u>	<u><u>\$100,596</u></u>

The statement of accounting policies and the notes form an integral part of and should be read in conjunction with these financial statements

STATEMENT OF ACCOUNTING POLICIES

BROADCASTING STANDARDS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1997

REPORTING ENTITY

These are the financial statements of the Broadcasting Standards Authority, a Crown entity in terms of the Public Finance Act 1989. These financial statements have been prepared in accordance with section 41 of the Public Finance Act 1989.

MEASUREMENT SYSTEM

The measurement base adopted is that of historical cost unless otherwise stated.

ACCOUNTING POLICIES

The following accounting policies which materially affect the measurement of financial performance, position and cash flows of the Authority have been applied:

1. Fixed Assets

Fixed assets are recorded at historical cost less accumulated depreciation.

2. Depreciation

Depreciation of fixed assets is provided on a straight line basis on all tangible fixed assets, at rates calculated to allocate the assets' cost less estimated residual value, over their estimated useful lives:

During the past year the Authority fully depreciated the artwork held in fixed assets.

Partitions, Office Equipment

Furniture and Furnishings 5 years

Photocopy Equipment

Computer Hardware 3 years

3. Receivables

Accounts receivables are stated at their estimated net realisable value.

4. Lease Payments

Operating lease payments, where lessors effectively retain substantially all the risks and benefits of ownership of the leased items, are included in the determination of the operating result in equal instalments over the lease terms.

5. Taxation

a) Income tax: Exempt from the payment of income tax in terms of the Income Tax Act 1962.

b) FBT: FBT is payable on all fringe benefits.

c) GST: The Authority is a registered trader for GST purposes and is liable for GST on all goods and services supplied. The financial statements are prepared GST exclusive except for accounts receivable which is GST inclusive.

6. Financial Instruments

Broadcasting Standards Authority is party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits, debtors and creditors. All financial instruments are recognised in the statement of financial position and all revenues and expenses in relation to financial instruments are recognised in the statement of financial performance.

7. Provision for Employee Entitlement

Annual leave is recognised on an entitlement basis.

8. Changes in Accounting Policies

There have been no changes in accounting policies. All policies have been applied on bases consistent with those used in previous years.

NOTES TO THE FINANCIAL STATEMENTS

BROADCASTING STANDARDS AUTHORITY FOR THE YEAR ENDED 30 JUNE 1997

1. HUMAN RESOURCES

	1997 Actual \$	1997 Budget \$	1996 Actual \$
Consultancy/Contract Services	1,754	4,500	12,000
Members' Fees	108,790	132,000	102,124
Staff Remuneration	257,402	294,116	282,925
	\$367,946	\$430,616	\$397,049

2. OTHER EXPENSES

	1997 Actual \$	1997 Budget \$	1996 Actual \$
Audit of Financial Statements	7,200	7,200	7,236
Complaints	23,693	29,300	30,285
Information and Promotion	29,355	38,000	9,194
Office Expenses	29,650	36,500	24,260
Rent and Maintenance	35,015	36,700	36,743
Research/Seminar	127,111	178,500	5,147
Code Reviews	-	10,000	10,547
Loss on Sale of Asset	94	-	-
Travel, Accommodation & Training	50,080	66,100	67,567
	\$302,198	\$402,300	\$190,979

3. PART VI FUNCTIONS

Under Part VI of the Broadcasting Act 1989, the Authority was responsible for allocating broadcasting time and money to political parties for election programmes.

This function was transferred to the Electoral Commission as from 1 July 1996.

	1997 Actual \$	1997 Budget \$	1996 Actual \$
Consultancy	-	-	8,326
Members' Fees	-	-	330
Miscellaneous	-	-	381
	-	-	\$9,037

4. CASH, BANK & TERM DEPOSITS

This comprises cash balances held on hand and in deposits with New Zealand banks.

	1997 Actual \$	1997 Budget \$	1996 Actual \$
Cash on hand:			
Petty Cash	100	100	100
Banks:			
Westpac Banking Corporation			
- Current Accounts	6,340	35,080	34,453
- Ready Access Deposit	277,139	84,000	66,043
	\$283,579	\$119,180	\$100,596

5. NON CURRENT ASSETS

1995/96			1996/97
5,687	Artworks	At cost	5,687
<u>-</u>		Accumulated Depreciation	<u>(5,687)</u>
<u>5,687</u>		Net Current Value	<u>-</u>
50,411	Computer Equipment	At cost	50,411
<u>(32,727)</u>		Accumulated Depreciation	<u>(45,134)</u>
<u>17,684</u>		Net Current Value	<u>5,277</u>
50,336	Furniture & Furnishings	At cost	50,336
<u>(48,724)</u>		Accumulated Depreciation	<u>(49,155)</u>
<u>1,612</u>		Net Current Value	<u>1,181</u>
50,621	Partitioning & Fitout	At cost	56,080
<u>(50,620)</u>		Accumulated Depreciation	<u>(52,438)</u>
<u>1</u>		Net Current Value	<u>3,642</u>
16,765	Photocopier	At cost	16,765
<u>(2,327)</u>		Accumulated Depreciation	<u>(7,909)</u>
<u>14,438</u>		Net Current Value	<u>8,856</u>
25,288	Office Equip/Televisions	At cost	23,635
<u>(19,528)</u>		Accumulated Depreciation	<u>(15,237)</u>
<u>5,760</u>		Net Current Value	<u>8,397</u>
199,108	TOTAL FIXED ASSETS	At cost	202,914
<u>(153,926)</u>		Accumulated Depreciation	<u>(175,559)</u>
<u>45,182</u>		Net Current Value	<u>27,355</u>

6. RECONCILIATION OF THE NET OPERATING SURPLUS WITH NET CASH FLOWS FROM OPERATING ACTIVITIES FOR THE YEAR

	1997 Actual	1997 Budget	1996 Actual
	\$	\$	\$
Reported Surplus For The Year	171,959	4,584	37,137
Add Non-Cash Items:			
Depreciation	28,801	20,000	19,948
Adjust Item Classified As Investing Activity:			
Net Loss on Sale of Fixed Assets	95	-	(3,264)
Add Movements In Other Working Capital Items:			
(Increase) Decrease in Accounts Receivable	(60)	260	260
Increase (Decrease) in Accounts Payable	(5,561)	1,965	9,113
Increase (Decrease) in Provision for Holiday Pay	4,105	-	1,416
(Increase) Decrease in Net GST Receivable	(9,229)	179	4,360
Increase (Decrease) in Revenue Received in Advance	-	-	-
(Increase) Decrease in Prepayments	(542)	-	1,393
Net Cash Flow From Operating Activities	<u>\$189,568</u>	<u>\$26,988</u>	<u>\$ 70,363</u>

7. STATEMENT OF COMMITMENTS

The following significant future commitments have been incurred by the Broadcasting Standards Authority against future years' income.

Leased Premises

The Authority has a lease from the NZ Lotteries Commission for the rental of the premises comprising part of the second floor, 54-56 Cambridge Terrace, Wellington from July 1 1996 until July 1 1998.

	1997	1996
	\$	\$
Less than one year	28,695	28,695
One to two years	-	28,695
Total Rent Expenditure Committed	<u>\$28,695</u>	<u>\$57,390</u>

Capital Commitments	1996/97	1995/96
	Nil	Nil

8. STATEMENT OF CONTINGENT LIABILITY

As at 30 June 1997 eight decisions of the Authority are in various stages of appeal in the High Court and judicial review has been sought on two decisions. The basis of the appeals is to overturn a decision by the Authority. The awarding of legal costs will be the only impact on the Authority. As at 30 June 1996 there were eight decisions in appeal.

operations.
able.

course of its business the Authority does not require any collateral or security to support financial instruments with financial institutions that the Authority deals with, as these entities have high credit ratings. For its other financial instruments the Authority does not have significant concentrations of credit risk.

FAIR VALUE

The fair value of financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

CURRENCY AND INTEREST RATE RISK

The Authority has no exposure to interest rate or currency risk on its financial instruments.

10. RELATED PARTY INFORMATION

The Broadcasting Standards Authority is a wholly owned entity of the Crown. The Government provides a major source of revenue (Grant) via the Ministry of Commerce.

The provision of these funds is on an arm's-length basis and is not considered to be a related party transaction. There were no other related party transactions.