

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 30/90

Dated the 19th day of December 1990

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

LIZ MACRAILD

of Wellington

(on behalf of CORSO INC)

Broadcaster

TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

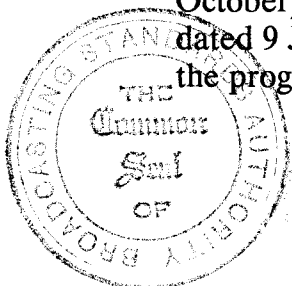
Introduction

On Sunday 4 February 1990, TV1 broadcast a *Frontline* programme which focussed on CORSO. As a result of its broadcast, CORSO's solicitors wrote to TVNZ claiming that the programme was biased and unfair and asking that a further programme be broadcast to remedy matters. When these charges were denied by the Executive Producer of *Frontline*, CORSO addressed a formal complaint under section 4 of the Broadcasting Act to the Chief Executive of TVNZ.

CORSO's formal complaint was not upheld by TVNZ's Complaints Committee and the organisation subsequently referred the matter to the Authority for an investigation and review pursuant to section 8(a) of the Broadcasting Act 1989.

The Complaint

In letters to TVNZ (dated 23 March) and to the Authority (dated 15 June and 3 October), letters which were supplemented by a completed Complaint Referral Form dated 9 July, Ms MacRaild of CORSO alleged that the preparation and presentation of the programme had breached section 4(1)(c) and (d) of the Broadcasting Act 1989 and



programme standards 1, 4, 6, 12, 13, 14, 16 and 17 of the Programme Standards section of the Codes of Broadcasting Practice for Television. (Allegations of breaches of certain other programme standards were dropped before approaching the Authority.)

The full texts of the relevant programme standards are set forth in the Appendix.

TVNZ responded to Ms MacRaild's original complaint in a letter dated 23 May which conveyed the decision of its Complaints Committee not to uphold her complaint, in any of its aspects, and the reasons for that decision. Subsequently, in a letter dated 11 September, TVNZ commented on the additional material supplied by Ms MacRaild in her letter of 15 June referring the matter to the Authority.

### **The Allegations and TVNZ's Responses**

For ease of comprehension, the comments made by Ms MacRaild in making her complaint to TVNZ, and in referring it to the Authority, have been combined. So, too, have the points made in TVNZ's letters conveying first, the decision of its Complaints Committee and secondly, its comments following the referral of the complaint to the Authority.

#### **(i) Breach of Section 4(1)(c) of the Act - Privacy of the Individual**

Section 4(1)(c) of the Act requires that broadcasters observe, in the preparation and presentation of programmes, standards consistent with "... the privacy of the individual".

Ms MacRaild alleged that in preparing the programme, TVNZ's reporter and film crew made persistent attempts to contact, amongst others, Ms Libby Clements (CORSO National Co-ordinator) for comment on various matters which were to be raised in the programme. They also went to her house, waited there for hours, and later screened film of the house. These activities occurred while Ms Clements was on holiday and it seemed "... unreasonable to expect people to be available at any time for the media and to be harassed if they are not". The reporter and film crew also filmed Ms Clements' flatmate who felt "... intimidated and affronted by such intrusion".

TVNZ noted that contact was made with Ms Clements on one occasion while she was on holiday. This was by telephone and it was brief, Ms Clements making it clear that she did not want to take part in the programme. When the programme was almost ready, the reporter and the programme's director - meantime having tried and failed to obtain comment from another source within CORSO, its Dunedin office - made what TVNZ termed a last attempt to acquire a "balancing comment" by calling at Ms Clements' home. Enquiries within the company showed that the visit lasted no more than 10 minutes and TVNZ's employees were respectful, courteous and non-intimidating throughout their conversation with Ms Clements' flatmate. A brief glimpse of the house, taken from an elevated position, and a glimpse of the reporter knocking at the front door, were seen on the programme. These served to show the programme-maker's inability to obtain a CORSO viewpoint and was not, in TVNZ's view, a breach of

privacy.

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TVNZ also noted that, given that Ms Clements is National Co-ordinator of CORSO, it was considered not unreasonable to give her every opportunity to reply to some of the points made about the organisation. An invasion of her privacy was not realistically tenable given her important role in CORSO. TVNZ did not believe that "... media enquiries should be forbidden just because a key person is on holiday".

**(ii) Breach of Section 4(1)(d) of the Act - Lack of Balance**

Section 4(1)(d) requires that broadcasters, in the preparation and presentation of programmes, maintain standards consistent with the principle that "... when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest".

Ms MacRaild advised that Ms Clements, an employee and not an office-holder within CORSO, was not authorised to speak on behalf of the organisation, unless directed by its National Co-ordinating Group. TVNZ was told that an official CORSO comment on the matters being discussed in the programme would be available after the NCG's meeting on 10-11 February 1990, the week following the scheduled date for the screening of the programme. TVNZ was making attempts to contact CORSO people in January, traditionally an "off month" for voluntary organisations, "... and at a time when most of CORSO's NCG were themselves on holiday". TVNZ refused to alter the screening date of the programme to allow CORSO a fair response. If TVNZ had been interested in complying with s.4(1)(d) of the Act, the company "... would have delayed the screening by two weeks to enable a considered response".

For its part, TVNZ noted that the programme-makers made wide-ranging inquiries in an effort to persuade someone in authority in CORSO to speak on the organisation's behalf. Every reasonable effort was made to elicit comment from CORSO officials. Ms Clements was given the opportunity to do so, but she declined. CORSO's Dunedin branch offered to provide a response, but withdrew the offer when it learned that Rob Harley would be interviewer. When TVNZ offered a substitute interviewer, the Dunedin branch still refused to appear because of Mr Harley's involvement in the overall programme. At no time was TVNZ given an undertaking that comment would be forthcoming after the meeting on 10-11 February; nor was TVNZ told that no-one could speak for CORSO without first having the approval of the NCG. CORSO knew when the programme would screen and had the opportunity to comment before it did so, but chose not to take part. It was not a case of refusing to alter a screening date in order to deny CORSO a fair response. The reason for not agreeing to delay the broadcast was because there was no assurance that any response would be forthcoming.

- (iii) Breach of Programme Standard 1 - Broadcasters to be truthful and accurate on points of fact**  
**Breach of Programme Standard 12 - News to be presented accurately, objectively and impartially**

Under these headings, Ms MacRaild alleged that the programme contained a number of inaccuracies which amounted to misrepresentations of fact.



These alleged inaccuracies included whether Ms Wendy Lee, who was interviewed on the programme, was convenor of CORSO's Africa Middle East Committee (as stated in the programme) or was convenor of its Middle East Committee (as claimed by Ms MacRaild); the programme's identification of Auckland as CORSO's largest branch; statements that CORSO was winding-up which, combined with other statements quoted by Ms MacRaild, contributed to the impression given by the programme that CORSO was dying and "finished" as a funding organisation; and statements concerning CORSO's financial difficulties, statements which were not, in Ms MacRaild's view, fully explored.

In response, TVNZ maintained that it had been accurate and truthful in each of the instances cited by Ms MacRaild and submitted a detailed explanation in justification of each statement challenged by the complainant.

**(iv) Breach of Programme Standard 4 - Broadcasters to deal justly and fairly with any person taking part or referred to in any programme**

No evidence was offered in support of this allegation when the complaint was first made to TVNZ. On referring the matter to the Authority, however, Ms MacRaild maintained that the programme laid much of the blame for recent CORSO "disaffection" at the feet of Ms Titewhai Harawira, CORSO's Maori Consultant. This was not only a gross oversimplification, but further vilification of Ms Harawira by the reporter, Mr Harley, the man who "... engineered a trial by media of Ms Harawira at the time of the Whare Paia dispute". The programme should not, moreover, have used Whare Paia and related footage.

In response, TVNZ denied that the programme had "laid blame" at the feet of Ms Harawira and justified the use of Whare Paia footage on the ground that it was necessary to talk about the background of Ms Harawira and her family in order to explain the agenda she was following.

**(v) Breach of Programme Standard 6 - Broadcasters to show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature**

In referring her complaint to the Authority, Ms MacRaild argued that TVNZ, in researching information with which to respond to her original formal complaint, should have gone to an official CORSO source rather than to Ms Lee. The company also refused to report the decisions of the Special General Meeting of CORSO in December as "already-taken" decisions. It was also unwilling, as noted earlier, to delay screening in order to enable CORSO to make an official response to points being covered in the programme.

TVNZ justified its seeking further comment from Ms Lee on the ground that part of CORSO's complaint challenged the programme's description of her status within the organisation. The claim concerning the December decisions of the SGM had no basis as viewers heard and saw the reporter giving details of those decisions.



**(vi) Breach of Programme Standard 13 - Standards of integrity and reliability of news sources should be kept under constant review**

CORSO's argument here was that the sources used by the programme-makers were part of a small group in Auckland and Wellington who had become disaffected with CORSO and expected to use either assets or proceeds from asset sales, if CORSO were forced to wind-up, to establish a new overseas aid organisation. The journalists working on the programme were "sloppy" because they failed to uncover that certain of its sources were communists of one faction or another.

In its defence, TVNZ said that it was fully satisfied with the integrity and reliability of its sources, all of whom had close links with CORSO, some being past office-holders.

**(vii) Breach of Programme Standard 14 - News should not be presented in such a way as to cause unnecessary panic, alarm or distress**

CORSO's submission under this heading was that the programme caused considerable distress to CORSO staff and volunteers and to donors. The false reporting of the demise of CORSO caused significant damage. It was a clear case of abuse of power by the media.

The intention of this programme standard, in TVNZ's view, was not to cover the type of "distress" felt by staff and volunteers of CORSO and donors. The accusations of false reporting and abuse of power were rejected.

**(viii) Breach of Programme Standard 16 - Allocation of time on significant public issues**

Ms MacRaild offered no comment in relation to this allegation.

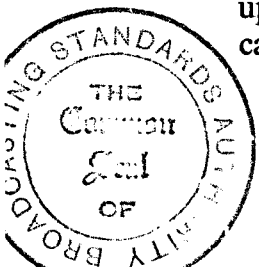
**(ix) Breach of Programme Standard 17 - Significant errors of fact should be corrected at the earliest opportunity**

Ms MacRaild did not pin-point any significant errors of fact which required early correction. TVNZ stated that it was itself unable to find any proven errors of fact.

**Decision**

The introduction to the *Frontline* programme on CORSO was as follows:

"CORSO, once New Zealand's powerful and internationally respected aid agency is a bitterly divided remnant of its former self. The infighting and recriminations, combined with crippling debt, mean CORSO can no longer offer the same help to the poor and oppressed. In the next few weeks, CORSO organisers will carve up what's left of the assets and then the warring factions will decide whether to carry on, or go their own way".



The programme that followed, as summarised by TVNZ in its letter of 23 May to Ms MacRaild, looked in some detail at the metamorphosis that CORSO underwent in the seventies and eighties when " ... its emphasis moved away from exclusively supporting aid efforts abroad and became increasingly involved in political activism at home".

The programme showed how support for CORSO gradually dwindled as disillusioned affiliates distanced themselves from some of the more controversial issues CORSO was becoming involved with in New Zealand.

It also chronicled in detail the infighting within CORSO - infighting which further eroded public support for the organisation and led to the serious cash-flow problem the organisation was having at the time of the broadcast.

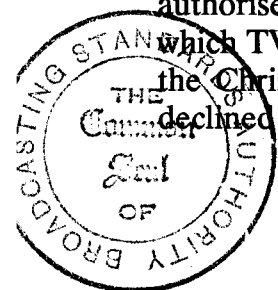
Having viewed the programme and perused all the correspondence, Members decided to determine Ms MacRaild's complaint "on the papers".

#### **Section 4(1)(d) of the Act - Lack of Balance**

In framing her formal complaint, Ms MacRaild alleged that the preparation and presentation of the programme breached certain provisions of the section 4 of the Broadcasting Act 1989 and numerous standards included in the Television Programme Standards. The essence of her complaint, however, is that as the programme discussed a controversial issue of public importance, reasonable opportunities should have been given to CORSO " ... to present significant points either in the same programme or in other programmes within the period of current interest" (s.4(1)(d) of the Act). As a result of CORSO's not being given such opportunities, the programme that went to air was lacking in balance, impartiality and fairness. This, in turn, led to the alleged breaches of the programme standards cited by Ms MacRaild.

The Authority agrees with the complainant and with TVNZ that the programme was undoubtedly about a controversial issue and was, if only marginally, an issue of public importance. It therefore falls to be determined whether or not reasonable efforts were made, or reasonable opportunities were given, to enable CORSO to present its view, either in the programme of 4 February or in a later programme.

It is not disputed that *Frontline* staff approached various CORSO people, at both the national and regional level, in mid-January. The most prominent amongst those approached was the National Co-ordinator, Ms Libby Clements, who initially declined to comment because she was on holiday and unavailable until 29 January, saying that she would talk to *Frontline* the day she returned to work. After returning to work, Ms Clements declined to be interviewed on the ground that " ... CORSO had made a decision not to appear and ... I would abide by that decision". (Ms MacRaild subsequently added that as an employee of CORSO, Ms Clements was not, in any event, authorised to speak on behalf of the organisation "unless directed by the NCG", a point which TVNZ claims was at no time made clear to its reporter.) TVNZ also approached the Christchurch and Dunedin branches of CORSO. The latter branch also initially declined to speak to *Frontline* staff, explaining that it had already been approached by



the media about events in CORSO, particularly a recent Special General Meeting where a motion to close down the organisation was put to the vote and lost. When the branch was told that the programme would be going to air whether it participated or not, Dunedin CORSO agreed to speak with *Frontline*. This agreement was later retracted when the branch learned that Mr Harley would be the interviewer. An offer by *Frontline* to provide a substitute interviewer was subsequently turned down because of Mr Harley's overall involvement in the programme.

In the circumstances, the Authority has reached the conclusion that TVNZ's efforts to elicit responses from CORSO spokespersons in the preparation of the programme were reasonable and, in turn, afforded reasonable opportunities for the organisation's viewpoint to be presented in the programme that went to air on 4 February. If the papers had shown that it had been made clear to TVNZ that a substantive response would emerge from the NCG meeting of 10-11 February and that Ms Clements was not authorised to speak on CORSO's behalf unless specifically instructed to do so by the NCG, the Authority's conclusions in this respect might have been different. As it stands, however, the Authority accepts TVNZ's statement that the organisers of the NCG meeting could give no undertaking that a response would emerge from that meeting. It also acknowledges that, on returning to work at the end of January, Ms Clements withdrew her earlier agreement to being interviewed for the programme. In this situation, TVNZ could not realistically be expected to delay its scheduled 4 February screening so as to accommodate the possibility - and it was no more than that - that the NCG might decide that CORSO, whether in the form of Ms Clements or otherwise, should allow itself to be interviewed by *Frontline*. Nor could *Frontline* be expected to run another programme, at some later date, purely to accommodate CORSO.

**For the foregoing reasons, the Authority declines to uphold the complaint that the broadcast breached section 4(1)(d) of the Broadcasting Act 1989.**

#### **Section 4(1)(c) of the Act - The Privacy of the Individual**

It will be apparent from the preceding discussion of efforts made and opportunities given, that the Authority is not sympathetic to the claim that Ms Clements' privacy was disturbed by *Frontline's* efforts to obtain her views while she was on holiday or by showing footage of her house.

**The Authority accordingly declines to uphold the allegation that the broadcast breached section 4(1)(c) of the Act.**

#### **Programme Standards 4, 6 and 16**

In referring her complaint to the Authority, Ms MacRaild maintained her original allegations that the broadcast of the programme also breached, amongst others, programme standards 4, 6 and 16, of the Television Programme Standards.

In approaching this part of the complaint, the Authority was mindful of its comments in



a very recent Decision that:

" ... when a programme falls within the ambit of standard 6 ... it is the Authority's view that the standard's general requirements of "balance, impartiality and fairness" embrace the more specific statements made in standards 4 and 16 about fair dealing and balance. This means that a complainant who alleges specific instances of lack of balance, impartiality or fairness in a programme which deals with political matters, current affairs or other controversial questions, and also seeks to invoke standards 4 and 16 in addition to standard 6 as the bases of identical complaints ... is in fact engaging in repetition." (See Decision No: 26/90 at page 14.)

The Authority accordingly examined closely "the specific instances" cited in support of Ms MacRaild's allegations that the broadcast had breached each of these particular standards. With one exception, it concluded that the allegations made in respect of standards 4, 6 and 16 were repetitious in that they dwelt upon *Frontline's* unwillingness to delay screening the programme until a CORSO response was forthcoming following its meeting on 10-11 February. The Authority therefore decided that, with the exception which will be discussed below, the alleged breach of standards 4 (dealing justly and fairly with people) and 16 (allocation of time on controversial public issues) were subsumed by the alleged breach of standard 6.

Standard 6 requires that broadcasters, in the preparation and presentation of programmes, show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature. The requirements of this standard thus mirror the provisions of s.4(1)(d) of the Act. Having found that the broadcast of the programme was not in breach of s.4(1)(d), the Authority is bound to conclude that neither did it breach standard 6. If the complainant organisation did not avail itself of reasonable opportunities to present its views during the making of the programme, the broadcaster cannot be held to have shown a lack of balance, impartiality and fairness in the programme as broadcast.

The one exception earlier noted to the subsuming of all of the alleged breaches of standards 4 and 16 under standard 6 is the specific instance, cited in connection with standard 4, of the programme's laying at the feet of Ms Titewhai Harawira, CORSO's Maori Consultant, much of the blame for recent CORSO dissatisfaction and using "Whare Paia" footage in the programme. The Authority has considered whether the programme was unjust and unfair to Ms Harawira and has concluded that this was not the case. The use of the footage in question was justifiable and the programme did not explicitly blame Ms Harawira for much of CORSO's recent woes.

**For the foregoing reasons, the Authority declines to determine the complaint alleging a breach of standard 16, and declines to uphold the alleged breaches of standards 4 and 6, of the Television Programme Standards.**





### **Programme Standard 1**

The complaint that the programme breached standard 1, which requires broadcasters to be truthful and accurate on points of fact, hinged upon various statements made in the programme which were challenged as to their accuracy by Ms MacRaild. While doubtless important to the complainant organisation, the issues raised under this head were little more than quibbles. If, for example, Ms Wendy Lee regarded herself as convenor of the Africa Middle East Committee and held herself out to be the convenor of that Committee both to the broadcaster and on the programme as broadcast - and even after the programme was broadcast still believed that she held that position - there is nothing that should have alerted the broadcaster to check whether or not this was the case.

So, too, with the assertion that *Frontline* was inaccurate in describing Auckland as CORSO's largest branch, an assertion made on the basis that it had more affiliated bodies, and had raised more money than, any other branch. The detailed figures supplied by TVNZ in support of its position were not disputed by CORSO. Again, the complainant alleged that the programme had referred to CORSO as being "finished", an assertion not supported by a viewing of the programme.

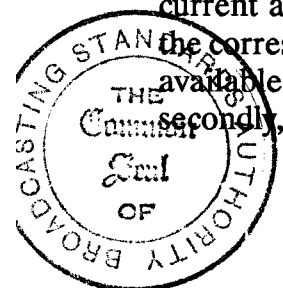
Finally, with regard to the programme's statement that "staff members were slashed to the bone" - which TVNZ subsequently noted referred to the laying-off of what was referred to in the minutes of the December meeting of CORSO's National Executive Council as the only three fully-paid employees of the organisation - Ms MacRaild stated that this was not true as two full-time permanent employees were retained. If the minutes were as quoted by TVNZ, staff numbers were indeed slashed to the bone; and even if two fully-paid employees were left, as Ms MacRaild maintains, a 60% drop in full-time salaried staff is still a significant reduction. But to dispute whether it was a slashing or a cutting-back of staff numbers is to argue over an opinion.

**For the foregoing reasons, the Authority declines to uphold the alleged breach of standard 1 of the Television Programme Standards.**

### **Programme Standards 12, 13, 14 and 17**

As to the alleged breaches of standards 12, 13 and 14, the Authority would draw attention to the fact that since these standards are currently expressed to apply to "news programmes" (only) and not to "current affairs" programmes, these complaints are not properly based and need not have been addressed by the broadcaster. Nevertheless, it should be noted that the allegations concerning standard 12 have in fact been covered in the Authority's consideration of the alleged breach of standard 1.

The Authority would also note that even if standards 13 and 14 had been applicable to current affairs programmes, the allegations would not have been upheld - first, because the correspondence demonstrates that *Frontline* sourced its material according to the best available "reliable sources", given the non-participation of National CORSO and secondly, because the requirement not to present matters in such a way as to cause




unnecessary panic, alarm or distress is quite plainly not there to protect the sensitivities of either the office-holders or employees of, or potential donors to, an organisation that is the subject of an exercise in investigative journalism.

Finally, with regard to standard 17, it will be apparent from the foregoing that the Authority is not convinced that the complainant proved that there were any errors of fact, significant or otherwise, which required correction by the broadcaster at the first opportunity.

**For the foregoing reasons, the Authority declines to uphold the alleged breaches of standards 12, 13, 14 and 17 of the Television Programme Standards.**

**The complaint, in its entirety, is accordingly not upheld.**

Signed for and on behalf of the Authority



**Iain Gallaway**  
**Chairperson**



19 December 1990

## APPENDIX

### Extract from the TV Programme Standards Section of the Codes of Broadcasting Practice for Television

#### General

In the preparation and presentation of programmes, broadcasters are required:

1. To be truthful and accurate on points of fact.  
...
4. To deal justly and fairly with any person taking part or referred to in any programme.  
...
6. To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.  
...

#### News and Current Affairs

A television news and current affairs service should take account of the following points:

12. News must be presented accurately, objectively and impartially.  
...
13. The standards of integrity and reliability of news sources should be kept under constant review.  
...
14. News should not be presented in such a way as to cause unnecessary panic alarm or distress  
...
16. No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcasters should aim to present all significant sides in as fair a way as possible and this can be done by judging every case on its merits.  
...
17. Significant errors of fact should be corrected at the earliest opportunity.

