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NEW ZEALAND BROADCASTING  
FORMAL COMPLAINTS SYSTEM  
1973-1988

PREPARED FOR THE  
BROADCASTING STANDARDS AUTHORITY

BY

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SEPTEMBER 1989

BSA 2002

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## NEW ZEALAND BROADCASTING FORMAL COMPLAINTS SYSTEM

### SUMMARY

(i)

The first legislated broadcasting complaints procedure, in the Broadcasting Act 1973, concerned unjust and unfair treatment by public broadcasting corporations. It was administered by the Broadcasting Council of New Zealand.

(ii)

The Broadcasting Act 1976 extended the grounds for complaint to include programme standards, and applied also to private broadcasters. It was part of the system of accountability of the broadcasting industry which, under the Act, was given considerable self-regulation. The complaints system was administered by the Broadcasting Corporation of New Zealand, the Committee of Private Broadcasters, and the Broadcasting Tribunal.

(iii)

The Broadcasting Amendment Act 1982 abolished the Committee of Private Broadcasters, placing initial responsibility on individual private broadcasters for consideration of complaints about their programmes. It removed "personal injury" complaints from broadcasters' purview, creating the Broadcasting Complaints Committee to deal with complaints of unjust and unfair treatment, and invasion of privacy.

(iv)

From the coming into force of the 1976 Act, complainants had the right in certain circumstances to refer a complaint, after its consideration by broadcasters and the Broadcasting Complaints Committee, to the Tribunal for determination. This process was to counter possibilities of self-serving and charges of broadcasters being their own judges and juries.

(v)

To invoke the formal complaints procedure was relatively simple for complainants. However, broadcasters and the Tribunal established systems which had some formality, to do justice to complaints and because of legal implications.

(vi)

This, and the widespread publication of the procedure in the Listener and on air (greatly increasing the number of complaints) led in later years to delays in decisions.

(vii)

Nevertheless the BCNZ and the Tribunal, at least, valued the system: the procedure was effective in allowing an oversight of broadcasting practices, the correction of mistakes, and the development of greater awareness of community standards.

NEW ZEALAND BROADCASTING  
FORMAL COMPLAINTS SYSTEM  
1973-1988

1 INTRODUCTORY COMMENT

1.1

The following description draws on relevant legislation and Parliamentary reports, BCNZ papers, and the writer's own knowledge: from 1981 until the dissolution of the BCNZ on 30.11.88 the writer was Secretary of the Corporation of the BCNZ, which position included the responsibility for the administration of the organisation's formal complaints procedure and programme standards. From 1977 until 1981 he was Executive Assistant to the Chairman of the BCNZ, attending Corporation meetings (at which complaints were considered) and having some involvement in the setting up of the Corporation's procedure. In 1976 the writer was seconded to the office of the Minister of Broadcasting to advise on the development of broadcasting policy, and to participate in the writing of the Broadcasting Act 1976 (and was subsequently involved in most other broadcasting legislation).

2 LEGISLATIVE HISTORY

Broadcasting Act 1973

2.1

The Broadcasting Act 1973 imposed the first statutory requirement for the consideration of complaints. The Broadcasting Council (the six-member body consisting of three appointed members and the chairpersons of TV1, TV2 and RNZ Corporations ex officio) had responsibilities inter alia for broadcasting Rules, and -

"To receive and consider any complaint from any person who believes himself to have been treated unjustly or unfairly in any programme broadcast by any of the corporations; and to establish a procedure for adjudicating upon any such complaint with a view to the taking by the corporation of appropriate action to deal with the matter where there is reason to believe that the complaint is justifiable." (S11(1)(1))

2.2

The Act did not include any programme standards provisions, but the Council was empowered to make rules concerning the character and standards of advertising and the standards of programmes.

2.3

It is noted that the complaints provisions did not apply to private radio stations, although the Council's Rules pertained. However, the Council could direct a private station to comply with the rules if it appeared to be in breach (s75); and on a report from the Council of a breach of a private broadcaster's warrant the Minister (the Postmaster General) in consultation with the Minister of Justice could establish a Private Broadcasting Tribunal to enquire into the matter, determine if a warrant should be revoked, and revoke or suspend it. The Tribunal had the powers of a Commission of Inquiry. Appeals could be made to the Administrative Division of the High Court. (Ss81-85)

Broadcasting Act 1976

2.4

This Act, which re-combined TV1, TV2 and RNZ under one Corporation, and abolished the Broadcasting Council, came into force on 1 February 1977.

Public Broadcasting

2.5

The Broadcasting Corporation of New Zealand, which was responsible for the standards of its television and radio Services, was required to -

"..... receive and consider formal complaints about programmes broadcast by the Corporation where the complainant alleges that the Corporation has failed to comply with [certain standards provisions] or with any programme rules made under ... this Act, and shall establish procedures for investigating any such complaint." (S25(1))

2.6

The standards provisions referred to were -

"The observance of standards of good taste and decency;

"The accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism;

"The principle that when controversial issue of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest;

"The maintenance of law and order;

"The privacy of the individual."

(S24)

2.7

Failure to comply with an obligation to observe the Film Censor's requirements in respect of a feature film that had previously had the Censor's classification (for cinema showing) was also a ground for complaint.

2.8

Any complaint made under the provisions of s25 had to be in writing to the Secretary [of the Corporation]. If a complaint was found to be justified in whole or in part, the Corporation was required to take appropriate action, and to inform the complainant in writing of the action taken; and if not justified the complainant was required to be notified of the decision.

Private Broadcasting

2.9

Section 95 of the Act established similar standards provisions in respect of complaints about private broadcasters' programmes (with the exception of feature films, there being no private television).

2.10

A "Committee of Private Broadcasters" was established by the Act, its chair being appointed by the Minister, with two other members appointed by the Minister on the nomination of the Independent Broadcasters' Association. The Committee's responsibilities in the consideration of complaints paralleled those of the Corporation, except that it recommended to private broadcasters the action they should take if a complaint was upheld. It had the discretion to report serious cases to the Tribunal, but was required to report breaches of warrants.

Philosophy of the Act

2.11

The 1976 Act intended that the broadcasting system should be, so far as possible, self-regulating in its operations. Thus the broadcasting Rules were drawn up by the Broadcasting Rules Committee, composed of practising broadcasters from public and private sectors; the broadcasters themselves were charged with maintaining standards; and the initial consideration of complaints and their adjudication were in the hands of the broadcasting bodies. While the Minister of Broadcasting had powers of direction on the functions and powers of the Corporation in respect of broadcasting, the Act excluded any authority to direct on a particular programme or complaint (s20).

2.12

The formal complaints procedure was seen as a counterbalance to operational independence: it provided a "check and balance" mechanism whereby the public, using the authority of statute, could challenge the programming standards of broadcasters, causing them to examine and justify their policies - or to admit to shortcomings and to take remedial action. It was intended to be, and was, a simple procedure for a member of the public to invoke. On the other hand, it was not anticipated that there would be many formal complaints: the Council had received few.

Broadcasting Tribunal

2.13

It was recognised, however, that a further mechanism was needed to overcome the potential for bias and self-serving inherent in the structure. Accordingly the Act provided that a complainant dissatisfied with a decision or with action taken (or who had not received an acknowledgement of the complaint within 14 days after the broadcaster's receipt of it), could refer the complaint to the Broadcasting Tribunal, also established by the Act.

2.14

(The Minister was also given the power to refer to the Tribunal, to be dealt with as a formal complaint, any programme that had been broadcast, or any pre-recorded programme intended to be broadcast that he considered might breach the standards provisions, and which, "in the special circumstances of the case it [was] in the public interest that the question be determined by the Tribunal" (s25(6); s91(6)). This power - which was never exercised - further removed the Minister from intervention in programmes; and Parliament was to be informed of its exercise, and the action was to be published in the Gazette.)

2.15

In considering a formal complaint the Tribunal was required to act judicially. It could not consider a complaint unless the complainant signed a declaration that legal action would not be taken in respect of the subject-matter of the complaint or its investigation by the Corporation or the Tribunal. (As the Committee of Private Broadcasters was not a body corporate it was not included.) The Tribunal also had the power to decline to determine a complaint, if it considered that in all the circumstances of the complaint it should not determine it. It could decide whether or not to have a formal hearing. (s67) As with the Corporation, it could not be directed on a particular complaint by the Minister (s68).

2.16

There were several reasons for these provisions.

2.17

The Tribunal was empowered - acting judicially - to impose monetary penalties, revoke or suspend broadcasters' warrants (except that the approval of the Minister was required for revocation or suspension of Corporation warrants) if it appeared to the Tribunal that the rules or conditions of warrants had been breached. An appeal against a decision could be taken to the Administrative Division of the Supreme Court; and as the livelihood of broadcasters could be affected the requirement to act judicially in this (and other matters) was considered necessary.

2.18

The requirement for the signing of a declaration was to avoid "fishing expeditions" in anticipation of legal action by a complainant. If a broadcaster suspected that a defamation action might subsequently be brought, it could "not uphold" a complaint with the comfort that it was protected if there was further consideration by the Tribunal.

2.19

The Tribunal, with its judicial responsibilities, could decline to determine a complaint, in a sense having the power of a court to "dismiss" an action. Apart from forbidding intervention, the Act ruled that the Minister could not direct the Tribunal in any way which would derogate from its duty to act judicially.

2.20

The Tribunal was required, for the purposes of any particular complaint referred to it, to co-opt "2 persons whose qualifications or experience are likely, in the opinion of the Tribunal, to be of assistance . . . ." Co-opted persons could participate in proceedings, but not vote. (S61)

2.21

The Tribunal's decisions on complaints were to be given to the complainant (and in practice were given to the broadcaster), and published in the Gazette. (S67)

2.22

The provisions of the 1976 Act are given in some detail, as subsequent regimes are based on them.



## Broadcasting Amendment Act 1982

### 2.23

This Act was introduced primarily to require the BCNZ to make available its television programme listings to publications other than the Listener. The opportunity was taken by the Government to amend the complaints provisions and procedures. That decision was apparently made near the last minute: there was no substantial reference to the BCNZ; and in the words of one of the Minister's staff who was involved in drafting the legislation, it was "cobbled together" using some parts of Australian and more particularly United Kingdom systems, while retaining much of the previous New Zealand system. One aspect, however, followed BCNZ proposals - that "personal injury" complaints should be handled by a separate authority.

### 2.24

The previous provisions were repealed, being replaced by 32 new sections. They started with a statement of principles -

- "Broadcasting attracts complaints:
- "The holder of a warrant or authorisation issued in respect of a broadcasting station has a responsibility to deal with complaints and must establish a proper procedure to deal with them:
- "An independent complaints procedure must be available to complainants:
- "Complaints based merely on a complainant's preferences are not, in general, capable of being resolved by a complaints procedure:
- "An independent complaints procedure is not a substitute for proper consideration of complaints by the holder of a warrant or authorisation issued in respect of the broadcasting station:
- "Complaints should be made promptly to the holder of the warrant or authorisation issued in respect of the broadcasting station:
- "Formal complaints must be made in writing:
- "Most of the complaints that are capable of being resolved by an independent complaints procedure should not require to be resolved by that procedure but should be capable of being resolved by proper consideration and proper response on the part of the holder of the warrant or authorisation issued in respect of the broadcasting station:
- "The first consideration of a complaint under an independent complaints procedure should be prompt and without undue formality:

- "Further consideration of a complaint under an independent complaints procedure calls for greater formality:

- "Subject to the jurisdiction of the High Court in respect of any appeal, it is the responsibility of the Tribunal to decide the action to be taken in respect of a breach of a warrant or authorisation in respect of a broadcasting station." (S95A)

#### 2.25

The Act abolished the Committee of Private Broadcasters, putting on individual private broadcasters the initial responsibility for the consideration of formal complaints (s95C). It also put on private broadcasters the same obligations as on the Corporation to establish procedures for investigating complaints. (A subsequent amendment was made in the Broadcasting Amendment Act (No.2) 1982 which provided for private television. It did not affect the principles or procedures of the first 1982 amending Act.)

#### 2.26

An additional ground for complaint to broadcasters was added, viz. the obligation "to maintain in [their] programmes and their presentation, standards which will be generally acceptable in the community"; and the "privacy of the individual" was removed as a ground of complaint to the broadcasters themselves (vide ante para 2.6). (Ss 95B, 95C)

#### 2.27

There was little other change in broadcasters' responsibilities in respect to complaints on these grounds.

### Broadcasting Complaints Committee

#### 2.28

However, a substantial change was the creation of the Broadcasting Complaints Committee (s95F). The office was held by one person (the only incumbent throughout its life being Judge Max Willis).

#### 2.29

The functions and duties of the Committee were to investigate allegations of breaches of warrants, and, more pertinently -

"To receive and consider formal complaints of -

"(1) Unjust and unfair treatment in programmes broadcast by any broadcasting body; or

"(2) Unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes broadcast by any broadcasting body." (S95G)

#### 2.30

The Committee was specifically barred from entertaining complaints not falling within these provisions; and could not exercise any function in respect of any short-wave station. (S95H) (The RCNZ was the only authorised operator of such stations.)

2.31

A complaint made under s95Q could be made by any individual or body, but could not be entertained by the Committee unless it was made by a person affected, or somebody authorised by that person to do so (including, however, a member of the family or a close connection in the case of a deceased or incapacitated person) (s95P).

2.32

A time limit of 5 years after broadcast was imposed. The Committee could not investigate a complaint which was subject to court proceedings. There were several grounds for refusal of a complaint: if the Committee considered there were other legal remedies and it was inappropriate for the Committee to consider it; if it was frivolous; if the complainant did not have a sufficiently direct interest; if it had not been made within a reasonable time; and if, in all the circumstances, the Committee decided not to proceed (s95Q).

2.33

As with the Tribunal, a declaration was required (vide ante para 2.15) (s95V). Unlike the Tribunal, the Committee had a discretion to co-opt 1 or 2 persons (s95I).

2.34

A number of procedural provisions laid obligations on the broadcasters to provide the Committee with a written statement, documents and programmes/transcripts; copies of the statement and, if requested the other materials, were also to be supplied to complainants.

2.35

The Act provided that the complainant and the broadcaster were entitled to be heard at a formal hearing (s95W) - and elsewhere (s95R) that the broadcaster had a duty to attend if required by the Committee. Wilfull failure to comply with the provisions referred to in paras 2.34 and 2.35 was deemed to be a breach of the broadcaster's warrant or authorisation, subject then to Tribunal penalty. (s95U)

2.36

If the Committee decided that a complaint was justified in whole or part, it could recommend appropriate action to the broadcaster, and direct it to publish a statement approved by the Committee. The complainant was informed of the decision and any directions. The broadcaster was required to comply, and to inform the Committee and the complainant of the action taken. Statements were deemed to be a notice published on the authority of a Court of Justice, for the purposes of the Defamation Act 1954. If a complaint was not justified, the two parties were to be informed. (s95X)

2.37

The Committee was empowered to report to the Tribunal, if it considered there had been a significant breach of the conditions of a warrant (which included observation of the Broadcasting Rules) (s95Y).

## Power of Referral

### 2.38

Complainants were given the power to refer to the Tribunal a Committee decision if dissatisfied with it, or the action of a broadcaster pursuant to a Committee direction. And a new provision gave broadcasters the right to refer a decision to the Tribunal if dissatisfied with a decision. In the latter case the Committee's directions in respect of the complaint had no effect. In each case 15 working days were allowed (the Tribunal having a discretion to extend the time). (S95Z).

### 2.39

The power to refer broadcasters' decisions to the Tribunal was continued.

### 2.40

The Minister's power of referral to the Tribunal was continued (vide ante para 2.14). (S95ZA)

## Publicity

### 2.41

A new section made it a duty of each broadcaster regularly to publicise the Committee and its functions, broadcasting bodies' duties and responsibilities in respect of complaints, and the Tribunal's functions in those respects. How this was to be done was not specified. (S95ZB)

## Broadcasting Tribunal

### 2.42

The amending Act gave further and greater powers to the Tribunal if it upheld, in whole or part, formal complaints referred to it. It could recommend appropriate action to the broadcaster; and it could direct the broadcaster to publish, in any manner specified in the direction and within such period as specified, a statement relating to the complaint approved by the Tribunal. The complainant was to be told of the decision and any action recommended or directions given. If a complaint was not upheld, notice of the decision was to be given to both parties. (S67A)

### 2.43

As with the Committee (vide ante para 2.36) the broadcaster was required to comply, and statements were "protected". (S67A) Publication of decisions in the Gazette continued, a further requirement being the inclusion of the reasons therefor. (S67B)

### 2.44

A new section empowered the Tribunal to award costs if it thought the complaint frivolous or vexatious or one that ought not to have been made, or the complainant failed to prosecute any proceeding. Costs were payable to the Crown (S67C) and enforcing orders in named Courts were provided for (S67D).

### 3 PUBLICATION OF COMPLAINTS SYSTEM

#### 3.1

While not required by the original Broadcasting Act 1976 to do so, the Tribunal, in conjunction with the BCNZ and the Independent Broadcasters Association published a pamphlet about the new broadcasting structure - "Radio and Television in New Zealand" - which included a description of the complaints procedure. It appeared in 1978.

#### 3.2

A revised version was issued in 1983, taking account of the new provisions.

#### 3.3

In 1985, "Broadcasting in New Zealand - Your Rights" was published.

#### 3.4

These pamphlets were made available on stations, and were frequently included by the BCNZ with replies to writers with a complaint (not necessarily a formal one).

#### 3.5

Copies are enclosed. (Unfortunately few of the early pamphlets are extant, and only one copy can be provided.)

#### 3.6

In 1986 the BCNZ arranged for the publication in the Listener of a guide to formal and "non statutory" complaints about its own and private stations' programmes. It was published every three months until the dissolution of the Corporation. Listener notices were accompanied by radio and television announcements drawing attention to them.

#### 3.7

The procedure was described from time to time in other publications (e.g. by the Ministry of Consumer Affairs).

### 4 NUMBERS AND TYPES OF COMPLAINTS

#### 4.1

Appendices A, B, C and D list the formal complaints considered by the Tribunal, the Broadcasting Complaints Committee, the Broadcasting Council and Corporation, and the Committee of Private Broadcasters, respectively.

#### 4.2

The information is taken from annual reports of the Tribunal and Council/Corporation.

#### 4.3

The Tribunal and early BCNZ reports are unsatisfactory to the extent that they do not specify whether complaints concerned radio or television. However, to the writer's certain knowledge the majority (as later BCNZ figures bear out) were about television programmes. The Committee of Private Broadcasters of course received only private radio complaints.

#### 4.4

Space limitations in reports did not allow descriptions of complaints by subject, and in the BCNZ analyses were not therefore made. However, from the writer's experience it can be said that the majority concerned questions of taste and decency, although the numbers are weighted because of the number of complaints a few commercials or programmes might attract (e.g. commercials for underwear). The numbers were also swelled by the distribution by one organisation (in 1986-87) of a pre-printed postcard alleging "indecent" etc which complainants could complete with programme details.

#### 4.5

Liquor advertising, news and current affairs reporting, and sponsorship would be the next highest categories. The first was weighted by the response to "Superliquorman" commercials, and the activities of one group.

#### 4.6

There is further reference to these matters under "Comment".

### 5 PROCEDURES AND ADMINISTRATION

#### Broadcasting Council

##### 5.1

The Council established a "Complaints Review Committee" to consider complaints of unjust or unfair treatment in the corporations' programmes. It consisted of two Council members, and two co-opted persons. (Annual Report 1975)

##### 5.2

The Council "expected that the majority of complaints concerning programme matters will first be taken up with, and handled by, the broadcasting organisation concerned".

##### 5.3

The Committee heard one complaint, and held an informal meeting in the 1975-76 year. The complaint, about a TV1 programme, was upheld. The decision was published in the Listener, and a summary broadcast by TV1 at the request of the committee. The Council considered it reasonable to assume that most complainants were "at least placated", as so few complaints initially handled by the corporations had been put to it.

5.4

The informal meeting "was held to give a persistent critic the opportunity to state his views on the general content and presentation of news emanating from Northern Ireland and to provide him with explanations". (Annual Report 1976)

**Private Stations and the Committee of Private Broadcasters**

5.5

As far as the writer can determine, there has been no publication of the procedures used by private radio stations for the handling of complaints. Conversations with a small number of managers some years ago suggests that they have been handled by top management staff at some stations.

5.6

Similarly there is no information on the "inside" workings of the Committee of Private Broadcasters. However, the Tribunal, in its 1981 Annual Report considered "the committee has worked well during the year and its decisions constitute a practical and sensible level of self-regulation". The Tribunal went on to remark that "It is not always understood by broadcasters themselves however [sic] that there is this element of self regulation and occasionally some have been unwilling to accept the decisions of the committee. There is also occasional unwillingness to apply the spirit of the rules or to recognise and acknowledge errors when they have occurred."

5.7

The following year the Tribunal commented that it had "taken steps to try to ensure that the decisions of the Committee are better known to broadcasters generally as well as in the stations concerned".

**Broadcasting Corporation of New Zealand**

5.8

The BCNZ established early in its regime - in 1978 - a procedure that was retained in essence until its dissolution.

5.9

Following the acknowledgement of formal complaints by the Secretary, they were investigated by its Head of programme Standards (who reported to the Secretary), and concurrently but independently, by an in-house committee of the Service (radio or television) concerned. (Provision was made for an alternate to the Head of Programme Standards if a complaint concerned a question of censorship, which was among his responsibilities.)

5.10

Each Service committee was chaired by a Director-General or very senior executive. Other members were the head of the department which made or was responsible for the programme, and a representative of the staff at large, nominated by the Public Service Association. The committees viewed or heard the subject programmes, and had reports from those involved in their production.

5.11

Reports from both the committees and the Head of programme Standards, each with a recommendation, were subsequently considered by the Standing Committee of the Service concerned (until the end of 1979 when they were abolished on the amalgamation of TV1 and TV2 into the Television New Zealand Service), and by the Corporation. The procedure was modified from 1986 onwards, by having one composite report prepared by the Head of programme Standards following his meeting with the Service executive committee, with a single recommendation (but with the opportunity for dissent) to the Corporation. At times, if its Members were not familiar with a programme or commercial, or there was a need to examine a programme itself, the Corporation viewed or heard a programme.

5.12

Under the Act it was the responsibility of the Corporation itself to determine formal complaints. It did have the power to delegate determinations of formal complaints to committees of its members (and late in its existence to executives), but on only a few occasions were Corporation sub-committees established to deal with complaints. Their decisions were invariably ratified by the full Corporation.

5.13

The Corporation's decision (and if appropriate, the action being taken) was conveyed to the complainant by the Secretary. While not required by any enactment to do so, letters always included an explanation of the reasons for the decisions, at times at some length. Copies of the decision and the letters were minuted to Directors-General, for relay to staff concerned.

5.14

While the great majority of the Corporation's decisions supported executive recommendations put before it, it was by no means uncommon for the Members to decide otherwise. It was also not uncommon for a report to be referred back for further investigation.

5.15

Successive BCNZ Corporations gave considerable weight to the complaints system. Its 1978 Annual Report noted "The right of the public to make formal complaints to the corporation in certain circumstances (and if necessary to proceed further with them to the broadcasting Tribunal) benefits both the corporation and the public. A formal complaint, made under the Act, is regarded very seriously, and investigation of it can lead to improvements in programmes and standards, whether or not it is upheld".

5.16

In its submission to the Royal Commission on Broadcasting and Related Telecommunications in 1985, the Corporation (of different members) stated "The formal complaints procedure has become an important element in the public oversight of broadcasting ..... It provides ... a ready means for scrutiny of standards ..... The Corporation also regards the complaints procedure as an important part of its own oversight of the the standards and performance of its Services."  
(Term of Reference 4(b))



## Broadcasting Complaints Committee

### 5.17

The BCNZ's experience with this body was relatively infrequent, an estimated two or three formal complaints a year about its programmes being considered.

### 5.18

It was the Committee's practice to refer a complaint to the Secretary, who provided a written statement from information gathered from programme-makers and senior Service executives (sometimes in conjunction with in-house legal staff). The statement, as noted before, was also provided to the complainant, who was given the opportunity by the Committee to comment on it. Those comments were sometimes, but not always, referred to the Secretary.

### 5.19

The Committee held only two formal hearings on complaints about BCNZ programmes, in the writer's recollection. The Corporation was represented at both by its own legal staff, and programme department heads.

### 5.20

The Committee issued written decisions and, if a complaint was upheld, sometimes made recommendations.

### 5.21

The Committee appeared not to be reluctant to decline jurisdiction or consideration of complaints: the Tribunal's 1988 Report, for example, notes that "the Committee ruled that as six complaints had been filed after a lengthy lapse of time since the broadcast they were not able to be determined". It does not mention whether or not the complaints were made within the 5-year limit placed by the Act. The Committee declined to deal with, or decided it had no jurisdiction in, 35% of all complaints to it up to 31 March 1988.

## Broadcasting Tribunal

### 5.22

In its first Annual Report in 1977 the Tribunal noted that "it intends to keep the complaints procedure informal and flexible so unnecessary formality will not prevent any person with a reasonable complaint from bringing it forward for consideration". It found, the following year, "with some satisfaction, that this procedure has worked well".

5.23

The Tribunal could not, and would not entertain a complaint unless it had been considered first by the broadcaster. Complainants referring their complaints from the BCNZ or private radio to the Tribunal were required, it will be recalled, to sign a declaration concerning legal action. The Tribunal developed another standard form for complainants to complete (and extend if necessary). Besides asking for the grounds of a complaint and the complainant's view of why the broadcaster's decision should have been different, it asked complainants to indicate if they wished to be heard.

5.24

The Tribunal's normal practice was to refer the complaint to the broadcaster, inviting comment. The BCNZ invariably responded with a substantial submission, (while not being legally obliged to do so), and supplied copies of tapes, transcripts etc. If a complainant introduced new grounds which had not been considered by the Corporation, this was noted. It was found in later years that the Tribunal referred (at least) the BCNZ comments to complainants for their response. (It is not known if this had always been the Tribunal's procedure.) The complainant's remarks were not then submitted to the broadcaster for rebuttal, however.

5.25

Despite its early profession of informality, the Tribunal was obliged to act judicially. Its decisions could be subject to judicial review. It was empowered to give directions which might affect a broadcaster's revenue. It had, perforce, to impose some formality.

5.26

While it had no power to delegate decisions, the Tribunal's quorum was two, and complaints could be determined with that number. Most of its considerations were without hearings, but it sometimes held hearings at which parties would be represented - in the BCNZ's case by its legal staff and a programme department head. (It became BCNZ practice to advise the Tribunal that if it intended a hearing, the BCNZ wished to be represented.)

5.27

The Tribunal issued reasoned decisions to the complainant and the broadcaster, and they were published in the Gazette. (The question of publication of decisions is discussed later.) Decisions noted the names of co-opted persons, but also that they had no vote and that the decisions were the Tribunal's. In the BCNZ they were distributed to Corporation Members and senior executives, the latter discussing them with production staff. Although the Tribunal from time to time expressed some regret that its decisions were not widely enough publicised (in its view) they did at times lead to changes in policy at least within the BCNZ, and they also brought about changes in the Broadcasting Rules, particularly in the case of liquor advertising.

5.28

As far as the writer is aware, no decision of the Tribunal on any formal complaint became the subject of a judicial review, although such a course was seriously contemplated within the BCNZ when the Tribunal upheld a complaint on grounds not stated by the complainant, and on which the BCNZ was not given opportunity to make any submissions.

5.29

The figures in Appendix A show that the Tribunal reasonably often declined to consider a complaint. In its 1982 Report, for example, it noted its exercise of discretion not to deal with four complaints. "Two of these concerned general complaints of bias against Broadcasting Corporation stations in respect of coverage of matters arising from the South African rugby tour of New Zealand. The Tribunal was not in a position to conduct a full scale inquiry into all news and current affairs programmes broadcast over a period of nearly a year which would have been required in the absence of complaints about specific programmes."

5.30

The Tribunal also ruled on more than one occasion that a formal complaint could only be valid if it concerned a programme that had been broadcast.

5.31

The Tribunal on at least one occasion (in 1988) called together a complainant organisation's and the Corporation's representatives to discuss a substantial number of complaints that were outstanding. The Tribunal suggested to the complainant that its habit of lodging formal complaints on very minor matters, at the slightest provocation, was diminishing its effectiveness; and it decided not to determine the outstanding complaints.

5.32

Although it was empowered to, the Tribunal did not award costs in respect of a formal complaint proceedings.

## 6 COMMENT

### 6.1

In this section various issues concerning the formal complaints procedure are discussed. Comment is based both on reported remarks of broadcasting authorities, and, more personal in nature, the writer's experience.

### Definition of "Formal" Complaint

#### 6.2

Statutes have not defined a "formal" complaint.

#### 6.3

A complaint identified by the complainant as "formal", or which cited grounds from the Act or Broadcasting Rules was treated by the BCNZ in the formal procedure. However, the BCNZ perhaps tended to generous treatment of complaints, taking some which had substance as formal complaints even though they may not have been so identified or cited grounds - going so far at times to find grounds itself. Quite often it was pointed out to people who wrote complaining letters that a mechanism existed for consideration under the statutes, if they wished to invoke it. Certainly no standard form was expected. A disadvantage seen occasionally by some complainants, and respected, was the publicity which might attend a complaint.

#### 6.4

On the other hand, it was expected of regular or persistent complainants who were familiar with the processes, and those with legal associations, that formality would be exercised from the start, with proper identification of grounds for complaint.

### Refusal of Complaints

#### 6.5

Only the Tribunal and the Broadcasting Complaints Committee had power to decline to consider a formal complaint. The Corporation and private broadcasters, and the Committee of Private Broadcasters were therefore obliged to consider complaints identified as "formal", however fatuous or frivolous.

#### 6.6

In 1981 (Annual Report) the Tribunal said "A complainant can pursue a station and lodge an extraordinary number of complaints. Consideration may have to be given as to what steps can be taken to prevent abuse of the complaints procedures which might cause unnecessary cost to the station concerned as well as to the Committee of Private Broadcasters. This has not yet occurred in relation to complaints decided by the Tribunal, which has the power to decline to deal with them".

6.7

In 1982 the Tribunal commented on the fact that in respect of one private station 27 complaints had been received, 20 from one complainant and 4 from another. Those two people were associated together in a society which also lodged 3 complaints. "Some of these complaints had merit and a number were upheld by the Committee of Private Broadcasters, Some, however, were quite without merit..... The Committee should have the power to decline to deal with complaints and thus avoid the possibility of the harrassment of a station which might have to incur considerable costs in answering complaints which have no foundation".

6.8

The Corporation might at times have said the same. Investigation of complaints not only involved many hours of work and considerable expense; those without foundation also clogged up the system.

6.9

Further, not being able to decline to consider left broadcasters with no option but to take a "not uphold" decision if legal action was likely to follow, making the broadcaster look foolish if, clearly, a wrong had been done. The Broadcasting Complaints Committee, as noted (vide ante para 2.32) had the option of not considering a formal complaint if a remedy was available in court proceedings. It should be stated, however, that the situation did not often arise in either the BCC or the BCNZ.

### Delays

6.10

A common criticism of the complaints procedure was the delay in decisions.

6.11

This criticism, directed towards both broadcasters and the Tribunal and Broadcasting Complaints Committee, was not without validity.

6.12

The Tribunal again (1981): "The procedure with regard to complaints has caused us some concern. There is inevitably a delay between the time a formal complaint is made to the Corporation or Committee of Private Broadcasters and the finding of those bodies. There is then a further period which elapses before the tribunal has submissions from both parties and can assemble with five members to determine the complaint. .... its own decisions sometimes take longer than it would wish but it is concerned that the result is often not as important as the giving of reasons and principles applied by the tribunal in determining the complaint in question".

6.13

In fact, the situation became worse, as the Tribunal's workload increased with inquiries into, and hearings for, a third television channel - as the "decisions pending" column in Appendix A shows. In some cases many months elapsed before Tribunal decisions were made.

6.14

The situation with the BCNZ was also unsatisfactory at times, particularly in its later years, although most complaints were cleared within three months at the outside.

6.15

The reasons for this were three-fold.

6.16

To do justice to a complainant - and to staff - demanded a full and proper investigation, involving staff who were at the same time under the imperative of producing programmes to meet schedule deadlines. Complex complaints could take a considerable time to investigate.

6.17

The Corporation met only once a month to consider complaints. There was an inbuilt delay. And there was a limit to the number of complaints it could consider, along with other business of a meeting.

6.18

With increasing public awareness of the complaints system, particularly after its publication in the Listener and on air, the volume of complaints increased dramatically, as Appendix C shows. There was clearly a correlation between each publication of the procedure, and the number of complaints received immediately thereafter. Additional staff were used, but the sheer mechanics of acknowledging letters, providing complainants with decisions and their reasons, let alone diverting the programme makers from production to respond to complaints, inevitably resulted in delays.

## Payment

6.19

From time to time it was suggested that complainants be required to make a payment at the time a formal complaint was lodged. This was seen as a way of reducing the number of insubstantial complaints.

6.20

However, it was argued that this would be an imposition, and perhaps a deterrent, for people with valid complaints. The intention of the formal complaints procedure was to make it accessible to all (to repeat an expression first used in a Caucus committee in 1976, "easy for the little old lady in gumshoes").

6.21

The writer has also argued that the contemporary attitude is to make complaints processes, in all fields, more open and responsive.

## Publication of Decisions

### 6.22

There was a reluctance within the BCNZ to publish its decisions on formal complaints, although for a period brief summaries (with little identification) were carried in an in-house staff journal. One reason for this reluctance was the effect on staff: although legally formal complaints were made about the Corporation's programmes, many staff felt that an upheld complaint was a slur on an individual producer, and might affect his or her career.

### 6.23

In more recent years the volume of complaints made publication a somewhat daunting prospect. However, Radio New Zealand adopted the practice of carrying formal complaints decisions on the stations or networks concerned in the last two years. It did not, of course, have as many to contend with as TVNZ.

### 6.24

Tribunal decisions were published in the Gazette, and were quite often picked up and carried by newspapers (more particularly those decisions that upheld the complainant).

### 6.25

In 1981 (Annual Report) the Tribunal said "Difficulty has been experienced in obtaining adequate reportage of the decisions of the tribunal and consideration may have to be given to the tribunal's supplying a condensed statement to broadcasting stations themselves."

It also sought publication in the Listener, but the following year complained that that had not materialised. "The Tribunal will have to consider purchasing advertising space in that journal to publish reports of its decisions . . . . . It seems incongruous that the Tribunal should use revenues from levies (most of which are paid by the Corporation) to pay the Corporation a fee for the publication of its reports in what is generally regarded as a journal reflecting, among other things, what is happening in broadcasting".

### 6.26

That approach failed to recognise that the Listener was required to operate as a profitable business, and any reduction of its profit affected the BCNZ as a whole. In effect carrying, free, Tribunal decisions would have meant the Corporation paid twice, through levies and loss of profits. The Tribunal seems to have been made aware of this, as it makes no further reference to the matter in subsequent years.

## Campaigns

### 6.27

The Tribunal's reporting of a campaign against one private station has been mentioned (vide ante para 6.7). The Corporation also experienced campaigns.

### 6.28

The BCNZ's Annual Report in 1987 said "While the Corporation acknowledges that a complaints procedure is an important aspect of its accountability and a broad gauge of public attitudes, it has attracted the attention of some in particular: over 21 percent of all formal complaints [156] were laid by only four individuals or groups, two of which shared a basic common interest". This was apart from the printed postcard.

### 6.29

Particular topics subject to persistent formal complaints over many years from a few individuals or groups were liquor advertising, sponsorship, reporting of Middle East, South Africa and Republic of Ireland concerns, and the reflection of community standards.

### 6.30

In the case of liquor advertising numbers of complaints were upheld, by the Corporation or the Tribunal. Liquor advertising rules changed several times from 1976 and were sometimes difficult to interpret. But it has also to be said that some stations exceeded the intended bounds from time to time.

### 6.31

Campaigns had both beneficial and unfortunate effects: on the one hand some caused broadcasters to consider very carefully if they were meeting the requirements of the Act or Rules; on the other hand some came very close to inhibiting editorial judgement in news and current affairs. Those responsible for decisions sometimes debated whether or not to carry a news item on the basis of whether a complaint would be lodged - regardless of accuracy or balance - instead of on an editorial basis. Fortunately the latter prevailed. (This problem was stated in writing, and verbally by senior editorial staff, to the Ombudsman investigating a complaint to it from one group.)



## APPENDIX A

FORMAL COMPLAINTS CONSIDERED BY  
BROADCASTING TRIBUNAL

Year Ending 31 March	Upheld*	Not Upheld	No Jurisdiction /Consideration Declined	Decision Pending	Withdrawn /Did not Proceed
1977	0	0	0	0	0
1978	4 decisions (unspecified)		1	0	0
1979	7	2	2	0	1
1980	6	0	1	0	2
1981	Not published				
1982	5	1	4	0	2
1983	2	8	5	0	2
1984	2	2	0	2	2
1985	6	0	0	8	0
1986	2	2	3	0	0
1987	9	2	0	0	3
1988	0	1	0	29	2

\*Upheld or upheld in part.

(Sources: Annual Reports to Parliament.)

## APPENDIX C

FORMAL COMPLAINTS CONSIDERED BY  
BROADCASTING COUNCIL AND  
BROADCASTING CORPORATION OF NEW ZEALAND

Year Ending 31 March	TOTAL	RADIO			TELEVISION		
		Upheld*	Not Upheld	S/T	Upheld*	Not Upheld	S/T
1975	1	-	unspecified				
1976	1				1		1
1977	2				1	1	2
1978	6	-	unspecified; 3 upheld*				
1979	22	-	unspecified; 7 upheld*				
1980	11			2			9
			(2 upheld* in total)				
1981	44	-	unspecified; 15 upheld*				
1982	61	6	11	17	6	38	44
1983	166	116+	6	122	17	27	44
1984	57	2	11	13	14	30	44
1985	61	3	6	9	16	36	52
1986	77	-	8	8	12	57	69
1987	156	2	17	19	9	128	137
1988	149	3	10	13	17	119	136
1988 (To 30 Nov.)	87	1	8	9	12	66	78

\* Upheld or upheld in part.

+ 109 complaints about the same broadcast.

(Sources: Annual Reports to Parliament.)

APPENDIX D

FORMAL COMPLAINTS CONSIDERED BY  
COMMITTEE OF PRIVATE BROADCASTERS

Year Ending 31 March	Upheld*	Not Upheld	No Jurisdiction /Consideration Declined	Decision Pending	Withdrawn /Did not Proceed
1977	Not published.				
1978	Not published				
1979	6 considered+				
1980	5 considered+				
1981	2	2	0	9	1
1982	10	14	5	9	1
1983	0	2	0	0	1

\*Upheld or upheld in part.

+ Decision not recorded.

(Sources: Tribunal Annual Reports to Parliament.)

The Secretary of the  
Corporation  
BCNZ  
PO Box 98  
Wellington

IF THE COMPLAINT  
RELATES TO RNZ OR  
TVNZ

The Manager Station . . . . .

or

IF THE COMPLAINT  
RELATES TO A  
PRIVATE STATION

Formal complaints that an individual has been subjected to unfair or unjust treatment in a programme, or that there has been unwarranted infringement of a person's privacy, can be made direct to:—

The Secretary  
Broadcasting Complaints Committee  
[redacted] PO Box 10-044  
Wellington

If you are not satisfied with the outcome of a formal complaint after it has been heard, or if within 15 working days of your complaint being received by the broadcasting station, you have not been told when the complaint will be heard, you can refer your complaint to the Broadcasting Tribunal. You should address it to:—

The Registrar  
Broadcasting Tribunal  
Tribunals Division  
Private Bag  
Wellington

While a person may refer a **formal complaint** to the Tribunal or the Complaints Committee, neither body will hear or determine a complaint until the complainant completes a declaration that legal action will not be taken in respect to the subject of the complaint.

The Broadcasting Act precludes the Minister from intervening in matters of programming and transmission. This means you will find that most complaints addressed to the Minister will be re-directed to the appropriate broadcasting organisation or to the complaints procedures just described.

## ◆ ADDRESSES

### Broadcasting Corporation of New Zealand

Secretary to the Corporation  
Public Affairs Manager

Director General  
Television New Zealand  
PO Box 3819  
Auckland

Chief Executive  
Directors of Engineering, Finance,  
Information Systems, Personnel.  
Broadcasting Corporation of New  
Zealand  
PO Box 98  
Wellington

The Editor  
The Listener  
PO Box 3140  
Wellington

Director General  
Radio New Zealand  
PO Box 2092  
Wellington

The General Manager  
New Zealand Symphony Orchestra  
PO Box 11-440  
Wellington

### Independent Broadcasters Association (NZ) Inc

Executive Director  
Independent Broadcasters  
Association (NZ) Inc  
PO Box 3762  
Auckland

The Manager  
93 FM Radio Hawkes Bay Ltd  
PO Box 193  
Hastings

The Manager  
KCC FM Northland FM Radio  
Ltd  
PO Box 3100  
Whangarei

The Manager  
Manawatu Radio Co Ltd  
PO Box 446  
Palmerston North

The Manager  
Radio Hauraki Ltd  
PO Box 1480  
Auckland

The Manager  
Radio Windy Ltd  
PO Box 558  
Wellington

The Manager  
Radio 1 Ltd  
Private Bag  
Auckland

The Manager  
Radio Avon Ltd  
PO Box 1260  
Christchurch

The Manager  
Magic 91 FM Metropolitan FM  
Ltd  
PO Box 33-644  
Takapuna

The Manager  
Radio Rhema  
PO Box 21  
Christchurch

The Manager  
Radio Pacific Ltd  
Private Bag  
Manukau City

The Manager  
Radio Central  
PO Box 143  
Alexandra

89 Stereo FM Ltd  
PO Box 5089  
Auckland

The Manager  
Radio Otago Ltd  
PO Box 1210  
Dunedin

The Manager  
Radio Waikato 898 FM Ltd  
PO Box 9540  
Hamilton

The Manager  
Foveaux Radio Co  
Private Bag  
Invercargill

The Manager  
Radio Bay of Plenty Ltd  
PO Box 383  
Whakatane

### Broadcasting Complaints Committee

The Secretary  
Broadcasting Complaints  
Committee  
PO Box 10-044  
Wellington

### Broadcasting Tribunal

The Registrar  
Broadcasting Tribunal  
Tribunals Division  
Private Bag  
Wellington

Published October 1985 by BCNZ Public Affairs on behalf of the Broadcasting Tribunal and the Independent Broadcasting Association (NZ) Inc

1985  
**BROADCASTING  
in New Zealand**

**Your Rights**

The Broadcasting Act  
Broadcasting Corporation of New Zealand  
Independent Broadcasters Association (NZ) Inc  
Broadcasting Tribunal  
Broadcasting Standards and Rules  
Complaints Procedure

The purpose of this leaflet is to tell you about broadcasting in New Zealand. It will tell you how broadcasting is formally established, who broadcasts, what standards they must meet and how they are controlled.

It will also tell you what to do if you want to make a complaint about broadcasting in New Zealand.

## ◆ THE BROADCASTING ACT

The Broadcasting Act 1976 and its amendments provides the present structure of broadcasting in New Zealand. It establishes and defines the functions and powers of the **Broadcasting Corporation of New Zealand (BCNZ)** and the Broadcasting Tribunal. It also lays down these general guidelines for the BCNZ, the private broadcasters and the Broadcasting Tribunal, saying that they should:—

Maintain and develop broadcasting as a system of human communications, to serve the people of New Zealand:  
Obtain, produce, commission and broadcast a range of programmes which will inform, educate and entertain:  
Ensure that programmes reflect and develop New Zealand's identity and culture; and that programmes are produced and presented with due regard to the need for good taste, balance, accuracy, and impartiality, and the privacy of individuals:  
Provide for public broadcasting to be controlled by a corporation which, acts as a trustee of the national interest and operates its services with maximum independence.

## ◆ BROADCASTING CORPORATION OF NEW ZEALAND

The Broadcasting Corporation of New Zealand is a public corporation responsible to Parliament through the Minister of Broadcasting. It is not an instrument of the Executive Government of New Zealand.

The Corporation is governed by a nine-member Board appointed by the Governor-General on the advice of the Minister of Broadcasting from time to time.

Its general functions are to operate public broadcasting services, providing programmes which inform, educate and entertain.

Through its Radio New Zealand Service, the Corporation operates 31 community radio stations and two non-commercial radio networks.

The Television New Zealand Service of the Corporation operates 2 networks, Television One and Television Two.

The Corporation also provides a Teletext service on both networks.

The BCNZ publishes the Listener and administers the New Zealand Symphony Orchestra.

## ◆ INDEPENDENT BROADCASTERS ASSOCIATION

The Independent Broadcasters Association Incorporated (IBA) is an organisation formed by private broadcasters to represent their common interests. The IBA is acknowledged in the Broadcasting Act, and the Act gives the IBA representation on the Broadcasting Rules Committee.

## ◆ BROADCASTING TRIBUNAL

The Tribunal consists of three members appointed by the Governor-General on the recommendation of the Minister.

The Tribunal deals with applications for warrants for both permanent broadcasting stations and short term authorisations. The Tribunal may vary conditions of warrants for special occasions but it has no power in respect of short-wave stations.

It deals with complaints from persons who are dissatisfied with the outcome of their complaint to either the BCNZ, a private broadcasting station, or the Broadcasting Complaints Committee.

The Tribunal has regard for the general policy of the government in relation to broadcasting and must comply with any written directions from the Minister relating to that policy. The Minister, however, cannot give any direction to the Tribunal in respect of any complaint or which might interfere with the Tribunal's duty to act judicially.

The Tribunal is otherwise independent of the Government of the day, the BCNZ and private broadcasting stations. It is not concerned in day to day broadcasting operations.

## ◆ BROADCASTING COMPLAINTS COMMITTEE

This is a one person committee, appointed by the Governor-General on the recommendation of the Minister. The Committee may co-opt one or two other persons to assist.

The Broadcasting Complaints Committee investigates and reports to the Broadcasting Tribunal, any allegations of breaches by broadcasting organisations of the conditions of their warrants or authorisations.

The Committee deals with any formal complaints of unjust or unfair treatment in broadcast programmes or any unwarranted infringements of privacy, in programmes or in the gathering of programme material.

## ◆ BROADCASTING STANDARDS AND RULES

Since broadcasting touches the lives of New Zealanders in so many ways, Parliament has laid down some standards for broadcasters.

These standards include:—

Providing a range of programmes which will cater in a balanced way for the varied interests of different sections of our community. (This does not apply to private radio stations.)

The need to ensure that a New Zealand identity is developed and maintained in programmes.

The observance of standards of good taste and decency.

The accurate and impartial reporting of news, according to recognised standards of objective journalism.

The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view. This may occur either in the same programme or in other programmes within the period of current interest.

The maintenance of law and order.

The privacy of the individual.

The BCNZ and the Independent Broadcasters Association are required to collaborate in the Broadcasting Rules Committee in the production of rules relating to programmes and advertising standards on radio and television, which all broadcasters are required to observe.

Copies of the Rules laid down for Radio and Television are obtainable, for a nominal charge, from the BCNZ's Head of Programme Standards at PO Box 98, Wellington.

## ◆ WHAT TO DO IF YOU HAVE A COMPLAINT

Most complaints about programmes can be sorted out to everyone's satisfaction by contacting the radio or television station concerned. If you can, ring the station and talk with the Manager or the producer of the programme, or write to them.

For a broadcasting station to be able to respond, you need to be specific about the complaint. They need the name of the programme or item, the day and time that it was broadcast and what you considered was wrong.

Please make your complaint promptly. So much material is broadcast these days, that it may not be easy to find the script or a copy of a programme that was broadcast some weeks ago.

If you are not satisfied with the outcome using this method then you have the right to make a **formal** complaint. If a **formal** complaint relates to acceptable standards of good taste, decency, accuracy, impartiality and balance in news and current affairs, the maintenance of law and order, or breaches of the Broadcasting Rules, you should write a **formal** complaint to either:—

# Radio and Television in New Zealand

1983

order, etc, in programmes on Television New Zealand or Radio New Zealand. These should be addressed to The Secretary, BCNZ, PO Box 98, Wellington.

- B Complaints relating to matters of good taste and decency, balance in presentation, maintenance of law and order, etc, in programmes on private (non BCNZ) stations. These should be addressed to The Manager of the station concerned.
- C Individual complaints, where a person considers he or she has been subject:
- to unjust and unfair treatment in programmes broadcast by any station (whether BCNZ or private);
  - or to unwarranted infringement of privacy in the broadcast or obtaining of material included in programmes broadcast by a station (BCNZ or private).

These complaints shall be addressed to the Secretary, Broadcasting Complaints Committee, Box 10-044, Wellington.

- All complaints should be lodged promptly.
- Where complainants are dissatisfied with decisions made by the BCNZ or an independent station on formal complaint, or the action taken in respect of complaints, they may refer them to the Tribunal.
- A decision made by the Complaints Committee may be referred to the Tribunal by the original complainant or by the broadcasting body concerned within 15 working days of the decision.
- While a complainant may initially refer a formal complaint to the Tribunal or the Complaints Committee by ordinary letter, neither body shall hear or determine the complaint until the complainant completes a declaration that legal action will not be taken in respect of the subject of the complaint.
- There is provision in the Act for either or both the Tribunal and the Complaints Committee to decline to consider complaints for good and sufficient reasons.

## Addresses

### Broadcasting Corporation of New Zealand: Principal Executives

The Director General  
Radio New Zealand  
PO Box 2092  
Aurora House  
WELLINGTON

The Editor  
Listener  
PO Box 3140  
WELLINGTON

The Director General  
Television New Zealand  
PO Box 3819  
AUCKLAND

General Manager  
NZ Symphony Orchestra  
PO Box 98  
WELLINGTON

The Secretary of the Corporation  
BCNZ  
PO Box 98  
WELLINGTON

Director of Engineering  
Director of Finance  
Director of Personnel  
Director of Corporate Planning  
PO Box 98  
WELLINGTON

### Independent Broadcasters Association (NZ) Inc

The Secretary  
PO Box 2632  
WELLINGTON

1XA, Hauraki Enterprises Ltd, PO Box 1480, AUCKLAND  
1XI, Radio I Ltd, Private Bag, AUCKLAND  
1XP, Radio Pacific Ltd, Private Bag, MANUKAU CITY  
1XX, Radio Bay of Plenty Ltd, PO Box 383, WHAKATANE  
1XW, Independent Broadcasting Co Ltd, PO Box 9540, HAMILTON  
2XS, Manawatu Radio Co Ltd, PO Box 446, PALMERSTON NORTH  
2XW, Capital City Radio Ltd, PO Box 558, WELLINGTON  
3XA, Radio Avon Ltd, PO Box 1260, CHRISTCHURCH  
4XA, Radio Central, PO Box 143, ALEXANDRA  
4XD, Otago Radio Association Inc, PO Box 404, DUNEDIN  
4XO, Radio Otago Ltd, PO Box 1210, DUNEDIN  
4XF, Foveaux Radio Co, Private Bag, INVERCARGILL  
3XG, Radio Rhema, PO Box 21, CHRISTCHURCH

### Broadcasting Complaints Committee

The Secretary  
Broadcasting Complaints Committee  
PO Box 10-044  
WELLINGTON

### Broadcasting Tribunal

The Registrar  
Broadcasting Tribunal  
Tribunals Division  
Private Bag  
WELLINGTON

- Broadcasting Act 1976 and its Amendments
- Broadcasting Corporation of New Zealand
- Independent Broadcasters Association (New Zealand) Inc
- The Broadcasting Tribunal
- The Broadcasting Complaints Committee
- Broadcasting Standards and Rules
- The Complaints Procedure
- Addresses

## The Broadcasting Act 1976 and its Amendments

The Broadcasting Act 1976 and its Amendments provides the present structure of New Zealand Broadcasting. It has established:

- The Broadcasting Corporation of New Zealand (BCNZ), which operates the public broadcasting system through its two services, Radio New Zealand and Television New Zealand.
- The Broadcasting Tribunal, the major functions of which are to consider and decide upon applications for warrants to establish and operate broadcasting stations, and to vary or renew existing warrants and to review complaints made previously to the BCNZ or to private broadcasters when the complainants are dissatisfied with the outcome. The Tribunal may also review decisions of the Broadcasting Complaints Committee when they are referred to it by the complainant or the broadcasting body concerned.
- The Broadcasting Complaints Committee, which adjudicates on some specified types of complaints.
- The Broadcasting Rules Committee which draws up for broadcasters programme and advertising rules which give effect to the broadly stated programme standards of the Broadcasting Act.

## The Broadcasting Corporation of New Zealand

The Broadcasting Corporation of New Zealand (BCNZ) is a public corporation responsible to Parliament through the Minister of Broadcasting.

Its radio service, Radio New Zealand, operates 30 community stations in towns and cities throughout the country; two non-commercial networks (the National Programme, and the Concert Programme); and a shortwave service directed mainly to the South Pacific.

The BCNZ operates two television networks (TV1 and TV2) under its service Television New Zealand.

Corporate services (including transmission) are provided by the Corporate Services division. The BCNZ publishes the *Listener* and administers the New Zealand

## The Independent Broadcasters Association (New Zealand) Inc

Symphony Orchestra as divisions of the Corporation.

The Corporation itself is a nine-member board (including its chairman) appointed by the Governor-General on the recommendation of the Minister of Broadcasting.

The Independent Broadcasters Association (NZ) Inc (IBA) is an organisation formed by private broadcasters to represent their common interests.

The Broadcasting Act acknowledges the existence of the IBA which has representation on the Broadcasting Rules Committee and is consulted on technical rules.

## The Broadcasting Tribunal

Besides dealing with applications for warrants for permanent broadcasting stations, including the amendment, renewal and revocation of those warrants, the Tribunal may also authorise temporary stations and vary conditions of broadcast of existing stations for special occasions. While the Tribunal has regard to the general policy of Government on broadcasting and must comply with written directions from the Minister of Broadcasting relating to that policy the Minister cannot give any directions in respect of any hearing or complaint and which might interfere with the Tribunal's duty to act judicially. The Tribunal is otherwise independent of the Government of the day, the BCNZ and private broadcasting stations. It is not concerned in day to day broadcasting operations.

## The Broadcasting Complaints Committee

The principal function of the Committee is to consider formal complaints of unjust and unfair treatment in programmes broadcast by stations, or of unwarranted infringement of privacy in connection with programmes broadcast by stations whether operated by the BCNZ or by private stations, when the person affected complains individually or authorises another person to act on his or her behalf.

## Broadcasting Standards and Rules

Because broadcasting touches the lives of New Zealanders at so many points, Parliament has prescribed standards which are to be observed both by the BCNZ and the private stations in their programmes and the way they are presented.

These include:

- The observance of standards of good taste and decency;
- The accurate and impartial gathering and presentation of news, according to the recognised standards of objective journalism;
- The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest;
- The maintenance of law and order;
- The privacy of the individual.
- The BCNZ and the IBA are required to collaborate, in the Broadcasting Rules Committee, in the production of rules relating to programme and advertising standards on radio and television which all broadcasters are required to observe.

The published rules are available at a reasonable price from the Secretary of the BCNZ, PO Box 98, Wellington.

## The Complaints Procedure

- 1 Broadcasting will inevitably attract complaints from listeners and viewers.
- 2 Most complaints about programmes can be sorted out to everyone's satisfaction by having a chat with, or writing to, the radio or television station concerned in the first place. The formal complaints procedure has been established to resolve matters which cannot be satisfactorily handled in this way.
- 3 Where complaints cannot be resolved in this way the Broadcasting Act and its amendments provide for the making of **formal complaints**. These fall into the following broad groupings:
  - A Complaints relating to matters of good taste and decency, balance in presentation, maintenance of law and

## In the case of Radio New Zealand, TV1 or TV2

- Write to the Station Manager or the Director-General of the Service concerned (most complaints are handled in this way).
- If you wish you may invoke the formal procedures of the 1976 Broadcasting Act. This involves lodging a formal complaint in writing with the Secretary of the Corporation, and stating reasons for your action. Your letter will be acknowledged within 14 days and you will be told of the date when the complaint will be considered. In due course you will be advised of the outcome and, if your complaint is sustained, of the action taken.
- If you have not received this acknowledgment within 14 days, or if you are dissatisfied with the outcome of the Corporation's finding on your complaint, you may write to the Registrar of the Broadcasting Tribunal and request the Tribunal to consider the complaint.

## In the case of a private station

- Write to the manager of the station concerned.
- If your complaint relates to a breach of the standards laid down in the Broadcasting Act, or of the Broadcasting Rules, you may write to the Registrar of the Tribunal requesting that your complaint be considered by the Committee of Private Broadcasters. Your letter will be acknowledged within 14 days and you will be told of the date when the Committee will consider your complaint. In due course you will be advised of the Committee's finding and, if your complaint is upheld, of the action recommended by the Committee.
- If you have not received this acknowledgment within 14 days, or if you are dissatisfied with the outcome of the Committee's consideration of your complaint, you may write again to the Registrar and request the Broadcasting Tribunal to consider the complaint.

## Addresses

### Broadcasting Corporation of New Zealand

The Secretary  
Broadcasting Corporation of  
New Zealand  
P.O. Box 98  
WELLINGTON

### Radio New Zealand

The Director-General  
Radio New Zealand  
P.O. Box 2092  
Aurora House  
WELLINGTON

### TV1

The Director-General  
TV1  
P.O. Box 30-945  
LOWER HUTT

### TV2

The Director-General  
TV2  
P.O. Box 3819  
AUCKLAND

### Committee of Private Broadcasters

C/- The Registrar  
Broadcasting Tribunal  
Tribunals Division  
Private Bag,  
WELLINGTON

### Broadcasting Tribunal

The Registrar  
Broadcasting Tribunal  
Tribunals Division  
Private Bag  
WELLINGTON.

### Independent Broadcasters Association (NZ) Inc.

The Secretary  
P.O. Box 1290  
CHRISTCHURCH

Radio Hauraki  
P.O. Box 1480  
AUCKLAND

Radio i  
P.O. Box 8504  
Symonds Street  
AUCKLAND

Radio Waikato  
P.O. Box 9300  
HAMILTON

Radio Whakatane  
P.O. Box 383  
WHAKATANE

Radio Windy  
P.O. Box 558  
WELLINGTON

Radio Avon  
P.O. Box 1290  
CHRISTCHURCH

Radio Otago  
P.O. Box 1210  
DUNEDIN

Published by the  
Broadcasting Tribunal in  
conjunction with the  
Broadcasting Corporation of  
New Zealand and the  
Independent Broadcasters  
Association (New Zealand)  
Inc.

~~1977~~ 1978

# Radio and Television in New Zealand

Important changes in the structure of New Zealand broadcasting have been made in recent years. Some parts have been re-named; a Broadcasting Tribunal has been established; and the responsibilities and obligations of New Zealand broadcasters to the community they serve, and the steps that listeners or viewers can take if they believe that these obligations have not been fulfilled, have been more clearly defined. This leaflet is designed to provide a brief description of the present system.



**The Broadcasting Act 1976** established the present structure of New Zealand Broadcasting. It established —

- The Broadcasting Corporation of New Zealand (BCNZ), which operates the public broadcasting system through its three services, Radio New Zealand, TV1 and TV2;
- The Independent Broadcasters Association (IBA) which represents the interests of the private commercial radio stations;
- The Broadcasting Tribunal. Its major functions are to consider and decide upon applications for warrants to operate broadcasting stations and to vary or renew existing warrants; to review specific complaints made previously to the BCNZ or to the Committee of Private Broadcasters, where the complainants are dissatisfied with the outcome.

**The Broadcasting Corporation of New Zealand (BCNZ)** is a public corporation responsible to Parliament through the Minister of Broadcasting. Its radio service, Radio New Zealand, operates community stations in a large number of centres, two non-commercial network programmes (the National Programme and the Concert Programme) and a shortwave service directed mainly to the South Pacific. The Director-General of Radio New Zealand is the chief executive of the Service. The BCNZ also operates two television networks, TV1 and TV2, each with its own Director-General as chief executive. TV1 operates principally from Wellington and Dunedin, and TV2 (also known as South Pacific Television) from Auckland and Christchurch. Corporate services such as transmission are provided by the Central Services Division, under the Secretary of the Corporation.

## The Independent Broadcasters Association

The Independent Broadcasters Association Inc. (IBA) is an organisation that has been formed to represent the common interests of independently-owned and operated radio stations. The association is responsible for nominating to the Minister of Broadcasting two members for the Committee of Private Broadcasters. The chairman (and third member) of this committee is appointed by the Minister. The IBA has a representative on the rule-making committee for radio broadcasters and broadcasting technical rules committee.

## The Broadcasting Tribunal

Besides dealing with applications for warrants for permanent broadcasting stations the Tribunal also licenses temporary stations and approves extensions to broadcasting hours of existing stations for special occasions. While the Tribunal has regard to the general policy of the Government on broadcasting and must comply with any written directions of the Minister of Broadcasting, he cannot give any direction in respect of any complaint which might affect the Tribunal acting in a judicial manner. The Tribunal is otherwise independent of the Government of the day, the Broadcasting Corporation and private radio stations. It is not concerned in day to day broadcasting operations.

## The Complaints Procedure

Because broadcasting touches the lives of New Zealanders at so many points, Parliament has prescribed standards which are to be observed both by the Corporation and the private stations in their programmes and the way they are presented. These include:

- The observance of standards of good taste and decency;
- The accurate and impartial gathering and presentation of news, according to the recognised standards of objective journalism;
- The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest;
- The maintenance of law and order;
- The privacy of the individual.

In addition, the BCNZ and the IBA are required to collaborate in the production of Broadcasting Rules for radio which develop these obligations in more detail, in respect of programmes and advertising, and which all broadcasters are required to observe. The BCNZ sets rules for television broadcasting. Copies are available on request from the Secretary of the Broadcasting Corporation.

The Broadcasting Act also required the Corporation to establish a procedure to consider formal complaints against the Corporation's programmes, on the grounds listed earlier in this section, or of breaches of the Broadcasting Rules; and it established a Committee of Private Broadcasters to consider the same areas of complaint in the case of private stations.

If you wish to make a complaint, you may take on or more of the following steps: