

The following cases relate to an appeal to the High Court against a decision of the Broadcasting Standards Authority. The applicant, Comalco, alleged that the Broadcasting Standards Authority had failed to consider relevant matters and had considered irrelevant matters in its decision. It also alleged that the Authority had erred in refusing to hold a formal hearing over the complaint. Comalco also initiated proceedings for judicial review of the Authority's decision making.

The seven cases summarised below deal with Comalco's applications for discovery and consideration of extra evidence in its appeal to the High Court.

The actual appeal itself does not appear to have gone ahead.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, NZHC, CP 139/94, 29 May 1995 (Judgment text linked on website)

- Comalco appealed against a decision of the Authority relating to a complaint it made about a programme, which it alleged to be 'unbalanced, misleading and outrageous'. Comalco argued that Authority had failed to consider relevant considerations and considered irrelevant considerations in its decision.
- Comalco commenced judicial review of the Authority's proceedings as it alleged that it was wrong to refuse to hold a formal hearing over Comalco's complaint.
- Comalco also served an order for general discovery
 - TVNZ, the second defendant, filed an application for limited discovery- only of the material it had placed before the Authority for their consideration of the complaint.
- The Master found that the discovery of extra documentation would not be a problem for the defendants and it was likely to be beneficial to the Court in determining the substantive action. The appeal was allowed.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, HC, [1995] NZAR 428, 22 June 1995

- TVNZ appealed the decision ordering discovery for Comalco.
- The Judge reversed the Master's decision, as the case could only be determined on materials before the Authority at the time of its decision and not on other documents that were not before it.
- Comalco was only entitled to limited discovery.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, HC [1995] 3 NZLR 469, 19 July 1995

- An application by Comalco for discovery of material held by BSA (first defendant) relating to its determination of decision.
- This was dismissed.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, NZCA (1996) 9 PRNZ 153, 14 December 1995 (Judgment text linked on website)

- Comalco appealed the decisions that only allowed limited discovery of TVNZ material and did not allow discovery of BSA material.

- Appeal was dismissed.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, CA 148/95, 4 March 1996

- This appeal by Comalco sought to restore the Master's order for further discovery against second defendant TVNZ and against the Authority in judicial review proceedings.
- The Judge dismissed the appeals from the judgments refusing further or particular discovery against TVNZ and also against the Authority in Judicial Review Proceedings.
- The Judge made an order in regard to the appeal proceedings under s18 of the Broadcasting Act
 - Court ordered further documents to be placed before it under s18(5) of the Broadcasting Act 1989 and section 4C of the Commission of Inquiry Act 1908.
 - Comalco succeeded here on a different basis from that relied on in the application.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, HC [1997] NZAR 97, 14 November 1996

- Application made by Comalco seeking to amend grounds of appeal and adduce further evidence in support of its appeal.
- The judge allowed Comalco to amend its grounds of appeal in order to particularise existing grounds, but did not allow amendments that would add new matters of substance.

Comalco New Zealand Ltd v Broadcasting Standards Authority and Television New Zealand, NZCA [1997] NZAR 145, 5 February 1997

- Comalco appealed orders made regarding further material to support its appeal
- TVNZ cross-appealed, stating no further material should be able to be adduced.
- The appeal was dismissed as the Court of Appeal said that it did not have the jurisdiction to consider the matters. The Broadcasting Act 1989 made it clear that the determination of the High Court on any appeal of a decision by the Authority was to be final. Further, the Court of Appeal could only hear appeals of any judgment, decree or order of the High Court, and a decision to rehear evidence and receive fresh evidence was not a judgment, decree or order.