

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 13/90

Dated the 12th day of July 1990

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

ALAN PAPPRILL  
of Rotorua

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson  
J.B. Fish  
J.L. Hardie  
J.R. Morris

DECISION

Introduction

The *Frontline* programme broadcast on TV1 by TVNZ Ltd on Sunday, 1 October 1989 featured a studio debate on "Tomorrow's Schools", the controversial education system which was to come into force the following day.

The debate pitted two of the architects of the "Tomorrow's Schools" system, principally the Minister of Education (Hon Phil Goff) and the (then) Director-General of Education (Dr Russ Ballard), against a large studio audience comprised almost entirely of members of the community who were highly critical of aspects of the new system. The general impression left with the ordinary viewer would have been one of a debate featuring a beleaguered Minister and Director-General surrounded on all sides by their vociferous critics.

Mr Papprell, a school teacher from Rotorua, viewed the programme with concern and the following day wrote to the Chief Executive of Television New Zealand Limited complaining that the programme was of low journalistic integrity and ethics and asking that an apology be made to the Minister, the Director-General and the viewing public.



### Mr Papprell's Complaint to Television New Zealand Limited

Mr Papprell's letter to TVNZ listed a number of matters to which he took exception. The principal target of the complaint, however, was Mr Ross Stevens, the Chairperson of the debate, whom Mr Papprell accused of bias, lack of impartiality and "manipulation" of a seven-year-old boy in the audience. Mr Papprell also maintained that the studio audience had been selected in a way which militated against there being any balance of opinion expressed during the programme.

### TVNZ's Response to Mr Papprell's Complaint

Mr Papprell's complaint had not alleged specific breaches of provisions of either the Broadcasting Act 1989 or the Codes of Broadcasting Practice for Television made pursuant to that Act. For the purposes of considering the complaint, TVNZ's Complaints Committee decided to do so in the context of what are now standards 4 and 6 of the TV Programme Standards Section of the Codes of Broadcasting Practice for Television. These standards provide that:

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

...

4 To deal justly and fairly with any person taking part or referred to in any programme

[and]

6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

In a letter dated 21 December 1989, TVNZ advised Mr Papprell that his complaint had not been upheld. In rejecting the accusations of bias and lack of impartiality on the part of the Chairperson, TVNZ maintained that the aim of the programme - confrontation between architects of "Tomorrow's Schools" and its critics - was perfectly legitimate in journalistic terms and that Mr Stevens had not been seen to interject to express his own views. Moreover, Mr Goff and Dr Ballard had been seen to respond to each of the criticisms levelled by the studio audience, with the exception of the last criticism (when time ran out).

As to the alleged lack of balance in the selection of the studio audience, and the bias in favour of those critical of and antagonistic towards "Tomorrow's Schools", TVNZ maintained that in the context of the confrontational aim of the programme, Mr Goff and Dr Ballard provided balance to the accusations levelled against the scheme, and appeared "to give as good as they got". It was also pointed out that at least one member of the audience, a school principal, specifically stated that she favoured the new funding provisions of "Tomorrow's Schools".

The charge of manipulation of a boy by Mr Stevens in order to make an issue out of the administration of a small school was rejected by TVNZ on the grounds that the boy was a legitimate production element - a timely reminder that, in the end, the debate is about children and their education". The child had been briefed beforehand but had become



a trifle stage-struck when his moment arrived.

While denying other specific allegations of bias and impartiality on the part of the Chairperson, TVNZ did acknowledge that its Complaints Committee had conceded that there were some production flaws and "dead spots" during the programme and that it had had some reservations concerning the way the debate had been conducted. It had not, however, been able to determine that there had been a failure properly to observe the standards in question.

### **Mr Papprell's Complaint to the Broadcasting Standards Authority**

Mr Papprell wrote to the Authority on 17 January expressing his dissatisfaction with TVNZ's ruling and asking that the Authority investigate and review his complaint. Mr Papprell also subsequently completed a Broadcasting Complaint Referral Form.

Mr Papprell was dissatisfied with TVNZ's response to his complaint for a number of reasons, amongst which were the following:

1. The aim of the programme was to create a confrontational situation that would make "entertaining T.V." Any in depth discussion had been trivialised by the "sensational and emotive" construction of the programme.
2. The programme's format militated against any form of "debate". Mr Goff and Dr Ballard were placed in the centre of a large group of people whose views were antagonistic and were at a disadvantage in terms of fair debate. The Chairperson worked to a set of "rules" that favoured the critics and his opening remarks ("... there's a real fear out there that maybe - just maybe - it's a con ...") were an indication of the bias the programme was to take. Mr Steven's interjections made him an active participant in the confrontation.
3. The programme's format did not allow for a rational, logical and informed debate. It would have been better to limit the number of "debaters" and to allow Mr Goff and Dr Ballard more than a "30 second bite" in which to answer their critics.
4. The contention that Mr Goff and Dr Ballard "gave as good as they got" was specious. The studio audience was clearly weighted against them.
5. The introduction of the seven-year-old boy was an exercise in manipulation and did not serve the "production element" claimed by TVNZ.
6. The admission that there were some production flaws, "dead spots" and reservations about the way in which the debate was conducted amounted to an admission that there were grounds for complaint while denying that there had been any breach of standards.

The Complaints Committee should have also considered Mr Papprell's



complaint as a breach of standard 7 which provides that, in the preparation and presentation of programmes, broadcasters are required:

To avoid the use of any deceptive practice which takes advantage of the confidence viewers have in the integrity of broadcasting.

Mr Papprell's letters, and his completed Form, were referred to TVNZ Ltd for its comments on 8 February 1990.

### TVNZ's Response to the Authority

In a letter dated 7 May, TVNZ commented further upon Mr Papprell's complaint.

TVNZ's responses to each of the points enumerated above were as follows:

1. The programme was intended to be a confrontation between those who were fiercely critical of "Tomorrow's Schools" and the Minister and Director-General. The latter were aware of the scenario and fully agreed to take part. As for being "entertaining", TVNZ made no apologies for attempting to make the programme as appealing as possible to the widest possible audience. The suggestion that issues were "trivialised" was difficult to accept given that those issues were raised by concerned citizens and those involved in education. As to the alleged "sensational and emotive" construction of the programme, TVNZ regarded this as a personal critique rather than as an alleged breach of standards.

2. There was a frank exchange of opposing views during the programme and TVNZ regarded it as an "imperfect assessment" to say that the format militated against any form of "debate". As to Mr Papprell's comments about the impartiality of the Chairperson, TVNZ found these "disquieting". Mr Stevens' opening remarks set the direction for the discussion and, having done that, his role was to ensure that the Minister and the Director-General were given every opportunity to reply to criticisms. This he did as "effectively as humanly possible, given the depth of feeling about the issue".

3. While the investigation into "Tomorrow's Schools" could have been carried out in any number of ways, the technique chosen by the programme producer was considered to be a "perfectly legitimate way of handling the subject and could be said and seen to be a case of getting closer to the "grass roots" than other approaches". Again, TVNZ regarded Mr Papprell's comments on this matter to be more of a personal critique than an objective analysis as to how the format of the programme resulted in breaches of the standards.

4. While the Minister and the Director-General seemed beleaguered in terms of surrounding numbers, this ignored the fact that they were at the core of the discussions which evolved around them. "In broadcasting journalism terms, it has never been accepted that numbers are necessarily an imbalancing factor when measured against intellect and those of nimble wit and expression".



5. The introduction of the seven-year-old boy served the production element of reminding the audience of what the debate was really about. TVNZ failed to see how the introduction of the boy breached the standards.

6. TVNZ was unable to accept that its earlier admission of production flaws, "dead spots", etc, meant that it had also admitted that there were grounds for allegations that programme standards had been breached. TVNZ could not be blamed if the programme did not achieve its goal of eliciting maximum information whilst at the same time being interesting and entertaining. The programme did not run to a script and participant behaviour - which, it was noted, "could be seen to embrace discourtesy, rudeness and tactlessness" - was beyond the control of TVNZ. To have curtailed the freedom of expression of participants would have concealed the nature and tenor of the debate and resulted in distortion and unjustified suppression of "industry" feelings and attitudes.

7. Standard 7 (deceptive programme practices) was not considered to be relevant as the programme took the form of an open forum-type discussion, clear for all viewers to recognise and comprehend.

TVNZ's response was referred to Mr Papprell on 10 May for any further comment he might wish to make.

#### Mr Papprell's Comments to the Authority

In a letter dated 21 May, Mr Papprell emphasised a number of points, the more pertinent of which were as follows:

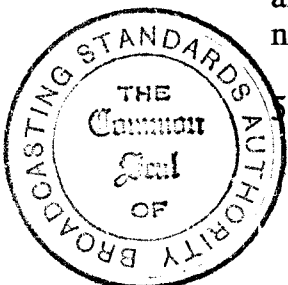
1. The structure of the programme resulted in the "entertainment" consideration outweighing the other and more important consideration of providing an informative and in depth analysis of a controversial subject.

2. The placement of Mr Goff and Dr Ballard amongst their critics created the impression of the two men being embattled, frustrated and unable to manoeuvre and resulted in the persuasion of the viewing audience "to adopt an interpretation of the Tomorrow's Schools programme that was not justifiable". Mr Papprell argued that "such manipulation of the audience is a deceptive practice".

3. Mr Goff and Dr Ballard should have been allotted more time to answer the questions thrust at them. The lack of an adequate response time meant that important information could not be imparted. The programme therefore lacked the balance required to deal responsibly with the issues raised.

4. As a result of the placement of the Minister and the Director-General amongst their critics, viewers were left with the impression of an imbalance in numbers which contributed to the overall imbalance in the programme itself.

5. The introduction of the boy was an attempt to manipulate viewers towards



an attitude held by the producer of the programme and, as such, "was as much a deceptive practice as persuading me that *Frontline* was a responsible, balanced, informative programme and then failing to measure up to that claim".

### Decision

From the outset, the Authority would observe that investigative journalism, whether in the print or the electronic media, is one of the hallmarks of a democratic society. In countries where it is both established and of a consistently high calibre, investigative journalism can expose, educate and entertain. Regular viewers of television programmes in this category have come to expect that they will be offered analyses of current affairs items presented in a fair and balanced manner.

It is disappointing that there are so few current affairs programmes, particularly those offering in depth analyses. *Frontline*, however, is one such programme, routinely focussing on matters of perceived public interest in the national, regional or international arena.

Mr Papprell has made it clear that when he sat down to view *Frontline's* programme on "Tomorrow's Schools", he believed that he would receive, as he had in past programmes, a high-quality, informative and well-researched programme that would deal with this controversial issue in an in depth, responsible and constructive manner. Instead, Mr Papprell was presented with a programme that he considers to have been emotive, sensational, unbalanced and unfair. In his view, an informative and in depth analysis was sacrificed to the altar of entertainment.

There are doubtless many viewers, including Members of the Authority, who would have shared, in varying degrees, Mr Papprell's disappointment with the programme. But it is one thing to have one's expectations of a programme dashed. It is quite another to argue that the broadcaster failed in its responsibility to maintain standards that all broadcasters are required to observe.

In receiving Mr Papprell's letter of complaint, TVNZ interpreted it as alleging breaches by the broadcaster of what are now standards 4 and 6 of the TV Programme Standards section of the Codes of Broadcasting Practice for Television. The essence of these standards (which are quoted in full earlier in this Decision) is that any person taking part or referred to in a programme is to be treated justly and fairly and that balance, impartiality and fairness is to be shown in dealing with political matters, current affairs and all questions of a controversial nature. The Authority agrees with TVNZ's assessment that these are the standards most relevant to Mr Papprell's allegations. Since, however, Mr Papprell alleged breaches of standard 7 (quoted earlier), the question of deceptive programme practices will also be considered.

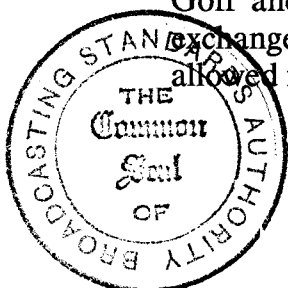
The constant thread running through Mr Papprell's allegations is that of bias, lack of balance and absence of impartiality on the part of the Chairperson, Mr Ross Stevens. Having tested each of the various allegations against the applicable standards, the



Authority is not convinced that Mr Stevens or the programme as a whole, exhibited bias, partiality and lack of balance. Nor is it convinced that Mr Stevens or the programme itself was unjust or unfair to Mr Goff or Dr Ballard or indulged in deceptive programme practices.

In reaching this conclusion, the Authority accepts first, that the aim of the programme was to confront Mr Goff and Dr Ballard (as the principal proponents of "Tomorrow's Schools") with their many vociferous critics and secondly, that Messrs Goff and Ballard could have been in no doubt, before going onto the programme, about its content, style and format. In such circumstances, criticisms of the general format of the programme, accusations of bias in audience selection and "weighted balances" against the Minister and the Director-General cannot be sustained. Nor can allegations that seating arrangements placed Mr Goff and Dr Ballard at an unfair advantage: they had to sit somewhere and in a forum-like gathering their being seated towards the middle of the large studio audience was not inappropriate. Whether they would have appeared to be less embattled and beleaguered had they been seated elsewhere must remain a moot point, given the heated nature of the debate. But it is stretching matters to suggest that these same seating arrangements constituted a manipulation of the viewing audience which amounted to a deceptive programme practice. It was no more "deceptive" than TVNZ's failure, in Mr Papprell's eyes, to deliver an in-depth, informative and objective programme of the kind he, and many other viewers, had hoped to see.


On the question of Mr Steven's alleged bias and lack of impartiality and balance in conducting the debate, including the allocation of an adequate response-time, the Authority is again not convinced that there is sufficient substance in the allegations to justify support of this area of the complaint. Although there were undoubtedly occasions when his words and actions suggested that he was supportive of Messrs Goff and Ballard's critics, he may claim that he was acting as devil's advocate. If so, that was not the Chairperson's role and with the antagonism directed towards the two by the audience that role was superfluous. These activities were not however sufficient, in the view of the Authority, to justify the upholding of a complaint under standards 4 and 6. The Authority disputes TVNZ's contention that participant behaviour was beyond its control. It is an extraordinary claim. The programme was under the supervision and control of its Chairperson and the Authority considers that there were occasions when Mr Stevens could and should have acted more quickly and decisively to curtail the contributions of some of the more patently rude and discourteous repetitive participants. Either that, or closer attention should have been paid by the programme producer to these and similar contributions with a view to editing them out of this pre-recorded programme before its broadcast. It is also inexcusable in a pre-recorded programme to allow a question to be retained and remain unanswered because "time ran out". While the Authority regrets that Mr Steven's conduct of the debate was seen to be deficient, again it does not consider that this evidences bias and partiality on his part or that it was a contributing factor towards, or resulted in, any unjust or unfair treatment of Mr Goff or Dr Ballard. In these instances of "production imperfections", as elsewhere in the programme, Messrs Goff and Ballard were given the right to reply and, with the exception of the last exchange, were seen to do so very effectively within the "30 second bite" apparently allowed for their responses. They emerged from the debate with their dignity enhanced.



The last issue which the Authority considered was that of the allegation that the seven-year-old boy had been manipulated. While questioning the rationale behind the introduction of this boy into the programme - as he seemed not to serve the production element claimed - the Authority was not persuaded that he had been "manipulated" or used in such a way that his presence justified the allegation of a breach of the standard on deceptive programme practices, or any other standard. As it happened, the occasion proved too much for the boy and consequently he made no contribution to the debate.

**For the reasons set forth above, the Authority declines to uphold the complaint.**

Signed for and on behalf of the Authority



**Iain Gallaway**  
Chairperson



12 July 1990