

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 15/91

Dated the 24th day of April 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

ELLEN DUNCKLEY

of Dunedin

Broadcaster

TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson

J.B. Fish

J.L. Hardie

J.R. Morris

DECISION

Introduction

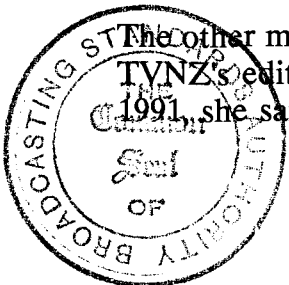
In a letter dated 3 February 1991, Mrs Dunckley referred to the Authority a formal complaint made to TVNZ Ltd on 7 October 1990 to which she had not received a response. Pursuant to s8(b) of the Broadcasting Act 1989, a complainant may refer a complaint to the Authority if the broadcaster has not notified the complainant of its decision or the action taken in relation to the complaint within 60 working days of receiving the complaint. The Act further states in s9(2) that the Authority shall not accept a referral under s8(b) after the expiry of 80 working days "beginning with the first working day after the day on which the programme to which the complaint relates was broadcast".

Decision

In her letter to TVNZ dated 7 October 1990, Mrs Dunckley wrote:

It is my contention that the current practice of cutting programmes after their arrival in this country is illegal, under the terms of the Fair Trading Act 1986.

The other material supplied by Mrs Dunckley clearly indicated her deep concern about TVNZ's editing practices. For example, in a letter to the Authority dated 14 February 1991, she said the matter fell within the rubric of broadcasting standards, and did not



overlap with the Commerce Commission's jurisdiction, as:

I would point out that the issue of whether Television New Zealand is telling the truth, and thus abiding by the Broadcasting Codes for advertising, when it advertises programmes purportedly whole then cuts them, stands alone.


Most referrals to the Authority are made pursuant to s8(a) which is invoked when a complainant is dissatisfied with the broadcaster's decision made under s6(1)(a). This section imposes the duty on every broadcaster:

To receive and consider formal complaints about any programme broadcast by it where the complaint constitutes in respect of that programme, an allegation that the broadcaster has failed to comply with section 4 of this Act.

As is apparent from the use of the phrase "in respect of that programme" in s6(1)(a) and the phrase "the day on which the programme to which the complaint related" in s9(2), the Authority's jurisdiction is confined to complaints about specific programmes.

Accordingly, as Mrs Dunckley's complaint relates to the practice of editing in general and as she does not refer to a specific programme, the Authority does not have the jurisdiction to deal with her complaint and, therefore, cannot accept the referral.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson

24 April 1991

