

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 23/92

Dated the 26th day of May 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

SOCIETY FOR THE PROTECTION  
OF THE UNBORN CHILD

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

I.W. Gallaway Chairperson  
J.R. Morris  
R.A. Barraclough  
L.M. Dawson

DECISION

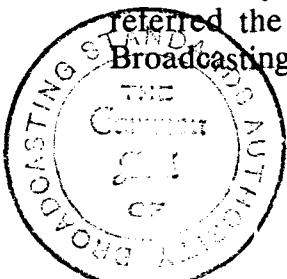
Introduction

The practices of some anti-abortion groups in the United States were the subject of an item called "Abortion Alternatives" screened on Television New Zealand's *Frontline* programme on Sunday 10 November 1991. The item came from the ABC's *PrimeTime Live* programme in the United States.

The National President (Ms Carmel Armstrong) of the Society for the Protection of the Unborn Child (SPUC) complained to TVNZ that the item was biased and unbalanced. The trailers promoting the programme, she said, were misleading and inaccurate and the programme itself discredited those who attempted to ensure that a woman's decision about abortion was informed.

TVNZ, arguing that the item did not deal with abortion but with the deceptive practices and the unethical methods used by some clinics to try to persuade women not to have an abortion, stated that the programme did not breach the standards.

The Society was dissatisfied with TVNZ's decision and Ms Armstrong, on its behalf, referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



## Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing. The programme "Abortion Alternatives" was also the subject of a complaint from Mr Kerry Sharp of Palmerston North. Each complaint raised many of the same issues but because of the differing emphases on the issues involved, the Authority decided to issue separate decisions.

SPUC complained that the programme breached s.4(1)(d) of the Broadcasting Act adding that it lacked balance and was misleading. Section 4(1)(d) requires broadcasters to maintain standards which are consistent with:

- (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

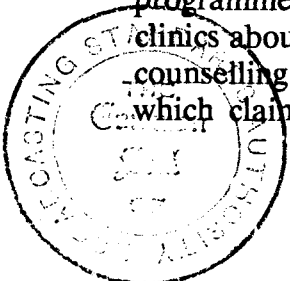
In regard to the other aspects of the complaint, TVNZ assessed the programme against standards 1 and 6 of the Television Code of Broadcasting Practice. They require broadcasters:

- 1 To be truthful and accurate on points of fact.
- 6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

SPUC complained that the item had been misleading as the promos had referred to a forthcoming programme about fake abortion clinics while the programme, when broadcast, had dealt with pregnancy counselling centres. It had been unbalanced as only one fact given by the counsellors at the centres had been checked and found questionable. SPUC argued that the item's bias should be balanced by programmes about alternatives to abortions.

TVNZ responded by stating that SPUC had misunderstood the programme's theme. It was not, it continued, about abortion but about deceit. The clinics featured, it added, were indistinguishable from the clinics offering abortion services but they offered few, if any, medical services. The clinics featured supplied considerable amounts of information and the doctor interviewed on the item had said some of it was wrong. The item had not examined the ethics of abortion but had asked some questions about the ethics of some anti-abortion groups.

When referring its complaint to the Authority, SPUC argued that any programme dealing with an aspect of abortion inevitably dealt with abortion. Moreover, it said the programme had not dealt with the false or dishonest information given by abortion clinics about, for example, the development of a foetus. The item dealt with pregnancy counselling clinics, not abortion clinics, and SPUC later supplied a magazine article which claimed that the programme was part of the abortion industry's campaign to



discredit pregnancy clinics.

Initially, the Authority examined the programme's theme and, having viewed the item, it agreed with TVNZ that the item's theme was the procedures operating in clinics apparently offering abortion services, not the procedures in the clinics actually offering abortions nor the abortion process itself. Nevertheless, the Authority examined the issues raised by SPUC to ascertain whether the item breached the broadcasting standards.

The Authority decided that although the promos for the item, its title and its introduction referred to the highly controversial topic of abortion, because deceitful practices in particular clinics was the item's theme, a summary of the competing views about abortion was unnecessary.

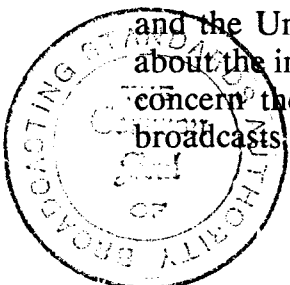
Without reference to the facts disclosed in the item, the Authority was not in a position to decide whether a pregnancy counselling centre in the United States is a euphemism for or is distinct from an abortion clinic. If centres and clinics are distinct institutions, the complaint about inaccuracy in calling a centre a fake abortion clinic could well be justified. However, having viewed the programme and observing of the descriptions given in the Yellow Pages of Telephone Directories, the manner of the centres' design and the clothing worn by centre staff (eg white coats), the Authority decided that the description of the centres, in both the promos and the item itself, as fake abortion clinics was not inaccurate within the item's context.

SPUC expressed a concern about the possible dishonest practices used in abortion clinics. The example given was the inadequate information given about the development of the foetus. However, as the practices of abortion clinics which profess to offer and in fact offer abortion services is a separate and distinct issue from the deceitful practices of clinics apparently offering such services - what the item called fake abortion clinics - the Authority decided that the item was neither untruthful nor unbalanced in not dealing with that issue.

When examining the item to decide whether it had dealt with deceit in a balanced way, the Authority noted that some of the interviews had been conducted in a challenging manner. However, although the questions were forthright, the respondents were also given the opportunity to put their points of view. Moreover, the questions were about the accuracy of the information given out by the centres, i.e. the possibility of dishonest information, not abortion.

In the Authority's opinion, the item conveyed sufficient material to comply with the standard requiring balance when the item tested the accuracy of the material given in the centres against an expert medical opinion.


The Authority recognises that abortion is a highly-charged issue both in New Zealand and the United States. The Authority is not in a position to judge SPUC's allegation about the influence of the "abortion industry" in the American media. Its responsibilities concern the standard of programmes broadcast in New Zealand and whether those broadcasts comply with the standards laid down in the Broadcasting Act 1989 and the

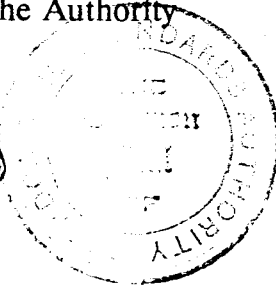


Codes of Broadcasting Practice. On this occasion the Authority concluded that although abortion was the topic to which the programme related, it was not a programme about abortion. It was a programme about the deceitful approach adopted in some particular clinics apparently offering abortions and that issue, although dealt with forcefully at times, was not covered in an unbalanced way.

**For the reasons set forth above, the Authority declines to uphold the complaint that the promos broadcast by Television New Zealand for the item "Abortion Alternatives" which referred to "fake abortion clinics" or the broadcast of the programme itself on 10 November 1991 breached s.4(1)(d) of the Broadcasting Act 1989 or standards 1 and 6 of the Television Code of Broadcasting Practice.**

Signed for and on behalf of the Authority

  
Iain Gallaway  
Chairperson



26 May 1992

## Appendix

### Society for the Protection of the Unborn Child's Complaint to Television New Zealand Ltd

In a letter dated 25 November 1991, the National President (Ms Carmel Armstrong) of the Society for the Protection of the Unborn Child (SPUC) complained to Television New Zealand Ltd (TVNZ) about the programme entitled "Abortion Alternatives" broadcast on TV1's *Frontline* programme on 10 November 1991.

The complaint, she said, was laid under s.4(1)(d) of the Broadcasting Act 1989 which requires broadcasters to maintain standards which are consistent with:

- (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

The programme, she continued, breached the standards because of its misleading promotion and its lack of balance.

In regard to the complaint about the misleading nature of the item's promotion, she said that whereas the promos had mentioned fake abortion clinics, the item had not shown abortion clinics but pregnancy counselling centres.

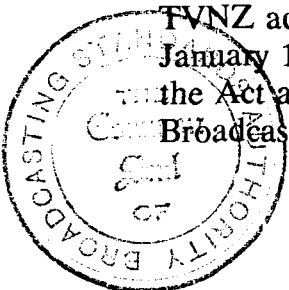
Regarding the item's lack of balance, she said that its thrust had been to discredit those who attempted to ensure that a woman's decision about abortion was well informed. She added:

While it might be said that some of those working in some of the clinics were over enthusiastic in their presentation of facts there was no attempt to check out the basic information that was being given apart from checking the statement by one of the counsellors on the number of women who die from abortion.

She referred to some instances where the programme was biased and suggested that the lack of balance could be redressed to some extent by showing the BBC documentary "Every Day Miracle Birth".

### TVNZ's Response to the Formal Complaint

TVNZ advised the Society of its Complaints Committee's decision in a letter dated 8 January 1992. It recorded that the complaint had been assessed under s.4(1)(d) of the Act and, in addition, under standards 1 and 6 of the Television Code of Broadcasting Practice which require broadcasters:



- 1 To be truthful and accurate on points of fact.
- 6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

TVNZ said that abortion was not the theme of ABC's *PrimeTime Live* programme broadcast on *Frontline*. It was about deceit. The clinics featured, it continued, were indistinguishable from clinics offering abortion services but offered few, if any, medical services. They supplied considerable amounts of information and the doctor interviewed on the item said some of it was wrong. The item had not examined the ethics of abortion but asked questions about the ethics of some anti-abortion groups. TVNZ concluded:

Given all the circumstances, the Committee was unable to determine that there was a case of imbalance or bias. It was a straightforward, factual account of a thoroughly researched and relevant investigation.

Having sought comment from the American producer of the item, in view of the complaint, TVNZ attached his remarks. He detailed the extensive preparations which went into compiling the programme and maintained that ABC had verified the information presented on the item.

#### SPUC's Complaint to the Broadcasting Standards Authority

As the Society was dissatisfied with TVNZ's decision, Ms Armstrong, on its behalf, referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989 in a letter received on 10 February 1992.

First, she contested TVNZ's statement that she had misunderstood the programme's theme. *Frontline's* Lindsey Perigo, had referred to "the matter of abortion". Moreover, she maintained that any programme dealing with an aspect of abortion could not be said not to be dealing with the issue of abortion.

Secondly, if the programme was about deceit, as TVNZ argued, she said the programme was unbalanced as it did not deal with the complaints from women who had received dishonest replies in abortion clinics about the development of a foetus.

Thirdly, as the programme did not show abortion clinics, she disagreed that the clinics which were shown were indistinguishable from them. Further, if abortion clinics had used the titles of the clinics shown, for example "Pregnancy Crisis Centre", they could be charged with misleading advertising.

She was highly critical of the fact that the programme had not dealt with the effect of the salt saline method for abortions in the later stages of pregnancy and maintained that, overall, the programme was biased and unbalanced.

In a further letter received on 9 March, Ms Armstrong forwarded to the Authority an

article about the item from the magazine "Action Line" published by the Christian Action Council in the United States. The article discussed the "ruthless attack" on crisis pregnancy centres carried out by various pro-abortion groups. The article accused the programme "Abortion Alternatives" of being deceitful in its presentation of the material about the crisis pregnancy centres and, specifically, that it had failed to note that the campaign against them "was orchestrated by the abortion industry".

### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the referral. The request to TVNZ is dated 12 February 1992 and its reply, 13 March.

TVNZ insisted that the item's theme was deceit - not the pro and anti ethical arguments about abortion. It added that the material Ms Armstrong said the programme should have presented indicated her "total misconstrual" of the broadcast. It was difficult to establish the veracity of the material in the article from "Action Line", TVNZ noted, in view of its stance about the abortion issue and thus it should be discounted.

TVNZ concluded:

In summary the company's argument is that the item was about fake abortion clinics because they were fakes - that is they were not offering the services they appeared to offer. There is nothing faked about genuine abortion clinics. Women who go to them know precisely what service is being offered and may avail themselves of it.

It is accepted that the practice of abortion is abhorrent to organisations such as the Society for the Protection of the Unborn Child. But that does not give justification or make relevant the Society's argument in this case.

The item was not about abortion directly, but it was about the morality of establishing clinics which appeared to offer an abortion service, when in fact they were set up with the express intention of preventing abortions taking place.

### SPUC's Final Comment to the Authority

When asked to comment on the above response, in a letter dated 30 March Ms Armstrong, as SPUC's President, said that there was little she wished to add. She reiterated the points that the so-called "fake" abortion clinics, when using such titles as Pregnancy Crisis Centres, did not advertise an abortion service. The article from "Action Line", she added, came her way by chance and she believed it had equal weight with the report from the PrimeTime Producers which TVNZ had enclosed.

