

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 40/92  
Dated the 8th day of July 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

IAN ROSS  
Upper Hutt

Broadcaster  
TELEVISION NEW ZEALAND  
LIMITED

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

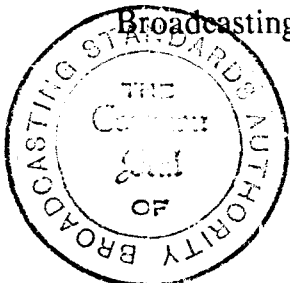
DECISION

Introduction

The impact of some new health charges was dealt with on Television New Zealand's *One Network News* at 6.00pm on Monday 3 February 1992. The item included an interview with a father who was taking his infant son to hospital and who stated that he did not intend to pay the charges. The father was wearing a T-shirt with printing which included the word "fuck".

Mr Ross complained to TVNZ that the word was obscene and that the broadcast breached a number of the broadcasting standards. It would have been bleeped-out, he added, had it been spoken.

TVNZ said that the word was not particularly conspicuous, that the cameraman had been asked to avoid showing it and its fleeting appearance was insufficient reason to drop what was otherwise a newsworthy interview. It declined to uphold the complaint. As Mr Ross was dissatisfied with TVNZ's decision, he referred his 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.

Mr Ross complained to TVNZ that an item on TV1's *One Network News* at 6.00pm included an interview with a person wearing a T-shirt on which the word "fuck" was "emblazoned". The display of that word, Mr Ross continued, breached the requirements in s.4(1)(a) and (b) of the Broadcasting Act 1989 which require broadcasters to maintain standards consistent with:

- (a) The observance of good taste and decency; and
- (b) The maintenance of law and order

He added that the item did not meet those standards as the broadcast breached standards 2, 5, 8, 9, 14, 18, 22 and 25 of the Television Code of Broadcasting Practice. Standards 2, 5, 8 and 18 require broadcasters:

- 2. To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.
- 5. To respect the principles of law which sustain our society.
- 8. To abide by the classification codes and their appropriate time bands as outlined in the agreed criteria for programme classifications.
- 18. To be mindful of the effect any programme may have on children during their generally accepted viewing periods.

The other standards read:

- 9. Care should be taken in depicting items which explain the technique of crime in a manner which invites imitation.
- 14. News should not be presented in such a way as to cause unnecessary panic alarm or distress.
- 22. The gratuitous use of violence for the purposes of heightened impact is to be avoided.
- 25. Any portrayal designed to encourage or invite extremes of anti-social behaviour, including violent and serious crime, and the abuse of drugs and liquor, is not sanctioned.



TVNZ assessed the complaint under the standards and, having concluded that the item did not breach any of them, inferred that the requirements of s.4(1)(a) and (b) of the Act were not breached either.

Because of the overlap between the issues which arise under the standards, especially between standards 2 and 5 and the requirements in s.4(1)(a) and (b) of the Act, the Authority has adopted a similar approach with this complaint. It has assessed the complaint under the standards but not separately under the provisions in the Broadcasting Act 1989.

TVNZ, in its response to Mr Ross, accepted that the word "fuck", as part of the expression "Fuck Off", was screened but denied that it was "emblazoned" on the screen. It argued that the interview was particularly newsworthy and, while TVNZ could not in the circumstances dictate the clothing worn by the interviewee, attempts had been made both during filming and editing to avoid the broadcast of the word complained about.

TVNZ wrote:

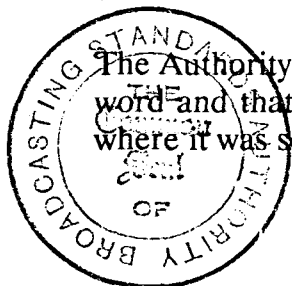
The [Complaints] Committee agreed that it would have been preferable had the T-shirt not been shown. However, in the context of the news story and the interview in which it appeared, it inclined to the view that the value of what was being said outweighed what was being seen.

It added that if the word had been bolder and more obvious the good taste and decency standard could well have been breached but, as the two occasions on which the word was shown were brief and as the word was at the edge of the screen and in the viewers' peripheral vision, it was likely that many viewers would not have noticed it.

The Authority considered the complaint principally to be a matter of good taste and decency. TV1's *One Network News* is broadcast at a time classified as General, or "G", during which programmes must exclude material likely to be unsuitable for children under 14 years. The Authority agreed with TVNZ that it would have been preferable not to have shown the T-shirt. However, as standard 2 refers to the context in which a programme is screened, the Authority proceeded to determine whether the explanations advanced by TVNZ excused the broadcast on this occasion.

Acknowledging that the word "fuck" is widely used by people of all ages, the Authority was not prepared to impose a total prohibition on its use or appearance although, as noted above, it considered that its use by broadcasters, particularly during "G" time periods and its gratuitous, sensational or careless use at all times, was unacceptable. It noted that on this occasion, as TVNZ pointed out, attempts had been made, first, not to film it, and secondly, to edit it out. The efforts during the latter process had been thwarted by a time-code displayed on the screen during editing but omitted during the broadcast.

The Authority noted that the broadcast involved only fleeting appearances of the printed word and that, except for one occasion, it appeared at the bottom edge of the screen where it was scarcely noticeable. In the Authority's view, the appearance of the printed



word in such circumstances was far less offensive than the use of the spoken word would have been.

While believing that the broadcast of the word is not generally acceptable, the Authority, for the reasons given above which emphasise the peripheral way it was broadcast and agreeing with TVNZ that the word was broadcast in relation to a newsworthy interview about a topic of public concern, concluded that the broadcast did not breach standard 2 of the Television Code of Broadcasting Practice.

With reference to standard 5, sustaining the principles of law and order, the Authority agreed with TVNZ that the broadcast could not be interpreted as involving a law and order issue and, consequently, did not breach the standard.

Standard 8 requires broadcasters to abide by the classification codes. The Authority repeats its concern that it expects all news and current affairs programmes screened in "G" time to comply with the "G" classification. The same concern applies to the complaint under standard 18 which requires broadcasters to be mindful of the effect of programmes on children during their generally accepted viewing hours. Contrary to what TVNZ suggested, these standards do not raise questions of censorship in the sense of the wholesale suppression of material on moral grounds. They require the broadcast of programmes, to quote the "G" criterion:

which exclude material likely to be unsuitable for children under 14 years although they may not necessarily be designed for children.


On this occasion, for the same reasons that it declined to uphold the good taste and decency complaint, the Authority declines to uphold the complaint that the item breached standards 8 and 18.

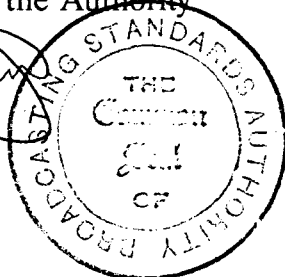
The Authority agreed with TVNZ that standard 9 (depicting techniques of crime which invite imitation), standard 14 (news must not cause unnecessary alarm), standard 22 (the gratuitous use of violence), and standard 25 (encouraging extreme anti-social behaviour), were not applicable to the broadcast complained about.

**For the reasons set forth above, the Authority declines to uphold the complaint that the broadcast by TVNZ Ltd of an item on *One Network News* on 3 February 1992 breached standards 2, 8 and 18 of the Television Code of Broadcasting practice.**

**The Authority declines to determine the complaint that the same broadcast breached s.4(1)(a) and (b) of the Broadcasting Act 1989 or standards 5, 9, 14, 22 and 25 of the Code.**

Signed for and on behalf of the Authority

  
 Iain Gallaway  
 Chairperson  
 8 July 1992



## Appendix

### Mr Ian Ross's Complaint to Television New Zealand Limited

In a letter dated 10 February 1992, Mr Ross complained to Television New Zealand Limited about an item on TV1's *One Network News* broadcast at 6.00pm on Monday 3 February 1992. The item, he wrote, showed an individual wearing a T-shirt on which was emblazoned several times "a four letter 16th century word which starts with F, which means to copulate". He described the word as obscene and said it would have been bleeped-out had it been spoken.

He said that the item breached s.4(1)(a) and (b) of the Broadcasting Act 1989 and eight standards in the Television Code of Broadcasting Practice. He asked that the editor responsible for broadcasting the item be reprimanded, that an apology be broadcast and that instructions be issued to ensure that such a broadcast did not happen again.

### TVNZ's Response to the Formal Complaint

TVNZ advised Mr Ross of its Complaints Committee's decision in a letter dated 23 March 1992. It began by explaining that the item had dealt with the impact of some new health charges and that the person interviewed was taking his son to hospital and had said that he would not pay the new charges. TVNZ denied that the word complained about was emblazoned on the screen. Rather:

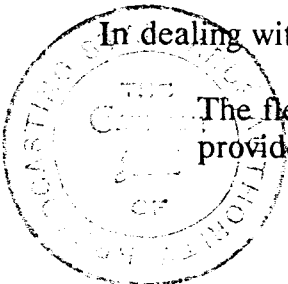
at the very bottom left hand side of the screen two expressions incorporating the F word could just be seen. No other strong language was in view.

TVNZ then dealt with each of the eight standards in the Television Code which Mr Ross said the item had breached, and, by that process, incorporated the two standards in the Act which Mr Ross said the broadcast had also breached. Beginning with the requirement for good taste and decency, TVNZ acknowledged that it would have been preferable to have shown someone not wearing a T-shirt on which the words complained about were printed. However, because of his son's disability, the person interviewed was particularly appropriate as being one of the most affected by the new charges and the interview personalised that impact. The reporter was not in a position to dictate the clothing worn by the interviewee but had asked the cameraman to avoid the T-shirt. Furthermore:

She did not notice the offending words during editing because a large time code covered the lower fifth of the screen during the editing process.

In dealing with the other standards, TVNZ made the following statements:

The fleeting appearance of the words on a T-shirt was not considered to provide sufficient reason to drop what was an enlightening and newsworthy



interview.

The Committee agreed that it would have been preferable had the T-shirt not been shown. However, in the context of the news story and the interview in which it appeared, it inclined to the view that the value of what was said overwhelmed what was being seen.

[The Committee] accepted that the T-shirt was shown by accident, and was not part of a plot to give the item added impact. In fact, it could only have detracted from the impact of the story - as your preoccupation testifies.

TVNZ concluded:

In summary the Committee accepted that the words on the T-shirt were in very small print and were seen right at the bottom of the screen for a bare four seconds, while in another shot the words were clearly seen for but a split-second. It considered that it needed to look at the shots as would the average viewer. The focal point was the face of the interviewee and the fact that the crude words were very much in peripheral vision meant most viewers would probably not have noticed them.

The Committee considered that had the writing been bolder and more obvious there could have been a taste and decency problem.

Taken overall it believed that what was said by the interviewee was of sufficient importance to warrant an overriding of the crude words factor. And it did not believe any of the standards provisions had been breached. Accordingly your complaint was not upheld.

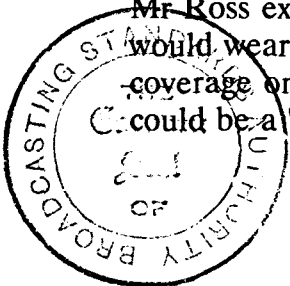
### Mr Ross's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's response, in a letter dated 7 April 1992 Mr Ross referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989. He wrote:

My basic reason for requesting an investigation and review of the decision is the tone of the letter - the smug we-know-best attitude - "get real" Mr Ross.

However, rather than repeat the aspects of TVNZ's letter which highlighted that attitude, Mr Ross focused on TVNZ's response which, while agreeing that the words should not have been shown, said it was acceptable on this occasion on the grounds of responsible journalism.

Mr Ross expressed particular concern that if this broadcast was acceptable, people would wear more outrageous T-shirts or behave more outrageously in order to gain coverage on television. He noted that TVNZ acknowledged in its summary that there could be a "taste and decency" problem and concluded:



No standards will exist as far as children are concerned if TV1 is not reprimanded for this breach of taste and decency.

### TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its request is dated 8 April 1992 and TVNZ's response, 8 May.

TVNZ expressed concern that Mr Ross took umbrage at its attitude, stating that its letter in question was

a straightforward, frank and factual reflection of the Committee's deliberation and decisions on the eight codes he identified.

Arguing that the tone of a letter was not a valid reason for seeking a review by the Authority, TVNZ submitted that the Authority could, possibly, decline to determine the complaint as either frivolous, vexatious or trivial.

Nevertheless in response to the referral on matters of substance, TVNZ said it had little to add to its comments in its letter of 23 March. It believed that Mr Ross's interpretation of the comments in that letter were not only imperfect but somewhat cynical and extreme. It concluded:

Finally we would emphasise that the reporter directed that the writing on the T-shirt be masked out at the time the interview was shot, but because of human imprecision the masking was fractionally not tight enough, resulting in the words being just visible at the perimeter of the screen where it is unlikely they would be instantly comprehended by most viewers.

In these circumstances we do not believe the brief glimpse was sufficient to justify clear-cut breaches, either singly or severally, of the string of codes the complainant alleges were breached.

### Mr Ross's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 18 May Mr Ross repeated the point that he was seeking a public apology, a reprimand for the editor responsible for the broadcast and the issuing of instructions to ensure that such a broadcast did not recur. Instead, he said, TVNZ noted the beliefs of the editor and the reporter that the words had been deleted. He concluded:

Under the circumstances one would have thought that a simple apology would have been forthcoming and the procedures put in place to stop any further repetition - not a personal attack on me for requesting standards in their 6pm TV1 News with which they basically agree.

