

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 134/93
Dated the 29th day of October 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

A.D. SAGE
of Auckland

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

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

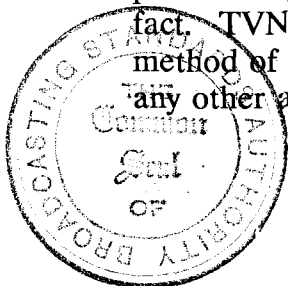
DECISION

Introduction

The subject of euthanasia and the suicide of a man who had become a quadriplegic as a result of an accident were included in a *Frontline* programme broadcast on TV1 on 6 June 1993 between 6.30 - 7.30pm.

Mr Sage, father of the man whose suicide was featured, complained to Television New Zealand Ltd that the item breached broadcasting standards because it lacked balance, intruded unnecessarily into the grief and distress of the family, gave close-up detail of how a suicide can be accomplished and included distressing material in a programme broadcast in general viewing time.

Explaining that the item was not concerned with all aspects of the debate about euthanasia, TVNZ emphasised that it was about the anguish felt by those asked to assist in euthanasia. It believed that balance had been achieved by including comment from a variety of people in the programme, and that it had not intruded into the family's private life, noting that the death had occurred five years previously and was a public fact. TVNZ upheld the aspect of the complaint that the item gave detail about the method of suicide contrary to the requirements of standard V7 but declined to uphold any other aspect of the complaint.



Dissatisfied with that decision Mr Sage referred the complaint to the Broadcasting Standards Authority under s.8(1)(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.

A *Frontline* programme broadcast on TV1 on 6 June 1993 between 6.30 - 7.30pm featured the subject of euthanasia, which was illustrated by the circumstances surrounding the deaths of two people, both of whom were quadriplegics. Prior to the broadcast, Mr Sage, father of Michael Crew who was one of the people featured, implored TVNZ not to broadcast the item, arguing that it would cause unnecessary grief to his family to exploit the tragic circumstances of his son's death.

TVNZ responded that it was in the public interest to discuss the issue of euthanasia and that the intention of the programme was to examine the dilemma faced by those who were asked to assist in euthanasia. It reminded Mr Sage that the circumstances surrounding his son's death were already in the public arena and assured him that the story would be treated "with compassion and sensitivity".

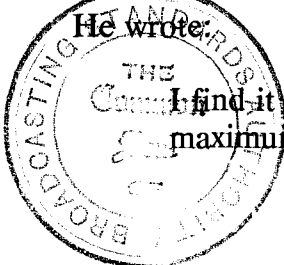
Pronouncing the programme "a good deal worse than I imagined possible", Mr Sage laid a formal complaint with TVNZ after its broadcast, alleging that the item breached broadcasting standards because it was lacking in balance, intruded unnecessarily in the grief and distress of the family, gave close-up detail of how to accomplish a suicide and included distressing material.

He argued that there was no attempt to deal with the controversial subject of euthanasia in a balanced way, and that it was not a defence to claim, as TVNZ had done, that the ambit of the programme was confined to the narrow question of how those who are asked to assist in a suicide coped.

Maintaining that the distress of his son's family and friends was exacerbated by TVNZ's unwillingness to heed their pleas not to screen the item, Mr Sage pointed out that of all his son's friends, only two were willing to speak to TVNZ and that their involvement by no means legitimised the decision to broadcast. The woman who loved and cared for his son at the end was, he noted, "hassled unmercifully" by TVNZ to assist in making the programme.

Dismissing the "technical trickery" of the suicide scene (where an actor was portrayed in silhouette taking the poison) as an attempt to circumvent standard V7, Mr Sage considered that the "ghostly imaging" actually heightened the pathos of his son's death.

He wrote:
I find it impossible to imagine a more insensitive and tasteless attempt to wring maximum pathos and perverted dramatic effect from an intensely distressing true-



life situation.

Further, Mr Sage argued that the device of the reconstruction did not exempt TVNZ from the stricture not to show people in extreme distress (standard V12). Observing that the programme was screened immediately after an advertisement for foot deodorant and following a news programme, the principal feature of which was the trial of a "sexual pervert who bore an astonishing resemblance" to the actor portraying his son, Mr Sage deplored TVNZ's disregard for the fact that his son would have been in extreme distress prior to his death. Concluding, he argued that the breaches were the more serious because the programme was screened contrary to the wishes of Mr Crew's family and most of his friends.

In response, TVNZ reported that it had assessed the complaint under standards G6, G17, V7 and V12. Standard G6 requires broadcasters:

- G6 To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature.

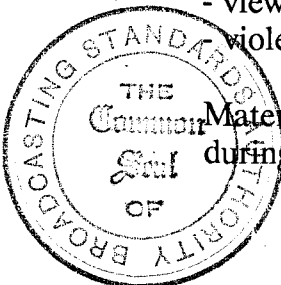
The other standards provide:

- G17 Unnecessary intrusion in the grief and distress of victims and their families or friends must be avoided. Funeral coverage should reflect sensitivity and understanding for the feelings and privacy of the bereaved.
- V7 Close-up detail indicating how suicides and hangings may be accomplished must not be shown. Furthermore, in dealing with factual material about suicides in New Zealand, programmers must be mindful of the provisions of the Coroners Act which forbids the disclosure of a method of suicide, except with the express permission of the Coroner concerned.
- V12 The treatment in news, current affairs and documentary programmes of violent and distressing material from either local or world trouble spots calls for careful editorial discernment as to the extent of graphic detail carried. Should the use of violent and distressing material be considered relevant and essential to the proper understanding of the incident or event being portrayed, an appropriate prior warning must be considered.

Particular care must be taken with graphic material which portrays especially disturbing images, such as:

- ill-treatment of people or animals
- close-ups of dead and mutilated bodies of people or animals
- views of people in extreme pain or distress, or at the moment of death
- violence directed at children or children in distress.

Material shown in late evening may be more graphic than that shown during general viewing times.



TVNZ reported that it had upheld the complaint that the scene which reconstructed the suicide was in breach of standard V7, reporting that it had drawn the provisions of the standard to the attention of staff and undertook to exercise greater care in the future. TVNZ acknowledged that it had been advised that a complaint had been laid to the Police under the Coroners Act.

Although it was not required to deal with the V7 aspect of the complaint, since it had already been upheld as a breach by TVNZ, the Authority records that it agrees with Mr Sage's own comment that the reconstruction of the suicide was insensitive and tasteless.

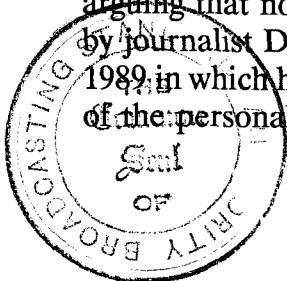
Turning next to the issue of whether balance had been achieved, TVNZ explained that the item was confined to the issue of how a person would react if someone they loved asked them to help them die. It was not, TVNZ argued, intended to be a general debate about all aspects of euthanasia.

TVNZ considered that balance had been achieved because a number of people had been interviewed, including the son and daughter of a woman who was a quadriplegic, as well as two of Mr Crew's friends (including journalist Deborah Coddington) and a psychotherapist who had been treating him. It believed that the focus of the programme had been clearly established in the introduction and that the subject had been handled fairly and in a balanced and impartial manner.

The Authority accepted that TVNZ had established in the introduction to the item that the subject was narrowly confined as described above. The despair and hopelessness of the circumstances of two different people, both quadriplegics, were contrasted with the dilemma faced by their family and friends when asked to assist with suicide. In the one case, the son of the woman featured appeared to be willing to help his mother (although she died before he was faced with that situation), whereas the woman's daughter was shocked at such a suggestion. This was contrasted with Mr Crew's case where the two friends interviewed and the psychoanalyst all indicated that they had been approached to help him with accomplishing a suicide. The reconstructed events made clear that someone had assisted Mr Crew's suicide, although it avoided implicating any person.

The programme did not allude to the fact that the subject of euthanasia was extremely controversial, and did not address its morality, ethical considerations or the legal position of a person asked to assist. The Authority was of the view that the subject of euthanasia was frequently debated publicly and most viewers would have been aware of the wider context of the debate. Under the circumstances, the Authority did not agree that all aspects of the issue had to be presented in the programme and it declined to uphold the balance aspect (G6) of the complaint.

With reference to the complaint that the programme intruded in the distress and grief of family and friends, TVNZ reasoned that the death of Mr Crew was a public fact, and that prior to his death he had entered the public debate in a letter to the *Auckland Star* arguing that not all life had a quality worth preserving. He had also been interviewed by journalist Deborah Coddington for an article in *Metro* which was published in April 1989 in which his views about euthanasia were expressed. TVNZ considered that its use of the personal story of Mr Crew allowed the community to debate the wider issue of



euthanasia. It believed that the *Frontline* item had been sensitive to the family's wishes by advising of the programme's intent and inviting participation and noted that no mention was made of Mr Crew's family or personal circumstances which might have caused undue distress or invaded their privacy.

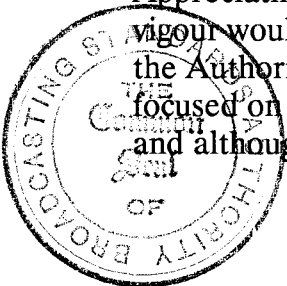
Commenting on the involvement of Mr Crew's friends in the making of the programme, TVNZ explained that in addition to the two who were interviewed, it had invited participation from his fiancée and another friend, who, while not critical of the programme, had both declined to take part. TVNZ described all contact with Mr Crew's friends as courteous, and pointed out that his fiancée had provided photographs for use in the story. It argued that the death of Mr Crew was a public fact and that the events leading up to and including his death five years ago were well known. It did not believe that standard G17 had been breached.

The Authority acknowledged that for family members the fact that Mr Crew had died five years ago did not lessen their grief and that it was the more distressing since they had exhorted TVNZ to respect their wishes by not screening the programme. It noted that the family had been given the opportunity to be involved in its making but had chosen not to do so. In the Authority's view, the family's right to privacy was lessened by the publicity generated at the time of Mr Crew's death and by the fact that Mr Crew himself had entered the debate, both in a letter to the *Auckland Star* and in the *Metro* article, to which he contributed, which was published after his death. The Authority gained the inescapable impression from these articles that Mr Crew had wanted his views to be publicly known. Nevertheless, it understood why Mr Sage might have felt betrayed by the mere fact that the programme had been screened in defiance of his wishes.

In declining to uphold this aspect of the complaint, the Authority observed that standard G17 has in the past been applied in circumstances where the death and the approach to the family were contemporaneous. Moreover, it noted that no reference was made to any of the members of the family and that the two friends who were interviewed had willingly taken part. It acknowledged that the facts of Mr Crew's accident and eventual death were profoundly disturbing to the family and that their grief was still present. However, it was unable to conclude that the broadcast was in breach of standard G17.

The final aspect of the complaint was that standard V12 was breached by showing Mr Crew at the moment of his death, to which TVNZ responded that the sequences which included the re-enactment of the suicide were reconstructions and were clearly identified as such. It accepted that Mr Crew was in physical discomfort at the time he took his life, but did not agree that his mental state could have been described as being in "extreme pain or distress". TVNZ argued that, on the contrary, the decision appeared to have been made calmly and logically, over a period of time. It declined to uphold this aspect of the complaint.


Appreciating Mr Sage's argument that a young man full of promise and intellectual vigour would surely have been in extreme distress at the difficult decision he was making, the Authority nevertheless was unable to apply the standard on the facts. The complaint focused on the reconstruction of an event which was not witnessed by any other person, and although logic suggests that Mr Crew would have been in extreme distress, the fact

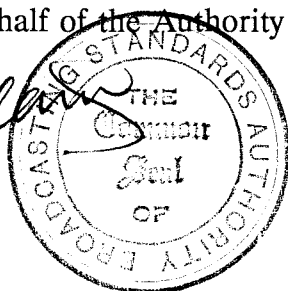


that the scene was a reconstruction distanced it from the reality. Enough background had been presented during the programme to indicate that the decision to end his life had been haunting Mr Crew for some time. Further, it was implied that another person was involved in the plan, since it was made clear that Mr Crew himself was incapable of doing all that was involved therein. On balance, the Authority concluded that standard V12 was not breached because the scenes which portrayed Mr Crew were all reconstructions and sufficiently far removed from the actual event.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
29 October 1993



Appendix

Mr Sage's Complaint to Television New Zealand Limited

In a letter dated 31 May 1993, Mr A. D. Sage of Auckland complained to Television New Zealand Ltd that its forthcoming *Frontline* programme which was to feature the death of his son (Michael Crew) by suicide was exploitative and insensitive to the family. He implored TVNZ "in the interests of plain, old-fashioned decency, to think again" about screening the item.

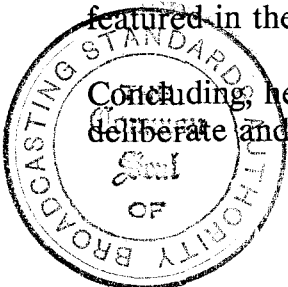
A response from TVNZ dated 4 June explained that the item concerned an important issue of public interest, namely the individual's right to die with dignity. It noted that the intent of the programme was to explore the dilemma faced by those who were asked to help such a person. TVNZ pointed out that it had taken into account the fact that the circumstances of Michael Crew's death were already in the public arena through a letter (published in the *Auckland Star*) which had made his views about euthanasia known. It concluded that the item should proceed, expressing confidence that the story would be treated with compassion and sensitivity.

In a letter dated 5 June 1993, Mr Sage rejected TVNZ's explanation that it would treat the story with compassion and sensitivity, commenting that such a suggestion was a contradiction in terms given the commercial environment of television programming and the ratings "game". He implored TVNZ to reconsider its decision and to desist in its plan to broadcast the item which he described as "an outrageous invasion of privacy".

Mr Sage's formal complaint was dated 14 June. He described the programme as being worse than he had imagined would have been possible, and claimed that it breached four of the standards of the Television Code of Broadcasting Practice. He claimed that the controversial subject of euthanasia was not dealt with in a balanced way and that it caused distress to Mr Crew's family, aggravating the offence by screening the item in spite of attempts to have it stopped. Further, he argued that the scene which depicted his son taking the poison which ended his life was not only insensitive and tasteless but breached the standard which prohibits screening close-up detail about suicides. Finally, he wrote, the standard which prohibits the inclusion of distressing material in early evening viewing time was breached.

He also commented on the juxtaposition of the item after an advertisement for a foot deodorant and as an extension of the news, the principal feature of which had been the child molestation case in Christchurch, noting that the actor who portrayed his son bore a strong physical resemblance to a "sexual pervert", whose trial had been featured in the news for some weeks.

Concluding, he commented that in his view the breaches were aggravated by being deliberate and in violation of the family's wishes.



TVNZ's Response to the Formal Complaint

TVNZ advised Mr Sage of its Complaints Committee's decision in a letter dated 21 July 1993. It reported that the complaint had been considered under standards G6, G17, V7 and V12 of the Television Code of Broadcasting Practice.

With reference to the complaint that the item lacked balance, TVNZ explained that it was not intended to be a wide-ranging debate about euthanasia, but was to examine the dilemma faced by those who are asked to assist in euthanasia. It believed that because a variety of participants were interviewed, such balance was achieved.

Responding to the complaint that the item intruded unnecessarily into the family's grief, TVNZ noted that before his death Mr Crew had entered the public debate about euthanasia and that his death was a public fact. Expressing sympathy for the family, TVNZ nevertheless claimed that the story of Mr Crew's right to die was something separate from the family and legitimate in its own right. It noted that the programme did not refer to any of his family or his family circumstances in the programme.

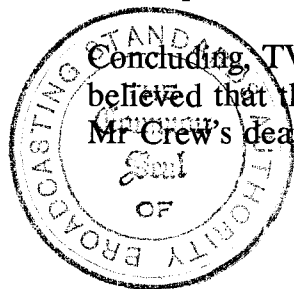
TVNZ denied Mr Sage's allegation that it had "hassled unmercifully" Mr Crew's fiancée to assist in making the programme, reporting that she had been approached to advise her of the nature of the programme. It concluded that there was no unnecessary intrusion on friends and family, that all contact had been courteous and had been intended to inform and invite participation if desired. It did not believe that standard G17 had been breached.

TVNZ reported that in examining the complaint that the item breached standard V7 (which prohibits giving detail about how suicides are accomplished), it found cause for concern. It upheld that part of the complaint and undertook to draw the provisions of standard V7 to the attention of its staff.

The final aspect of the complaint was that the broadcast had breached the requirement not to show people in extreme distress. TVNZ did not feel that this applied to a person such as Mr Crew whose decision to end his life was rationalised over several months.

TVNZ commented that it could not understand Mr Sage's reference to "footage of a sexual pervert who bore an astonishing resemblance to the actor simulating Michael."

Concluding, TVNZ apologised for causing distress to Mr Sage, commenting that it believed that the subject matter was in the public interest and that the discussion of Mr Crew's death contributed to the debate on euthanasia.



Mr Sage's Complaint to the Broadcasting Standards Authority

Dissatisfied with TVNZ's response, in a letter dated 31 July 1993 Mr Sage referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Mr Sage prefaced his remarks with the comment that in his view, *Frontline* was an extension of the news and that:

no effort is spared, obviously, to feature the sensational, no matter how trivial or how lacking in true news value. Obviously an item in that time slot about a tragedy five years before is not a reasonable extension of the news but a deliberate unconscionable effort to extract pathos from it regardless.

He accused broadcasters of having no standards of decency and taste in their pursuit of ratings and of constantly pushing the boundaries of good taste.

Referring to the specific aspects of the complaint, Mr Sage rejected TVNZ's argument that there was balance in the programme, writing:

It is not open to the broadcaster to suggest that the programme is a balanced one by picking out one particular aspect of such a sensitive and controversial subject; particularly when there has been negligible public discussion of euthanasia in New Zealand. If the Authority accepted the broadcaster's argument it would be holding that the particular item of the Code means nothing.

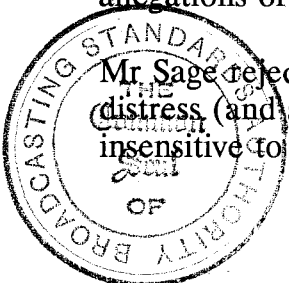
Maintaining that the item was cause of unnecessary distress to him and his family, Mr Sage acknowledged that much of the detail was already public, but in his view that was irrelevant to the complaint. He continued:

In no way does it change the fact that there was intrusion in the most offensive manner possible in the distress of Michael's family and friends, (the two involved in the programme excepted), which was aggravated by the fact that our attempts right up to the last minute to persuade the broadcaster to desist from its intention were ignored.

Mr Sage denied that he had been kept informed of progress in the making of the programme, noting that he had been overseas and unable to be contacted.

Regarding the V7 complaint (the prohibition on showing detail on suicides), Mr Sage noted TVNZ's admission that it had breached the standard and commented that he had also lodged complaints to the Justice Department and the Police about allegations of a breach of the Coroners Act.

Mr Sage rejected TVNZ's argument that the portrayal of his son was not of a man in distress, (and accordingly not in breach of standard V12), claiming that it was grossly insensitive to suggest that someone as able and vital as Mr Crew was not in distress



as a quadriplegic. He wrote:

The suggestion that it would be possible for anyone at all, with such a brilliant past, and clear mind, to ingest poison, with such physical difficulty, to end his life, as was depicted in the item, without being "in extreme...distress", is not only stupid but completely irrational. Would that we could go through life so innocent as Television New Zealand's Programme Standards officers appear to be.

Mr Sage described as ingenuous TVNZ's claim that it could not understand his reference to the physical similarity between the actor who portrayed his son and Peter Ellis, whose trial had been featured on the news for some weeks.

Finally, Mr Sage commented that if his complaint was upheld, the appropriate sanction would be for one of TVNZ's senior executives to make an apology.

TVNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 2 August 1993 and TVNZ's reply, 1 September.

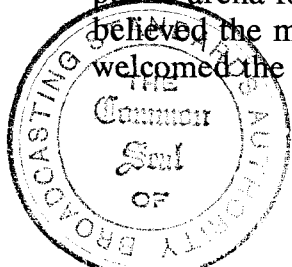
Expressing its sympathy for Mr Sage that the references to his son had rekindled his personal grief, TVNZ explained that the death of Mr Crew was a widely publicised case of euthanasia and that Mr Crew himself had played a part in the public debate on the issue.

It suggested that Mr Sage had failed to consider the matter from his son's viewpoint, maintaining that the public statements he made prior to his death would indicate that Mr Crew would have approved of the discussion of the circumstances of his death. In support of this contention, it referred to an article in "Metro" magazine which it attached.

It rejected Mr Sage's suggestion that there was a link between news material featuring Peter Ellis and the *Frontline* programme, noting that the two are quite separate programmes and are advertised and presented as such. It also corrected Mr Sage's recollection of a comment made by Mr Paul Norris, pointing out that he did not say that programme quality was determined by ratings. What he did say was that high ratings did not imply poor quality.

With reference to standard G6, it observed that the focus of the programme was established in the introduction and that the subject was handled fairly and in a balanced and impartial way.

It rejected the standard G17 complaint, arguing that the matter had been in the public arena for some time. TVNZ apologised to Mr Sage, but argued that it believed the matter was in the public interest and that Mr Crew would have welcomed the broadcast.



With respect to the V7 complaint, TVNZ noted that this aspect of the complaint had been upheld and that staff had been informed of their obligations with respect to the standard. However, it maintained that the information given was a matter of public knowledge and that was included in considerably more detail in the "Metro" article.

TVNZ argued that standard V12 was not really relevant, explaining that all the evidence pointed to the fact that Mr Crew made his decision in a calm and collected manner.

Mr Sage's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 10 September 1993, Mr Sage accepted the apology tendered by TVNZ for causing him hurt, but argued that its sympathy was misplaced. He continued:

Certainly it was a disagreeable item but I was not wounded by it. My reaction was revulsion and disgust that the broadcaster should have capitalised on the tragedy of my son's accident, and the circumstances of his death, in such a despicable, sordid, and tasteless manner.

In contrast, he wrote, the article from "Metro" was excellent journalism, combining balance and style which was entirely lacking from the *Frontline* item. Acknowledging that the matter was in the public domain, he argued that nevertheless the broadcaster had a duty to adhere to the Television Code of Broadcasting Practice and that alleged breaches of the code were either deliberate or that management was reckless in not requiring standards of its staff.

Responding to the point that news and *Frontline* were separate, Mr Sage maintained that the fact was that viewers regarded *Frontline* as an extension of the news.

With reference to standard V12, Mr Sage reiterated his disbelief that anyone could imagine that a person such as his son, with his life in ruins and about to end it, was not in extreme pain or distress".

