

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 2/91

Dated the 27th day of February 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

E. LINNEY
of Wellington

Broadcaster
RADIO 99 FM

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

DECISION

Introduction

The public broadcasting fee was the subject of an editorial comment broadcast at about 8.15 pm on 27 August 1990 on Radio 99 FM. It was said that Radio New Zealand (RNZ) used the fee and money from tax payers to purchase radio frequencies.

Mr Linney's Complaint to Radio 99 FM

In a letter to Radio 99 FM dated 14 September, Mr Linney complained that the above comment lacked balance, was factually in error and had not been put to RNZ for comment.

Radio 99 FM's Response to Mr Linney

Radio 99 FM's reply dated 20 September included the following comments:

Our accusations that Radio NZ is in a position to use either directly or indirectly 'public funds' to tender for even more radio frequencies stands.



Unless Radio NZ has a 'tree that grows money' where do you suppose their income comes from?? (And who owns it??)"

and:

"As Radio NZ receives a large part of the licence fee and Listener income and does not donate it to a suitable charity, then we must assume that the income is absorbed into their total purse.

Meanwhile, radio stations like 99 FM (and others) receive nothing from these fees (so much for the 'NZ on the Air' campaign being purported [sic] by the current Minister of Broadcasting)."

Mr Linney's Complaint to the Broadcasting Standards Authority

As Mr Linney was not satisfied with Radio 99 FM's decision, he referred the complaint to the Broadcasting Standards Authority on 26 September 1990. He reiterated his complaint made to Radio 99 FM that the editorial comment accusing RNZ of spending tax payers' money and the public broadcasting fee to purchase frequencies was:

- i) factually wrong;
- ii) lacking in balance;
- iii) not seemingly put to RNZ for comment.

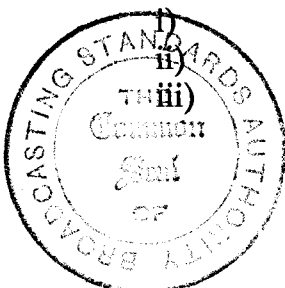
The Authority in referring Mr Linney's letter to Radio 99 FM, requested both a tape and transcript of the remarks. It added that while the complaint had not nominated breaches of specific standards of the Codes of Broadcasting Practice for Radio, it appeared to amount to allegations of breaches of standards 1.1(a), (e) and (i), and possibly 5.2(a).

Radio 99 FM's Response to the Authority

As no written response was received, the managing director of Radio 99 FM (Mr Derek Archer) was spoken to by telephone on 30 January 1991.

A transcript of the broadcast was unavailable but Mr Archer accepted the summary of the comment from Mr Linney's letter of complaint of 14 September. Pointing out that RNZ was a Crown owned asset, he stated with regard to Mr Linney's three points:

the comment was factually right as later events have shown;
the comments were not unbalanced; and
putting the allegations to RNZ was not an issue.



Mr Linney's Final Comment to the Authority

When spoken to by telephone on 30 January, Mr Linney had no further comment to make about Mr Archer's response.

Decision

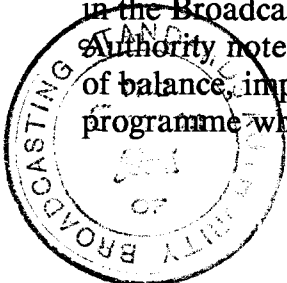
In reaching a decision, the Authority finds invaluable a tape and a transcript of the radio news or current affairs programme complained about. Unfortunately, neither was available in this case. The Authority's request to Radio 99 FM for them occurred after the 28 working days time limit set by the Codes of Broadcasting Practice for Radio (standard 6.1) during which radio stations shall hold a recording of specified programmes.

The standards which the programme may have breached read:

- 1.1(a) To be truthful and accurate on points of fact in news and current affairs programmes:
 - (e) To deal justly and fairly with any person taking part or referred to in any programme:
 - (i) To show balance, impartiality and fairness in dealing with political matters, current affairs, and all questions of a controversial nature, making reasonable efforts to present significant points of view either in the same programme or in other programmes within the period of current interest:
- 5.2(a) Listeners should always be able to distinguish clearly and easily between factual reporting on the one hand, and comment, opinion and analysis on the other:

Standard 5.2(a), in retrospect, is irrelevant as Mr Linney accepted from the beginning that the item was an editorial statement.

The point that the item was comment and not news is important as the Authority accepts (for example Decision 12/90) that editorial comment on radio - especially during a talk-back show - may include strong opinions. Members of the public who choose to listen to a station such as Radio 99 FM must expect that the programmes are likely to contain material that is controversial. Such programmes must comply with the standards set out in the Broadcasting Act 1989 and in the Codes of Broadcasting Practice for Radio. The Authority notes, however, that while truth and accuracy are fixed criteria, the concepts of balance, impartiality and fairness must be interpreted in relation to the type of radio programme which is broadcast.



With regard to Mr Linney's complaint, taking into account, first, that the issue being discussed was a matter of public interest and secondly, the manner and context in which it was raised, the Authority considers that the complaint does not raise any issues of substance.

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

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson

27 February 1991

