

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 27/91
Dated the 28th day of June 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

THE NEW ZEALAND JEWISH
COUNCIL

Broadcaster
RADIO PACIFIC
LIMITED

J.B. Fish Acting Chairperson
J.L. Hardie
J.R. Morris

DECISION

Introduction

The subject of Israel was raised by a caller at approximately 10.50 am on Friday 18 January 1991 on a Radio Pacific talkback programme hosted by Ms Pam Corkery. The caller used the words "the bloody Jews" and Ms Corkery, acknowledging that her views tended to be anti-Zionist, went on to mention a world summit of Jews held secretly in Melbourne in the mid 1980s.

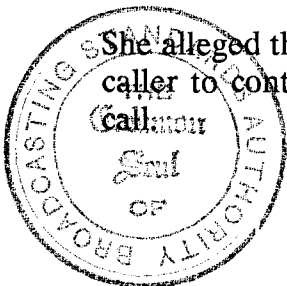
The New Zealand Jewish Council's Complaint to Radio Pacific Limited

Mrs Wendy Ross, President of the New Zealand Jewish Council, made a formal complaint to Radio Pacific Ltd in a letter dated 31 January 1991.

She stated that the caller was "quite clearly" anti-semitic and Ms Corkery was aware of that fact by remarking:

... we're teetering on the edge of Race Relations complaining.

She alleged that Ms Corkery breached the broadcasting standards when she allowed the caller to continue after using the words "the bloody Jews" rather than terminating the



Moreover, Ms Corkery's comment about a world summit of Jews was a "blatant" example of a conspiracy theory and evoked Nazi propaganda. The reference to the meeting was an:

... unwarranted and slanderous attack on the Jewish people

Ms Corkery, it was claimed, had breached the standards by portraying people in a manner that encourages denigration of, or discrimination against, a section of the community on account of race.

Radio Pacific's Response to the Formal Complaint

Radio Pacific responded, first, in a letter dated 4 February 1991 from Mr Derek Lowe, the Managing Director.

With regard to the words, "bloody Jews", Mr Lowe remarked that the use of the word "bloody" could cause offence and the caller had seemingly used it to express her strong feelings. The call had been allowed to continue as:

... until then the views expressed were one person's opinions of an issue of significant public interest and in my view the conversation was sufficiently contained and intelligent to encourage the host to let it through.

Mr Lowe explained that a talkback host was required to exercise almost instant judgment about whether a caller's remarks were sufficiently offensive to justify terminating the call or whether the caller should be allowed to continue to enable the listeners to decide whether they agreed or disagreed.

It comes down to the question of free speech and open debate versus censorship or sanitisation, because that's what is effectively happening when a host decides to stop any caller from having his or her say. I don't believe that in many instances the fact that remarks caused offence to an individual or a group is sufficient reason to stop remarks going to air.

He added that he had listened to the conversation in dispute on several occasions and, although "quite marginal", he understood the reason why the host let the caller continue.

He said he would reply at a later date about the other aspect of the complaint. That response was dated 18 February 1991 and included a cutting from the Melbourne Age of 31 October 1986. Mr Lowe wrote:

It refers to a series of meetings attended by hundreds of Jewish leaders, from around the world, held amid high security in Melbourne and Sydney. It states that there was no publicity about the conference. It states that Mr Hawke addressed the meeting.

Explaining that Ms Corkery's comments were based on the recollection of that article,



that the complainant's parallel with Nazi Germany was an exaggeration and that Ms Corkery had not used the word conspiracy, Mr Lowe stated that the formal complaint was not justified.

The Jewish Council's Complaint to the Broadcasting Standards Authority

As the Council was dissatisfied with Radio Pacific's response, on 11 March 1991 the President, Mrs Ross, referred the complaint to the Authority.

The Complaint Referral Form alleged a breach of standard 8.1 of the Radio Code of Broadcasting which states that stations shall not broadcast material which encourages the denigration of, or discrimination against, sections of the community on account of a number of criteria including race.

In her letter to the Authority, Mrs Ross stated that the complaint was not an isolated one and she outlined the details of the present complaint in a letter to Radio Pacific which she enclosed.

That letter disputed Radio Pacific's reason for allowing the caller to continue. It was not, it was said, an issue of free speech and censorship, but an issue of responsible journalism operating within the bounds of good taste.

The letter also rejected the station's suggestion that participation in the programme was the Council's appropriate response as it was not fair nor reasonable to prove one's innocence. It continued:

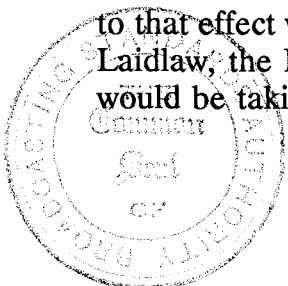
We can find nothing in the article from the *Melbourne Age* which would justify Ms Corkery's comments which, we repeat, reek of a conspiracy theory regardless of the fact that she did not use the specific words "conspiracy" or "plot".

Ms Corkery's innuendos about the secrecy of the meeting and the exclusion of the media were unjustified as frequently the media were not invited to important meetings. And because of terrorist attacks against Jewish communities, a high level of security was necessary at major meetings.

Radio Pacific's Response to the Authority

Radio Pacific was invited to comment on the referral and Mr Lowe did so in a letter dated 29 April 1991.

He began by noting that as Mrs Ross as President of the Jewish Council had provided no evidence that the station repeatedly offended groups in the community, her remark to that effect was irrelevant. He added that he had discussed this complaint with Mr C. Laidlaw, the Race Relations Conciliator. Mr Laidlaw had advised him that his office would be taking no further action. He continued:



I have since spoken to him by phone and he has expressed the view to me that he would be surprised if the Broadcasting Standards Authority would uphold this particular complaint.

Referring to the complaint, he said the issue was whether or not Ms Corkery should have "dumped" the call after the use of the word "bloody". He repeated the point that the caller was expressing personal views and their unacceptability to some listeners was insufficient in itself to ban them. The caller's manner was reasoned and the complainant sought to stifle "free expression". The Authority, if it upheld the complaint, would discourage talkback hosts from allowing views incompatible with some Jewish opinion from being aired on radio. This would be against the spirit of the free speech "which is of course the cornerstone of talkback".

He concluded:

Radio Pacific believes that this complaint is without substance. Permitting a caller to express her personal views does not equate to encouraging the broadcasting of material which portrays people in a manner that encourages denigration of, or discrimination against the Jewish community or any other section of our community. (His emphasis)

The Jewish Council's Final Comment to the Authority

At the Authority's invitation, Mrs Ross as President of the Jewish Council commented on Radio Pacific's response in a letter dated 9 May 1991.

She enclosed an article by Lesley Max entitled "Talkback Radio: Airing Prejudice" from *Between the Lines: Racism and the New Zealand Media*, edited by P. Spoonley and W. Hirsh published in 1990. This article, she said, was essential to the Council's complaint as it made clear that the current complaint was not an isolated incident but one in a series.

She described the reference to Mr Laidlaw as spurious as the Race Relations Act did not cover the complaint. Furthermore, Mr Laidlaw had not seen all the correspondence.

The Council, she stated, maintained its contention that the broadcast breached standard 8.1. The Council disagreed with Mr Lowe's emphasis on the word "encourage".

We contend, to the contrary, that the transcript indicates a theme of encouragement and endorsement of the caller's views, along with a mild cautionary note.

Callers to talkback radio, the letter continued, do not have the unlimited right to express personal views espousing racial and religious bigotry.



Decision

In investigating and reviewing this complaint, members of the Authority read the transcript and listened to the tape of the exchange between the caller and Ms Corkery. The members have carefully considered the arguments put forward by the New Zealand Jewish Council in support of this complaint and by Radio Pacific in response.

The members have also read the article by Lesley Max but while noting her concern about talkback radio and race relations generally, and anti-semitism and Radio Pacific in particular, point out that they are required under the Broadcasting Act 1989 to rule on the specific complaint before them. The Authority does not, and cannot, determine the complaint as the culmination of anti-semitic views which might have been aired on Radio Pacific in the past. The Race Relations Conciliator, Mr C. Laidlaw, advised the Authority that he had looked informally at this particular complaint and would have been unlikely to find substance in it under the Race Relations Act but he acknowledged that whether the broadcast breached the Radio Code of Broadcasting Practice was a matter for the Broadcasting Standards Authority.

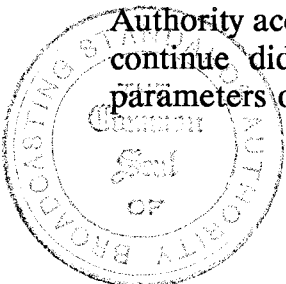
The complainant alleged a breach of standard 8.1 of the Radio Code which reads:

Stations shall not encourage the broadcasting of material which portrays people in a manner that encourages denigration of, or discrimination against, sections of the community on account of gender, race, age, disability, occupational status, sexual orientation, or as a consequence of legitimate expression of religious, cultural, or political beliefs.

The Authority decided that there were two aspects to the complaint. The first was whether the caller should have been allowed to continue after using the words, "the bloody Jews", and the second whether Ms Corkery's remarks about her anti-Zionist views and the reference to the conference of Jewish leaders held in secrecy in Australia in the mid 1980's, in themselves, breached standard 8.1.

The Authority has acknowledged in a number of previous decisions (for example No: 24/91) that listeners expect radio talkback programmes to be spontaneous, freewheeling, controversial and provocative. The Authority has added, however, that talkback must not stray beyond the boundaries imposed by the Broadcasting Act 1989, encompassing the Radio Codes of Broadcasting Practice. In other words, while talkback radio cannot be too constrained, talkback hosts must act as professional broadcasters.

With regard to the caller being allowed to continue after using the phrase, "the bloody Jews", the Authority noted that the caller until that time had been coherent and articulate. She had apparently been making her points in a forceful, but low key, manner and had not been encouraged in her attitude by Ms Corkery. While the particular words used seemed unexpected, and in retrospect, were at the very least mildly offensive, the Authority accepted that in the context of talkback radio the fact that she was allowed to continue did not amount to encouraging denigration or discrimination within the parameters of standard 8.1.



In regard to the second aspect of the complaint, Ms Corkery, while acknowledging that the conversation "was teetering on the edge of Race Relations complaining", had nevertheless continued with the call and subsequently referred to her own anti-Zionist stance and to a conference of Jewish leaders held in secrecy in Australia in the mid 1980s. Her comments about the conference included the phrases "amazing world summit" and "deep secrecy". Radio Pacific has provided substantiation that a conference of Jewish leaders took place in conditions of tight security in Melbourne 1986. Although Ms Corkery acknowledged that her views tended to be anti-Zionist, her principal concern as expressed on Radio Pacific, perhaps because of her position as a journalist, seemed to focus more on the secrecy of the conference rather than on the race of the participants. In reply, the Jewish Council quite correctly, in the Authority's view, has pointed out that many conferences take place to which the media are not invited and that the participants at this particular conference, because of terrorist activities in the past, had valid reasons which justified secrecy and a high level of security.

The Authority is required to assess whether Ms Corkery's comments amounted to a breach of standard 8.1 of the Radio Code in that they portrayed people in a manner which encouraged denigration of, or discrimination against, a section of the community on account of race. It has concluded that Ms Corkery's presentation of her personal views displayed insensitivity but, while they might perpetuate a negative view of Jews, they did not in themselves encourage denigration or discrimination. Thus, the Authority concluded that while Ms Corkery was unwise to express her views in the way she did, on balance the comments did not amount to a breach of the Radio Code.

For the reasons given above, the Authority declines to uphold the complaint which alleged a breach of standard 8.1 of the Radio Code of Broadcasting Practice.

Signed for and on behalf of the Authority

Jocelyn Fish
Jocelyn Fish
28 June 1991

