

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 4/92

Dated the 10th day of February 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

CREDO SOCIETY (INC)

of Auckland

Broadcaster

CAMPUS RADIO BFM LIMITED

of Auckland

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

In the Pink is the title of a programme principally for homosexuals broadcast weekly by the Auckland University radio station 95BFM. On the evening of 1 September 1991, the programme broadcast the audio tape of a recent television news item in which one participant observed that Christians did not attack homosexuals. A co-presenter on 95BFM expressed strong disagreement stating in part:

One million names on a petition gathered illegally sounds to me a little bit like Christians going out and attacking gay people.

As a result of a complaint from the Credo Society about the words "gathered illegally", the broadcaster agreed that the presenter would apologise and made a correction on the *In the Pink* programme on 22 September. When referring to the petition in that broadcast, the presenter said that it had not been his intention to state, as a fact, that the names had been gathered illegally. He continued:

I was stating my opinion only and I apologise for any confusion or concern this may have caused to any of our listeners.

After that broadcast, the Credo Society again complained to the broadcaster. It said that to describe a factual comment as an opinion was chicanery. As the correction was a



misrepresentation, it continued, the apology was meaningless. The broadcaster stated in response that it had carried out all the action it believed necessary.

As the Credo Society was dissatisfied with the broadcaster's response to the complaint about the correction and the apology, it referred the matter to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have listened to a tape of the relevant parts of the *In the Pink* programmes broadcast on 1 and 22 September 1991 and have read the correspondence (summarised in the Appendix).

There were two matters raised in the correspondence which the Authority considers irrelevant to its deliberations about the complaint. The first irrelevant matter is that *In the Pink* is described by the broadcaster as a programme for gay men in which partisan views are expressed. All broadcasts, regardless of the intended audience, must comply with broadcasting standards. The second irrelevant matter is the complainant's alleged attitude towards homosexuals. The requirements in the Broadcasting Act refer to standards and time-limits - not to the motives of a complainant.

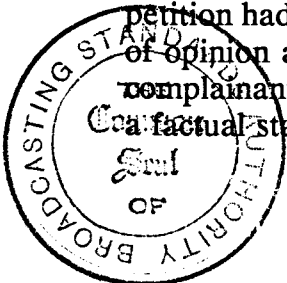
On 1 September 1991, a presenter on *In the Pink* broadcast by 95BFM said, after playing the audio tape of a recent news item on television during which a participant remarked that Christians did not attack homosexuals:

One million names on a petition gathered illegally sounds to me a little like Christians going out and attacking gay people.

The Authority assumed that the Credo Society's complaint was based, from the references in the correspondence to the Television Code, on standards 1.1(a) and 1.1(i) of the Radio Code of Broadcasting practice which require broadcasters:

- 1.1(a) To be truthful and accurate on points of fact in news and current affairs programmes.
- 1.1(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 in the same programme or in other programmes within the period of current interest.

The broadcaster accepted that the statement above included a factual statement as well as an opinion and arranged for a correction and an apology to be broadcast. In the correction, the presenter said it had not been his intention to state as a fact that the petition had been "gathered illegally". He had meant the entire statement to be a matter of opinion and apologised for the confusion and the concern caused to listeners. The complainant was dissatisfied with the correction and said it was a chicanery to describe a factual statement as an opinion.



The Authority listened carefully to both broadcasts. It agreed that the "gathered illegally" remark broadcast on 1 September was a factual comment. Although the clarity of the wording of the apology broadcast on 22 September could have been improved, the Authority accepted that the presenter was sincere and that he broadcast an explanation for this remark and did apologise for broadcasting a factually incorrect statement.

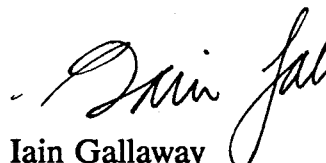
For the reasons set forth above, the Authority declined to uphold the complaint.

Although concluding that the broadcasting standards had not been breached, the Authority, in view of the obtuseness of the apology and correction broadcast on 22 September, could well understand why the complainant felt the broadcaster had practised chicanery.

The broadcaster maintained that it took complaints seriously. However, that was not borne out by the correspondence studied by the Authority. Campus Radio's station manager's letter to the complainant dated 20 September suggested that the station took action only because of the complainant's perseverance and then it left it to the presenter to settle the wording of the apology and correction.

Such processes, in the Authority's opinion, fail to comply with s.5 of the Broadcasting Act 1989 which requires broadcasters, among other things, to establish proper procedures to deal with complaints. The broadcaster's processes disclosed have the potential to deny a complaint the attention it deserves. Although Campus Radio may regard the training of young broadcasters as central to its mission, the Authority emphasises that that does not excuse a cavalier attitude to either broadcasting standards or to the administration of a radio station.

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



10 February 1992

Appendix

Preliminary Correspondence between the Credo Society and Campus Radio BFM Ltd

The secretary of the Credo Society (Mrs Barbara Faithfull) complained to 95BFM in a letter dated 17 September 1991 about an item on the *In the Pink* programme for homosexuals broadcast on 1 September. The programme had played the audio tape from a recent news item on television where a guest had said:

You won't find Christians going out and attacking homosexuals but what you will find is a debate going on in New Zealand.

A co-presenter on 95BFM had commented in response:

I'm tired of this shit. What is this about Christians not going out and attacking homosexuals? One million names on a petition gathered illegally sounds to me a little bit like Christians going out and attacking gay people.

Following telephone conversations between Mrs Faithfull and the station manager, Mrs Faithfull complained formally that the comment "gathered illegally" was incorrect and unfair as the signatories had been exercising their democratic right to oppose proposed legislation.

In a letter dated 20 September to the Credo Society, the station manager for Campus Radio BFM Ltd (which is operated by the Auckland University Students Association), after checking with the presenter, wrote that:

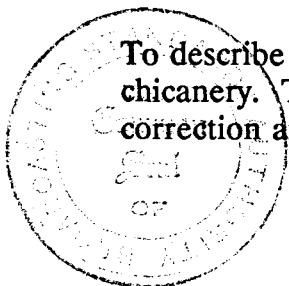
... your version of what was said is correct. An apology and a correction will be made in the next show. (22 September).

Credo Society's Formal Complaint to Campus Radio BFM Ltd

In a letter to the broadcaster dated 25 September, the secretary of the Credo Society (Mrs Barbara Faithfull) stated that the co-presenter's correction broadcast on 22 September 1991 misrepresented the situation and the apology was meaningless. The presenter had said:

Just before we start the show ... I'd like to say that on 1 September show I made references about a petition opposing the gay law reform of a few years ago. Inferences about it being illegally gathered. Well it was never my intention to state this as being a fact As I so often do, I was stating my opinion only and I apologise for any confusion or concern this may have caused to any of our listeners.

To describe a factual comment now as an opinion, Mrs Faithfull continued, was chicanery. The initial "inflammatory denunciation" of Christians required both a correction and an apology and some appropriate wording was suggested.



Campus Radio BFM Ltd's Response to the Formal Complaint

The broadcaster's station manager advised the complainant in a letter dated 1 October 1991:

I feel that 95BFM has taken all necessary and appropriate action in this particular issue; further comment would only serve to blow the matter out of proportion and give it an importance beyond its merits.

Credo Society's Complaint to the Broadcasting Standards Authority

As the Credo Society was dissatisfied with the broadcaster's response, Mrs Faithfull on the Society's behalf referred the complaint to the Broadcasting Standards Authority on 22 October 1991 under s.8(a) of the Broadcasting Act 1989.

She said that the Society's initial complaint had been made under standards 1 and 6 of the Code of Broadcasting Practice. As the standards mentioned apply only to television, the Authority has assumed that the complaint was made under the equivalent standards in the Radio Code of Broadcasting Practice which require broadcasters:

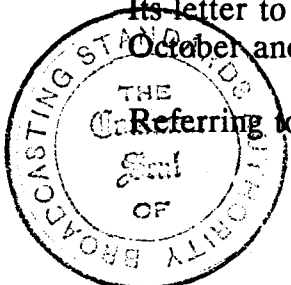
- 1.1(a) To be truthful and accurate on points of fact in news and current affairs programmes.
- 1.1(i) To show balance, impartiality and fairness in dealing with political matters, current affairs, and all questions of a controversial nature, making reasonable efforts to present significant points of view either in the same programme or in other programmes within the period of current interest.

The station manager, Mrs Faithfull added, had acknowledged that the 1 September broadcast had breached the broadcasting standards and had agreed to broadcast a correction and an apology. However, rather than make a correction and an apology, the co-presenter had claimed that his original comment was opinion rather than fact. That had misrepresented the entire situation and had resulted in a meaningless apology. The Station Manager's attitude in not broadcasting a proper correction and apology, Mrs Faithfull continued, allowed the slur on the 750,000 petition signatories to remain. She concluded by describing the station's actions as remiss.

Campus Radio BFM's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter to Campus Radio BFM is dated 25 October 1991 and two replies, dated 30 October and 2nd December respectively, were received.

Referring to the requirement in the Television Code for balance, impartiality and



fairness (standard 1.1(i) of the Radio Code noted above), in the first letter the station manager (Liz Tan) emphasised that *In the Pink* was a programme for gay men. While not excluding broadcasting standards for that reason, the programme's content was designed for a specific target audience. Secondly, all announcers were volunteers with varying degrees of experience and, consequently, mistakes occurred. Thirdly, the station took complaints seriously.

With reference to the specific complaint, Ms Tan noted that it was factually inaccurate to use the words "gathered illegally" but likening the petition to an attack on gay people was a legitimate opinion. The apology on 22 September, she continued, addressed the factual inaccuracy and any further broadcast was unnecessary. She contested Mrs Faithfull's view that the station had been remiss. She argued that, in view of Mrs Faithfull's known antipathy towards homosexuals, only the removal of the programme from the air would satisfy her.

The second letter dated 2 December was written by Harriet Crampton - Ms Tan's replacement as station manager. She expressed the opinion that the correction and apology were adequate as the presenter's comment broadcast on 1 September was clearly an opinion. The letter continued:

It is not, nor has it ever been, our intention to allow broadcasters to state as facts things that are their opinion only and we do everything in our power, when such an indiscretion occurs, to redress the situation, apologise and ensure that there is no reoccurrence. We feel that, in this instance, all the steps have been taken.

Credo's Final Comment to the Authority

When asked to comment on 95BFM's response, in a letter dated 28 December Mrs Faithfull on Credo's behalf said that Ms Crampton's reply indicated that she was confused about the issues.

Referring to both responses, Mrs Faithfull stated first that the replies defended the presenter's right to hold an opinion. However, neither station manager had considered the point whether the presenter had the right to broadcast an opinion which cast a slur on many people.

Secondly, by making the comment to which the complaint related the presenter had blown the matter "out of proportion" and the Society now merely sought that the "sorry affair" be redressed. Thirdly, Mrs Faithfull maintained that the station was remiss and the presenter was less than honest in their handling of the matter. Referring to the presenter's suspension earlier in 1991, Mrs Faithfull noted that the record showed that she would accept an apology as adequate for a breach of broadcasting standards.

Mrs Faithfull said that the *In The Pink* programme was part of the ideologically-driven homosexual political movement and that the presenter's remark had to be seen in that context.

