

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 54/92

Dated the 27th day of August 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

HARRY RICKIT of Auckland

Broadcaster

INDEPENDENT BROADCASTING
COMPANY (1990) LIMITED

of Auckland

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

DECISION

Introduction

A fictitious Maori character named Hone who worked for the Department of Social Welfare and who had been responsible for approving a benefit for an escaped prisoner was featured on 91FM on the morning of Wednesday 6 May 1992.

Mr Rickit complained to 91FM that the item portrayed the Maori character as stupid, careless and dumb. The reliance on that stereotype, he added, breached the broadcasting standard prohibiting the denigration of a section of the community on account of race.

Independent Broadcasting Co (1990) Ltd, as the operator 91FM, said that no racial offence was intended and that the Department of Social Welfare was the target of the item's humour. Further, as the item involved the legitimate use of satire, the prohibition on denigrating a section of the community did not apply. Accordingly, the broadcaster declined to uphold the complaint. As he was dissatisfied with that decision, Mr Rickit referred the complaint 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 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 Rickit complained to 91FM as the broadcaster and the reply was on letterhead paper which described the broadcaster as Auckland's 91FM Limited. That description also appeared on the broadcaster's initial letter to the Authority although a subsequent letter was headed Independent Broadcasting Company (1990) Limited and 91FM was included among the stations which were operated by that company. Accordingly, Independent Broadcasting Company (1990) Ltd is recorded as the broadcaster in this decision.

A skit broadcast on 91FM in Auckland on the morning of 6 May 1992 featured a fictitious Maori character named Hone who, it was said, worked for the Department of Social Welfare and had been responsible for approving a benefit for an escaped prisoner. The Authority notes that the Department received some publicity about the time of the broadcast for having done just that.

The racial stereotype depicted by Hone, Mr Rickit wrote, suggested that Maori were stupid, careless and dumb and thus the item breached standard 8.1 of the Radio Code of Broadcasting Practice as it encouraged the denigration of a section of the community on account of race. Standard 8 reads:

- 8.1 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.
- 8.2 Nothing in 8.1 shall prevent the airing of factual material or the expression of serious opinion or the legitimate use of humour or satire.
- 8.3 Operators are to ensure that their staff are regularly given guidance in how to deal with such situations.

The broadcaster responded by denying that the racial stereotype encouraged denigration and, alternatively, that the broadcast was excused from the requirements of standard 8.1 as it involved the legitimate use of satire. It thus complied with the exception in standard 8.2.

At one point the broadcaster raised the possibility that the character may not have been Maori. In view of the character's name, the tone of his voice and the phrases he used, the Authority believed that no one would be in any doubt that "Hone" was Maori. Indeed, it considered that the accent and phrases were deliberate and were part of the stereotypical portrayal of "Hone".

With regard to the explanation that the item did not encourage denigration, the



broadcaster noted that it was an example of the humour made popular by the late Billy T James. Moreover, although the character might involve a racial stereotype, it reflected the station's multiculturalism in which other characters were used. One such example was "Brian of Birkenheadale", a young Pakeha male who was "not quite up with the play" and "Brian", Hone's parallel, had not drawn any criticism or complaint. Racial stereotypes, the broadcaster implied, did not necessarily involve denigration.

As for the legitimate use of satire, the broadcaster argued first, that the Department of Social Welfare was the butt of the item, and secondly, that the programme used satire, not racial denigration, to comment on current events in a humorous way.

The Authority was required to decide the following points when dealing with this complaint. First, did the item refer to an identifiable section of the community? If so, did the programme encourage denigration of, or discrimination against, that section of the community? If so, was the denigration of, or discrimination against, excused as the item involved the legitimate use of humour or satire? At this point, the Authority records that in earlier decisions it has defined "legitimate" to mean not in conflict with other broadcasting standards such as the one which requires broadcasters to maintain standards consistent with the observance of good taste and decency.

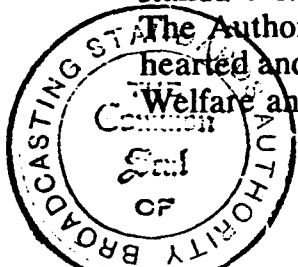
Despite the broadcaster's apparently half-hearted claim that the item featuring Hone did not refer to a section of the community identified by way of race, upon listening to the broadcast the Authority decided that Hone was meant to represent a good-natured, if dim-witted, Maori who happened to be employed by the Department of Social Welfare.

The Authority acknowledged that the Department of Social Welfare's action in approving a benefit for an escaped prisoner was a legitimate target for the skit and it agreed with the broadcaster that, to some extent, the Department, not Maori, was the object of the humour. However, noting Mr Rickit's comment that the broadcaster had assumed without justification that the employee was a Maori, the Authority concluded that the item's focus principally involved the identification of a section of the community by race.

When faced with the question of whether the item involved the denigration of Maori, the Authority concurred with some of the arguments advanced by both the complainant and the broadcaster. Whereas "Hone" was portrayed as stupid, careless and dumb, as Mr Rickit maintained, racial denigration, as the broadcaster responded, is a complex issue especially so since the widespread acceptance of the humour involving Maori stereotypes used by Billy T James. The Authority would note that a Maori lampooning Maori is much less offensive than a representative of the majority culture lampooning any minority culture. In these circumstances, it regarded the reference to "Brian of Birkenheadale" as irrelevant to the complaint.

Putting the point about denigration to one side at this stage however, the Authority considered whether the broadcast was nevertheless excused from the prohibition in standard 8.1 by complying with the legitimate use of satire as allowed in standard 8.2.

The Authority considered the item involved both humour and satire, that it was light-hearted and not unpleasant satire and that it made fun of both the Department of Social Welfare and of the stereotyped character employed.



Because of those aspects of the humour employed, the Authority decided that it did not contravene any other broadcasting standards and, consequently, was legitimate. Thus, despite some possible aspects of racial denigration apparent in the broadcast, the item complied with the exception in standard 8.2 and it was not necessary to decide whether it breached the prohibition on encouraging denigration in standard 8.1.

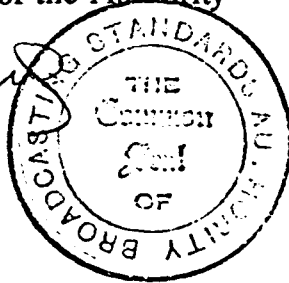
For the reasons set forth above, the Authority declines to uphold the complaint.

Because of the Department of Social Welfare's reported action of approving a benefit for an escaped prisoner, the item's use of humour on this occasion, although marginal, was legitimate and the Authority did not uphold the complaint. Nevertheless, the Authority would stress that humour by itself is insufficient to comply with the exception to the prohibition of racial denigration in the broadcasting standards. The standard requires the legitimate use of humour or satire and a pattern of humour based mainly on racial stereotypes, in itself, in the Authority's opinion would not be a legitimate use of humour.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



27 August 1992

Appendix

Mr Harry Rickit's Complaint to Independent Broadcasting Co (1990) Ltd

In a letter dated 6 May 1992, Mr Rickit complained to 91 FM about an item which had been broadcast earlier that day. The item featured a fictitious Maori character named Hone who worked for the Department of Social and who had been responsible for approving a benefit for an escaped prisoner.

Mr Rickit objected to the stereotypical portrayal of Maori on the ground that there was no evidence that the Departmental employee was a Maori, that pandering to stereotypical views reinforced prejudices and that the reliance on stereotypes indicated that writer's lack of comedy skills.

Referring to the prohibition in the broadcasting standards about denigrating people on account of race, he wrote:

I have difficulty accepting that the depiction of any race as being stupid, careless and dumb warrants merit especially when there is no truth, reason or humour beyond the banal in its execution. This is compounded by the power repetition has to reinforce prejudices especially when there is no balancing comment. To say that other medium (sic) also produce these cultural and racial stereotypes does not lessen your responsibility.

Independent Broadcasting Co's Response to the Formal Complaint

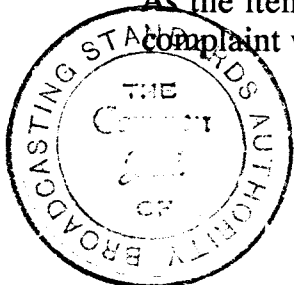
The broadcaster responded to the complaint in a letter dated 13 May 1992. It acknowledged that there was no evidence that the Department of Social Welfare employee was a Maori and while agreeing that stereotypical views should not be pandered to, it described the satirical character used as similar to the character set as a precedent by Billy T James.

It pointed out that the Department of Social Welfare was the "intended recipient of the humour", that no offence was meant by the humorous item and that:

the presenters were not trying to make fun of Maori, or for that matter pander to any type of ethnic stereotype.

91FM's Programme Director said that standard 8 of the Radio Code for Broadcasting Practice which discouraged broadcasts which denigrated sections of the community on account of race (among other criteria), did not apply to the legitimate use of satire.

As the item complained about was satire, the standard was inapplicable and the complaint was not upheld.



Mr Rickit's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with 91FM's response, in a letter dated 19 May Mr Rickit referred the complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He disagreed with the broadcaster that the Department of Social Welfare was the object of the item's satire, describing that as "patently secondary" to the caricature of the Maori personality. He also disputed the broadcaster's claim that the item involved the legitimate use of satire. Legitimate satire, he added, was based on truth but the broadcaster admitted that there was no evidence that the departmental employee was a Maori.

Mr Rickit objected to the broadcaster's comments which could have been interpreted as denying, or at least questioning, whether the fictitious character was a Maori. That was clearly apparent from his name and accent. He concluded by maintaining that the item involved racial denigration.

Independent Broadcasting Co (1990) Ltd's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 21 May and Independent Broadcasting Co (1990) Ltd's reply, 29 May.

The broadcaster said that it maintained its reasoning and conclusions expressed in its 13 May letter to Mr Rickit. Referring to the complainant's comment in his letter to the Authority, 91FM denied that the item was racial prejudice masquerading as comedy, adding that it was careful to ensure that its broadcasts met the relevant rules and standards.

It also maintained that the complaint had been dealt with professionally and honestly. Describing racial denigration as complex, 91 FM said that stupidity, not race, was the source of humour. In addition to the fictitious Hone who had featured in the item complained about, 91FM used a parallel character, the fictitious Brian from Birkenheadale. As a young male pakeha, he was "not quite up with the play" but had not been complained about. That showed, the broadcaster wrote, that stupidity was multicultural and that the item complained about was not meant to involve racial denigration.

Mr Rickit's Final Comment to the Authority

When asked to comment on 91FM's reply, in a letter dated 8 June Mr Rickit said that he stood by his earlier comments and that he did not accept the broadcaster's explanation. The reference to Brian of Birkenheadale, he said, neither lessened the negative impact of the racial stereotyping nor did it offer a legitimate excuse.

He stated that the broadcaster pandered to the lowest common denominator in the majority culture and then claimed the broadcast to be satire.

