

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 63/92

Dated the 10th day of September 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

PHILLIP SMITS
of Auckland

Broadcaster
RADIO NEW ZEALAND
LIMITED

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

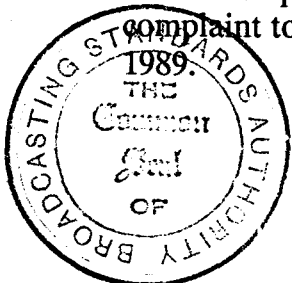
DECISION

Introduction

Advertisements for bars and nightclubs were broadcast on Newstalk 1ZB during the week 18-23 March 1992. One advertisement in particular promoted a "unique taste of Bangkok nightlife" where, for \$10, "another world" was offered "with beautiful and exotic dancers".

Mr Smits complained to Radio New Zealand Ltd, as the broadcaster, that the advertisements failed to maintain standards of good taste and decency. Further, on behalf of some Thai people, he complained that the advertisement referring to Bangkok denigrated the Thai people generally.

RNZ explained that a formal complaint must refer to a specific programme and focused solely on the advertisement referring to Bangkok nightlife. Arguing that the wording of the advertisement was not in bad taste and that it referred to the Bangkok nightlife specifically, not to Thailand or Bangkok generally, RNZ declined to uphold both aspects of the complaint. As he was dissatisfied with RNZ's decision, Mr Smits referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act



Decision

The members of the Authority have listened to a tape of the advertisement for the nightclub offering a taste of Bangkok nightlife and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing. The Authority records that it has received another referral from Mr Smits about the same commercial broadcast by Radio Pacific.

Mr Smits complained to Radio New Zealand that advertisements for topless bars and similar businesses on Newstalk 1ZB breached the broadcasting standard requiring good taste and decency. He referred specifically to one advertisement for a nightclub which offered a "unique taste of Bangkok nightlife" which, he said, in addition to breaching the standard requiring good taste, denigrated Thais.

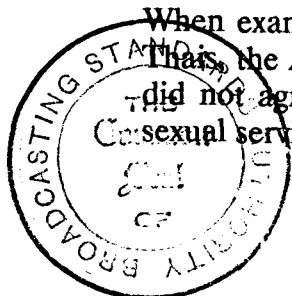
RNZ denied that the advertisement breached the good taste and decency standard and, as it did not involve a "serious blackening" of reputation, it did not denigrate Thais. In reaching that conclusion, RNZ assessed the complaint against s.4(1)(a) of the Broadcasting Act 1989 and standards 1.1(b) and 8.1 of the Radio Code of Broadcasting Practice. In view of the similarity in the wording of s.4(1)(a) and 1.1(b), the Authority has considered the good taste aspect of the complaint only under the former. It requires broadcasters to maintain standards which are consistent with the observance of good taste and decency. Standard 8.1 of the Radio Code 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 or political beliefs.

It is apparent from the voluminous papers that Mr Smits sent to the Authority that he is deeply concerned about the standards in nightclubs, especially those which reasonably clearly announce that they offer various sexual services. He is also very concerned about the standards in such clubs which employ Thai women. While the Authority appreciates Mr Smits' concerns about those matters, upon receipt of his referral it was required to decide only whether the advertisement for the night club about which he complained breached the named broadcasting standards.

The Authority began by noting that, as a rule, nightclub advertisements on radio generally or on talkback stations specifically, do not contravene the requirement for good taste. It depends on the content of each advertisement. Having listened carefully to the advertisement to which the complaint related, the Authority decided that it did not breach the requirement for good taste and decency. Indeed, the Authority thought that the advertisement was relatively innocuous.

When examining the complaint that the advertisement encouraged the denigration of Thais, the Authority decided that the advertisement referred to exotic Thai dancers. It did not agree with Mr Smits that there was any implication about the availability of sexual services. Accordingly, it concluded that the advertisement did not encourage the



denigration of Thais, as a section of the community, identified by their race.

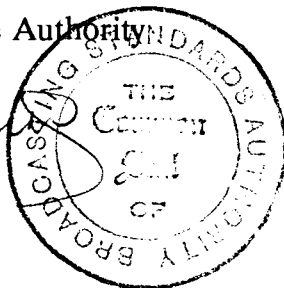
As noted above, Mr Smits expressed a broad concern about the activities offered by some nightclubs, including the club which was advertised. However, the advertisement which was broadcast did not contain connotations of sexual services, nor did it denigrate Thais and, accordingly, it breached neither the standards requiring good taste and decency nor the standard which prohibits the denigration of a section of the community on account of race.

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

Signed for and on behalf of the Authority

Iain Gallaway

Iain Gallaway
Chairperson



10 September 1992

Appendix

Mr Phillip Smits' Complaint to Radio New Zealand Ltd

In a letter dated 15 April 1992, Mr Smits complained to Radio New Zealand Ltd about some advertisements broadcast by Newstalk 1ZB during the week 18-23 March.

First, he said, advertisements for bars where staff were topless and similar businesses (eg massage parlours) failed to observe the standard of good taste and decency and were offensive and inappropriate to 1ZB's format.

Secondly, on behalf of some Thais, he stated that the advertisement for a nightclub offering a "unique taste of Bangkok nightlife" denigrated their homeland. The advertisement implied that the nightclub was typical of Bangkok which was incorrect as it was a major international city with a wide array of attributes. The broadcast, he concluded, displayed appalling insensitivity to Thai immigrants.

RNZ's Response to the Formal Complaint

RNZ advised Mr Smits of its Complaints Committee's decision in a letter dated 4 June 1992.

Explaining that the formal complaints process under the Broadcasting Act 1989 had to refer to a specific programme, RNZ focused solely on the advertisement referring to Bangkok nightlife. It assessed the advertisement against s.4(1)(a) of the Broadcasting Act, standards 1.1(b) and 8.1 of the Radio Code of Broadcasting Practice and standard 1 of the Code for People in Advertising.

RNZ assessed the advertisement's wording against the good taste and decency standards in s.4(1)(a) and standard 1.1(b) and decided that they had not been breached. It also pointed out that the advertisement referred to beautiful and exotic "dancers", not "dancing girls" as alleged, adding that the word "dancers" did not contain the unsavoury implications which could be attributed to the term "dancing-girls".

Noting that the Broadcasting Standards Authority defined denigration as a "serious blackening", RNZ said that the advertisement referred specifically to "Bangkok nightlife" - not Bangkok or Thailand - and stated that the people of those places had not been dealt with unfairly. Further, as the advertisement did not refer to the nationality of the club's staff, it had not breached the standards which referred to a portrayal of people.

Neither aspect of the complaint was upheld.



Mr Smits' Complaint to the Broadcasting Standards Authority

As he was dissatisfied with RNZ's response, in a letter dated 20 June 1992 Mr Smits referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He argued that advertisements for the type of nightclub in question were either excluded or severely limited by the print medium and that the presence of such places were "generally restricted to 'red-light' areas of the inner city". Advertisements for the specific nightclub elsewhere, he continued, made it clear that the club offered various sexual services.

Mr Smits acknowledged that he had referred incorrectly to dancing girls but disputed RNZ's contention that the error had the degree of significance which it claimed. He also disputed RNZ's interpretation that a reference to Bangkok and its nightlife excluded a reference to the people of Thailand generally and, moreover, argued that it was clear from the advertisement that the dancers were Thais.

He repeated his arguments that the advertisement was inappropriate for a radio station owned by the government and that it was insensitive and offensive. He summarised RNZ's response to his complaint as pedantic and one which ignored the context of the advertisements and the implications to be drawn.

RNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter enclosing the papers is dated 1 July and RNZ's response, 9 July. RNZ sent an extensive reply as, it argued, Mr Smits had not fully understood either the nature and limitations of the complaints process or the programme standards.

RNZ pointed out that the advertisement did not promote a "topless girlie-bar". It accepted that Bangkok had a reputation for catering for sex tourists but argued that the advertisement's use of the word "Bangkok" on one occasion was not an obvious allusion to sex tourism. In response to the complaint that the advertisement's promotion on 1ZB Newstalk was in bad taste, RNZ responded that the context was of minimal bearing, unless placed for example among children's requests, and the question remained whether the advertisement itself was or was not in bad taste. RNZ maintained that it was not. Taking into account the Authority's interpretation of denigration, RNZ argued that the broadcast did not encourage denigration.

Referring to the formal complaints process, RNZ noted that it involved following the legislative criteria. The formal process, it continued, could be "literal and pedantic". Furthermore, it wrote:

This broadcast is a commercial; 1ZB is a commercial station, which broadcasts commercials. The commercial was not broadcast in an inappropriate programme slot (e.g., children's programmes); therefore the question of



programme context does not arise. Mr Smits is not entitled to attempt to support his allegation of a standards breach by the importation of unbroadcast connotation "baggage" derived from advertising in other media and evoked by a brief radio commercial which makes no reference, explicit or implicit, to much of it, and is in an entirely different style.

Nevertheless, for the Authority's information, the print material submitted to RNZ by Mr Smits was forwarded to the Authority. RNZ asked the Authority to note that much of the accompanying material referred to employment and that was not a matter relating to the commercial which was broadcast.

RNZ also provided the Authority with a detailed analysis of Mr Smits' letter of referral in which it explained why it had responded to the points discussed above. It also maintained that "dancing-girls" had different connotations to "dancers", and that Mr Smits' reasoning could be taken to suggest - unlike that of the advertisement - that all the citizens of Bangkok (or people in Thailand) were involved in or available for sex exploitation. RNZ also maintained that Mr Smits had been treated courteously at all time by RNZ staff.

Finally, noting that Mr Smits expressed the belief that the nightclub in question should not exist, RNZ commented:

The Authority may agree that Mr Smits' complaint is effectively against the existence of the Superstar-A-Go-Go bar, and any racist employment and recruitment policy it might have adopted or practised - not against a legitimate radio commercial, and not to be pursued as a broadcasting standards matter.

Mr Smits' Final Comment to the Authority

When asked to comment on RNZ's reply, in a letter dated 13 July Mr Smits maintained that the advertisement's reference to Bangkok was an implicit and significant reference to the sex industry. He distinguished radio from print advertising, pointing out that not all newspapers carried adult entertainment classifieds and, in those which did, it was easily possible to avoid them. After disagreeing in detail with most of RNZ's comments, he expressed his opinion that there were sufficient outlets for advertisements for "girlie-bars" etc and that talkback radio should be inoffensive.

The advertisement, he concluded, was culturally insensitive, it was damaging and hurtful to his Thai friends and it was acknowledged by some to be offensive.

