

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 64/92

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 PACIFIC LIMITED

of Auckland

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

Expressing his distaste for advertisements for massage parlours and for bars where staff were topless, Mr Smits complained to Radio Pacific Ltd about one specific commercial for a nightclub which referred to a "unique taste of Bangkok nightlife" where, for \$10, "another world" was offered "with beautiful and exotic dancers".

Mr Smits complained that the advertisement breached the good taste and decency requirement and, on behalf of Thai people, that the reference to Bangkok denigrated Thai people generally.

Radio Pacific, describing itself as an adult radio station, said that the advertisement did not breach the broadcasting standards and declined to make the moral judgment which, it added, would be necessary to withdraw the advertisement. As Mr Smits was dissatisfied with the broadcaster's response, he referred his 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 advertisement 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. The Authority records that it has received another complaint from Mr Smits about the same commercial when it was broadcast on Newstalk 1ZB.

Mr Smits complained to Radio Pacific that advertisements for topless bars and similar businesses 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.

Radio Pacific acknowledged that the advertisement could upset some people but, describing itself as an adult radio station, denied that the advertisement breached the broadcasting standards. It added that it neither breached the requirement for good taste and decency nor demeaned people.

In examining this complaint, the Authority has assessed the advertisement which was broadcast against s.4(1)(a) of the Broadcasting Act 1989 and standard 8.1 of the Radio Code of Broadcasting Practice. Section 4(1)(a) requires broadcasters to maintain standards which are consistent with the observance of good taste and decency and standard 8.1 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.

Because of the similarity of Mr Smits' complaints about the broadcasts on Radio Pacific and Radio New Zealand, the Authority records its reasons and its conclusions in its decision on the complaint against RNZ (Decision No: 63/92). It stated:

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

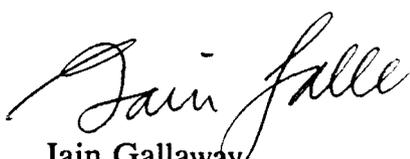
When examining the complaint that the advertisement encouraged the denigration of Thais, the Authority decided that the advertisement referred to exotic Thai dancers. It did not agree with Mr Smits that there was any implication about the availability of sexual services. Accordingly, it concluded that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

In view of the similarity of the complaints, the Authority considers that a similar decision is appropriate.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



10 September 1992

Appendix

Mr Phillip Smits' Complaint to Radio Pacific Limited

In a letter dated 16 June 1992, Mr Smits complained to Radio Pacific Ltd about some advertisements and referred specifically to one broadcast that evening.

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 Radio Pacific's format. The specific advertisement complained about, he added, breached the good taste and decency requirement.

Secondly, on behalf of some Thais, he stated that the same advertisement for a nightclub which offered a "unique taste of Bangkok nightlife" denigrated their homeland. The advertisement implied that the nightclub was typical of Bangkok which, he said, 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.

Radio Pacific's Response to the Formal Complaint

The Managing Director of Radio Pacific (Mr Derek Lowe) advised Mr Smits of the broadcaster's decision in a letter dated 22 June.

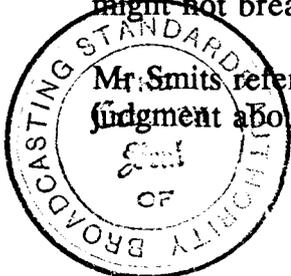
Mr Lowe acknowledged that the advertisement, like its counterparts in the press, could upset some people. However, describing Radio Pacific as an adult radio station, he denied that the advertisement breached the broadcasting standards. Further, it was essential in the current market to accept all advertising and, as the commercial was neither offensive nor denigratory, he was not prepared to make the moral judgment which would be necessary to ban the advertisement.

Mr Smits' Complaint to the Broadcasting Standards Authority

As he was dissatisfied with Radio Pacific's decision, in a letter dated 8 July Mr Smits referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

He contested Radio Pacific's description of itself as an adult radio station, suggesting that its role as "the people's voice" would be more accurate. He also stated that because a business was legitimate, that did not necessarily mean that its advertising might not breach the good taste and decency standard.

Mr Smits referred to one occasion in the past when Mr Lowe had made a moral judgment about an advertisement and said that talkback stations were now "bending



over backwards" for the "the flesh trade's advertising money". He also commented, with regard to a remark made by Mr Lowe about degrees of offensiveness, that he found the advertisement unacceptable and objected to its continuing broadcast while the Authority adjudicated his complaints.

Radio Pacific's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its request is dated 13 July and Radio Pacific's response, 16 July.

Mr Lowe, on Radio Pacific's behalf, acknowledged that the business being advertised might offend some people but, as the advertisement neither breached the good taste and decency standard nor demeaned people, its withdrawal was not justified.

He acknowledged that if a broadcaster could pick the businesses for which it carried advertisements, he would decline advertising the establishment in question. However, that was not an option in view of the competition for the advertisers' dollars among the 25 Auckland radio stations. He concluded:

The wages have to be paid. If it's legal, we'll probably advertise it.

Mr Smits' Final Comment to the Authority

When asked to comment on the broadcaster's reply, in a letter dated 22 July Mr Smits said that Mr Lowe was passing the buck rather than making a decision to ban an advertisement about which he felt uncomfortable.

Mr Smits contested Mr Lowe's remark when he said that Thai people were not demeaned. He wrote:

Let me assure the Authority, Thai people are offended. No, not all of them (of course) but I could come to Wellington and, with a bit of leg-work around the Thai restaurants, could produce the proof. No problem. Because I know the Thais. It only takes a bit of cultural sensitivity to understand what I'm saying.

He concluded by expressing his respect for Mr Lowe as a broadcaster.

