

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 119/93

Dated the 16th day of September 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

ROSS MILLER JP

of Pukekohe

Broadcaster

RADIO PACIFIC LIMITED

of Auckland

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

"If we all got a letter saying that a Ms Ruth Richardson had passed away, perhaps there would have been a wry smile around" was a remark made by presenter Ms Pam Corkery on Radio Pacific at about 11.40 on Sunday morning 11 July. She was referring to the death of a woman with the same name as the Minister of Finance.

Mr Miller complained to Radio Pacific Ltd that the remark was unprofessional, inflammatory and breached the broadcasting standard requiring good taste and decency. He said that unless decisive public action was taken, the broadcaster would be seen as condoning the offence.

Accepting that the remark had overstepped the bounds, Radio Pacific management censured Ms Corkery but, to avoid drawing further attention to the incident and to spare the family of the other Ruth Richardson any embarrassment, it declined to broadcast a public apology. Dissatisfied with the action taken by Radio Pacific, Mr Miller referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have listened to an audio tape of the broadcast complained about and have read the correspondence (summarised in the Appendix). They have also listened to a tape of the presenter's apology later broadcast as a result of a complaint from Ms Richardson, the Minister of Finance, and have read the letter of apology to her from the presenter (Ms Pam Corkery). As is its usual practice, the Authority has determined the complaint without a formal hearing.

In a Sunday morning talkback discussion on Radio Pacific about the Department of Social Welfare, a caller commented in passing that she knew that a person with the same name as the Minister of Finance had recently died. The presenter (Ms Pam Corkery) observed:

If we all got a letter saying that a Ms Ruth Richardson had passed away, perhaps there would have been a wry smile around.

She added immediately:

I think I've just overstepped the bounds actually.

Mr Miller complained by telephone to the presenter who had made the remark, to the Minister of Broadcasting when he was a presenter of a talkback session on Radio Pacific later that day and, on the following day, to Mr Derek Lowe, Managing Director of Radio Pacific. He said that the remark, which he described as unprofessional, inflammatory and an incitement to violence, was in breach of the broadcasting standard requiring good taste and decency. He believed that either a broadcast apology or a letter of apology to Ms Richardson, the Minister of Finance, was appropriate.

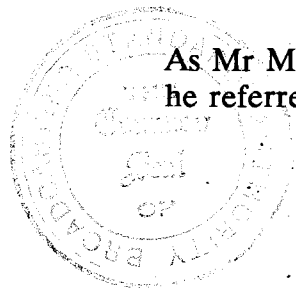
Standard 1.1(b) of the Radio Code of Broadcasting Practice requires broadcasters:

- (b) To take into consideration currently accepted norms of decency and good taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs:

Mr Lowe acknowledged to Mr Miller that the presenter had overstepped the mark. The presenter was experienced and was aware that the comment should not have been made. He said that he intended to censure her and, he later advised the Authority that, in view of the seriousness of the matter, the censure had taken place in the presence of the company's legal advisor.

Because the Minister of Finance had not complained and as a broadcast apology might embarrass the family of the woman who had died, Mr Lowe advised Mr Miller that he had decided not to ask the presenter to apologise to the Minister by letter or to listeners in a broadcast.

As Mr Miller was dissatisfied with Radio Pacific's action having upheld his complaint, he referred the matter to the Authority. He maintained that the lack of public action



by the broadcaster would be seen as Radio Pacific condoning the comment. In a later letter to the Authority, he suggested that the presenter's dismissal would be the broadcaster's appropriate action.

When commenting on the complaint to the Authority, Radio Pacific's Mr Lowe advised of the further action that had occurred since declining to follow the course of action Mr Miller had suggested initially. He reported that he had received other complaints including one from Ms Ruth Richardson, the Minister of Finance. Each complaint had been upheld and the presenter had sent a letter of apology to Ms Richardson. In addition, at Ms Richardson's insistence, a public apology had been broadcast by the presenter on Sunday morning, one week after the broadcast complained about.

Mr Lowe explained that in view of the possible embarrassment to the family of the Ruth Richardson who had died, he had been reluctant for Radio Pacific to broadcast an apology. However, when the Minister of Finance had insisted on one, he had ensured that it had also included an apology to the grieving relatives of the Ruth Richardson who had died.

Mr Miller was advised of these actions but continued to express his dissatisfaction that the action, which he had initially sought, had only come about following public pressure on management.

The issue for the Authority was whether Radio Pacific should have taken the action sought by Mr Miller - the letter of apology to the Minister and the broadcast apology - having upheld the complaint.

The Authority noted that the comment which was broadcast was highly offensive and that Radio Pacific, having upheld the complaint, had administered a censure to the presenter. Ms Ruth Richardson, the Minister of Finance, was understandably able to ensure that her own interests were protected and Radio Pacific duly received a complaint from her. Consequently, although the Authority understood Mr Miller's belief that a letter of apology to the Minister was an appropriate response initially, it decided that Radio Pacific's decision not to write such a letter in response to his complaint did not contravene the broadcaster's obligation to take appropriate action having upheld a complaint.

Similarly, the Authority appreciated why Mr Miller had advanced the case for a broadcast apology. The Authority also acknowledged Radio Pacific's concern that such a broadcast might, on balance, increase the degree of the offensiveness of the remark which the family of the late Ms Richardson might feel. After the Minister insisted on the broadcast of an apology, Radio Pacific ensured that it included an expression of concern for the deceased's person's family.

In view of the competing arguments, and as Mr Miller was not referred to in the offending remark, the Authority decided that Radio Pacific's initial decision not to broadcast an apology was not an inappropriate action in the circumstances.

While appreciating Mr Miller's annoyance that the actions he had sought from the outset



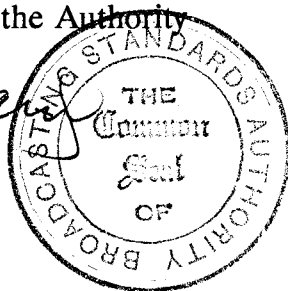
had occurred only after the intervention of other complainants, the Authority noted that Ms Richardson, the Minister of Finance, one of the other complainants, was a major public figure and had been referred to during the broadcast in an offensively personal manner. Her expectations of the action to be taken could justifiably be given greater weight than those of other complainants and, the Authority decided, the broadcaster responded responsibly. The Authority was of the opinion that Mr Miller could feel some satisfaction that the action he required was, in due course, carried out by the broadcaster.

For the reasons set forth above, the Authority declines to uphold Mr Miller's complaint that the action taken by Radio Pacific Ltd, having upheld his complaint about a broadcast on Sunday morning 11 July 1993, was insufficient.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



16 September 1993

Appendix

Mr Miller's Complaint to Radio Pacific Limited

Mr Ross Miller JP of Pukekohe was concerned about a remark by Radio Pacific presenter (Ms Pam Corkery) at about 11.40am on 11 July 1993. He complained first to the presenter and then to the Hon Maurice Williamson, Minister of Broadcasting, when he was the presenter of a talkback session on Radio Pacific later that day. Mr Miller also complained to Mr Derek Lowe, Managing Director of Radio Pacific Ltd, by telephone on Monday 12 July.

Referring to a remark from the presenter which Mr Miller said was to the effect that many people would be very happy if Ruth Richardson, the Minister of Finance, were to die, Mr Miller said that although the presenter had apologised immediately, the comment indicated that she was not a fit and proper person to be allowed behind a microphone. Her remark, he continued, was unprofessional and inflammatory and as well as possibly being an incitement to violence, breached the broadcasting standard requiring good taste and decency. Mr Miller maintained that the presenter's comment was inexcusable and required either a letter of apology to Ms Richardson or a broadcast apology.

Radio Pacific's Response to Mr Miller

Mr Derek Lowe, Managing Director of Radio Pacific, responded to Mr Miller's telephone complaint with a letter dated 13 July 1993. Recording that he preferred complaints to be in writing, Mr Lowe stated that Ms Corkery's comment on this occasion was "most inappropriate" when she said:

If we all got a letter saying that a Ms Ruth Richardson had passed away, perhaps there would have been a wry smile around.

He added that she acknowledged at the time that she had overstepped the mark. Mr Lowe stated that he had arranged to discuss the matter with her at which time she would be censured. He noted that talkback, as a live medium, required care from hosts when making remarks about named people and that it was a comment that an experienced presenter should not have made.

Because Ms Richardson had not complained and because a further reference to the incident on the air might embarrass the family of a woman (also Ruth Richardson) who had recently died, Mr Lowe said he had decided not to ask the presenter either to write a letter of apology or broadcast an apology. Apologising for any offence that the remark had caused Mr Miller, Mr Lowe stated:

Be assured that Pam knows exactly how I feel and that I consider she exercised very poor judgment on this occasion.



Mr Miller's Complaint to the Broadcasting Standards Authority

Dissatisfied with Radio Pacific's decision not to ask the presenter to apologise directly to Ms Richardson or broadcast an apology, Mr Miller referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Arguing that the presenter's comment was inexcusable, he considered that the lack of decisive public action would be interpreted as if Mr Lowe was actively condoning the behaviour.

Radio Pacific's Response to the Authority

Mr Derek Lowe as Radio Pacific's Managing Director responded to the Authority in a letter dated 28 July 1993 in which he advised that the Minister of Finance, the Hon Ruth Richardson, had now also complained formally. Her complaint had also been upheld and Ms Corkery had apologised to the Minister privately by letter and in a broadcast at the same time on Sunday morning one week after the offending broadcast.

In a later letter dated 5 August, Mr Lowe provided the Authority with a transcript of a broadcast apology and a copy of the presenter's letter to Ms Richardson.

Referring to Mr Miller's complaint, Mr Lowe said that he could not understand why Mr Miller had not used the specific words used in the broadcast, when he completed the Authority's Complaint Referral Form, rather than a summary which accentuated the unprofessionalism of the remark after he had been provided with a transcript some two weeks previously.

Mr Lowe noted the history of the complaint and reported that at his meeting with the presenter (of which Mr Miller had been advised) she had been told "quite bluntly" that it was a "most inappropriate remark to make". Subsequently, a complaint was received from Ms Richardson (Minister of Finance) and the presenter wrote her a letter of apology. Mr Lowe said that although he was concerned that a public apology might embarrass the other Ruth Richardson's family, he was prepared to broadcast an apology should one be requested by the Minister. She had so requested and one was broadcast and it also included an apology to the other Ruth Richardson's family. The Minister has also asked that the apology be included on the news service but she had withdrawn that request when it was pointed out that the news service was operated by Independent Radio News which had separate editorial considerations.

Mr Lowe also noted that he had received, and had upheld, two other complaints about the comment. He concluded:

Under all the circumstances I don't believe that I could have acted any faster or any more fairly. The inquiry into this particular broadcast was initiated by



myself, before I had even received a phone call or letter from any complainant. I acted after hearing the matter discussed on the air on Sunday evening July 11. I had already arranged to meet Pam Corkery to discuss the remark she had made, before Mr Miller phoned me on July 12. After I heard a tape of the broadcast myself I decided that Pam Corkery should be censured for the remark and I took the appropriate action. To reinforce the seriousness of the matter I arranged for the company's legal adviser to be present. As other complaints came to the station they were dealt with as quickly as possible, usually on the same day they arrived.

Deregulation and self-regulation impose responsibilities on broadcasters to act themselves when they believe a broadcast has taken place which breaches generally accepted standards. That occurred on this occasion and I consider that Radio Pacific acted properly and professionally.

Mr Miller's Final Comment to the Authority

When asked for a comment on Radio Pacific's response, in a letter dated 12 August 1993 Mr Miller said he based his written record of the remark made on his recollection without the benefit of a transcription service. Regular listeners of Radio Pacific, he added, were aware of Ms Corkery and Ms Richardson's mutual dislike. He continued:

That is the basis of my complaint. No broadcaster can ever allow his or her personal prejudices to show forth in such a crass and insensitive way.

Maintaining that the management of Radio Pacific had only acted in response to public pressure, he persisted that much more decisive action should have occurred because of the gravity of the offence. Referring to his own experience as a continuity announcer and a news reader, he said that contract termination would have occurred had he made similar remarks to that of the presenter on this occasion.

