

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 124/93

Dated the 29th day of September 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

D.W. BRANDON
of Hamilton

Broadcaster
RADIO PACIFIC LIMITED
of Auckland

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

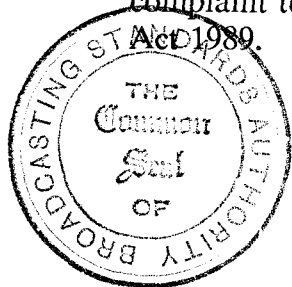
DECISION

Introduction

"Is the trickle down theory the rich pissing on the poor?", asked the presenter (Ms Pam Corkery) on Radio Pacific shortly before 8.00am on Monday July 12. She had repeated the comment made by a member of the audience during a two hour talkback session broadcast from an Auckland hotel with three guests from the New Zealand Business Roundtable.

Mr Brandon complained to Radio Pacific Ltd that the comment breached the broadcasting standards requiring the observance of good taste and decency and that broadcasters be mindful of the effects of programmes on children.

Pointing out that children were not the target audience and maintaining that the language was acceptable provided it was not used in an offensive way and, furthermore, that it was frequently used in everyday language, Radio Pacific declined to uphold the complaint. Dissatisfied with the broadcaster's decision, Mr Brandon referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting



Decision

The members of the Authority have listened to an audio tape of the talkback session in which the comment complained about was made and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

Three representatives of the New Zealand Business Roundtable were guests on a talkback session on Radio Pacific on 12 July. The broadcast from 7.00 - 9.00am, from Auckland's Regent Hotel, included guests Mr Douglas Myers, Mr Roger Kerr and Dr Roderick Deane and they were interviewed by presenter Ms Pam Corkery.

The country's economic policy was the issue and the discussion between the guests and the presenter, while always animated, included at times some vituperative comments about the bases of the respective points of view advanced.

Shortly before 8.00am, the presenter commented:

Someone from the crowd just said is the trickle down theory the rich pissing on the poor?

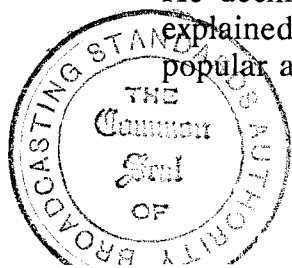
Mr Brandon complained to Radio Pacific that the comment breached the standard requiring good taste and decency and the standard which requires that broadcasters be mindful of the effect of programmes on children during their generally accepted listening periods.

Radio Pacific assessed the complaints under standards 1.1(b) and (c) of the Radio Code of Broadcasting Practice. They require 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:
- (c) To be mindful of the effect any programme may have on children during their generally accepted listening periods:

Dealing with the 1.1(c) complaint, the Managing Director of Radio Pacific (Mr Derek Lowe) commented that the talkback format did not appeal to young and impressionable listeners, especially during a debate on economic issues.

As for the good taste and decency aspect of the complaint, Mr Lowe pointed to the provision in the standard which requires that the context of a programme had to be taken into account. In view of that provision, he observed that the presenter had in fact repeated a comment made by a member of the audience and, further, that the word "piss" - as in "piss off" or "pissing on" - was quite frequently used in everyday language. He declined to uphold the complaint. In a later letter to the Authority, Mr Lowe explained that the presenter's "down-to-earth" advocacy for middle New Zealanders was popular among Aucklanders as was disclosed by the station's ratings. That popularity,



he continued, indicated that the presenter's style and language was not offensive to many people. Referring to the increasing number and differing styles of radio stations in Auckland, he argued that it allowed individual stations to be a little more adventurous.

With regard to the good taste and decency issue, the Authority believed that the broadcast's context was relevant. While it acknowledged that the particular host's style could at times be provocative, it was not prepared to accept the broadcaster's argument that the style of a particular host was the lynchpin on which good taste and decency complaints should be determined. It accepted that hosts have differing styles and that audiences were targetted carefully but that aspect of "context" was not sufficient to justify a programme which otherwise failed to meet the good taste and decency standard.

However, the Authority was prepared to give a good deal more weight to another aspect of context and that was the point that the comment complained about occurred during a talkback programme. The talkback format, the Authority accepted, involves "give and take" and such exchanges can be robust, passionate and colloquial. Taking into account, in addition, the point that the ribald comment complained about was a repetition of a remark made by a member of the audience, that it was relevant to the discussion and that it was repeated with a touch of humour, the Authority was prepared to accept that the broadcast did not in that context breach standard 1.1(b).

The Authority then considered the standard 1.1(c) aspect of the complaint - bearing children in mind - and agreed with Radio Pacific that the talkback format used by Radio Pacific would not appeal to the younger listener, especially when economic issues were the subject of a two hour debate. Accordingly, it decided as the programme did not comprise material which would appeal to children and was not particularly offensive, that standard 1.1(c) had not been contravened.

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



29 September 1993

Appendix

D.W. Brandon's Complaint to Radio Pacific Limited

In a letter dated 14 July 1993, Mr D.W. Brandon of Hamilton complained to Radio Pacific Ltd about a broadcast on Radio Pacific from Auckland's Regent Hotel shortly before 8.00am on Monday 12 July.

The host, Mr Brandon wrote, using words along the lines of "The rich pissing on the poor", breached the broadcasting standards requiring good taste and decency and being mindful of the effect of programmes on children during their generally accepted listening periods.

Radio Pacific's Response to the Formal Complaint

The Managing Director of Radio Pacific (Mr Derek Lowe) advised Mr Brandon of the broadcaster's decision on the formal complaint in a letter dated 20 July 1993.

The comment complained about, he stated, had been made during a two hour "live" broadcast when the presenter's (Ms Pam Corkery) three guests were three successful spokespeople for the free market ideology. During the frank discussion which was at time heated, the presenter said:

Someone from the crowd just said is the trickle down theory the rich pissing on the poor?

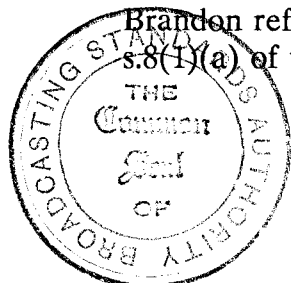
Mr Lowe said that the remark had to be placed in context in that it involved the presenter repeating a comment from a member of the public.

The broadcaster declined to uphold the complaint on the basis that the word "piss" was quite frequently used in everyday language. Moreover, Radio Pacific appealed to an older audience and young and impressionable children did not listen - especially during a debate on economic issues.

Although the complaint was not upheld, Mr Lowe apologised that the comment might have offended Mr Brandon but because talkback tried to reflect the way people felt, he believed that the presenter was justified on this occasion in letting listeners hear what one of the audience had just said.

Mr Brandon's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with Radio Pacific's response, in a letter dated 26 July 1993 Mr Brandon referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



There was no reason, he maintained, why the presenter should repeat a remark from a member of the audience and swearing on radio should not be tolerated. He added that the same word had been used by Radio Pacific in a broadcast on 25 July and he expressed by deep concern about the escalation of bad language by that particular station.

In the Authority's Complaint Referral Form, he stated:

There is no need for an articulate person to resort to swearing to make or express a point on a radio broadcast.

Radio Pacific's Response to the Authority

Mr Lowe, in a letter dated 2 August 1993, forwarded the tape of the full two hour broadcast to ensure that the Authority was aware of the context of the comments.

He responded to the Authority's request for comment on the complaint in a letter dated 5 August when he said he had little to add to his earlier remarks to Mr Brandon. The presenter, Mr Lowe stated, projected herself as a down-to-earth advocate for the rights of middle New Zealand and that was reflected in her language and choice of words. Moreover, Mr Lowe continued, bad language could be amusing to one person and offensive to another. In view of the large number of radio stations in Auckland, the complainant could choose not to listen to a particular presenter if the presenter's style was found offensive. If the presenter's style was unacceptable to many, he observed, listeners would switch off and a recent survey disclosed that Ms Corkery was very popular with Aucklanders over the age of 10

... and that leads me to assume that her language and style isn't offensive to many people.

He concluded:

Radio Pacific doesn't uphold Mr Brandon's complaint. One of the advantages of deregulation which has spawned a proliferation of radio stations in most markets is that both hosts and callers can probably express themselves more colourfully and with more passion than before. In other words as more and more radio stations are available to listen to, each of the stations can probably be a little more adventurous and push the boundaries a bit further.

Mr Brandon's Final Comment to the Authority

When asked for a comment on Radio Pacific's response, in a letter dated 15 August Mr Brandon expressed concern that as stations pushed boundaries in the "chase for the mighty dollar", standards would continue to deteriorate.

