

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 70/93

Dated the 14th day of June 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

PETER BOYS
of Auckland

Broadcaster
RADIO NEW ZEALAND
LIMITED

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

DECISION

Introduction

"A male chauvinist bastard" was the self-description used by the presenter (Leighton Smith) on *Newstalk 1ZB* at about 11.30am on 19 March 1992.

Mr Boys complained to Radio New Zealand Ltd that the word "bastard" was offensive and unacceptable and that it breached the broadcasting standards.

Arguing that the host's use of the colloquial term to describe himself was acceptable on a talkback programme on a commercial radio station, RNZ declined to uphold the complaint. Dissatisfied with that decision, Mr Boys 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 an audio tape of part of the programme 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 Boys complained to RNZ about the host's use of the word "bastard" on *Newstalk 1ZB* at about 11.30am on 19 March. Stating that he found the use of the offensive word unacceptable, Mr Boys urged that the broadcaster be cautioned or fined.

RNZ assessed the complaint under s.4(1)(a) of the Broadcasting Act 1989 and standard 1.1(b) of the Radio Code of Broadcasting Practice. The former requires broadcasters to maintain standards which are consistent with the observance of good taste and decency while the latter 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.

Denying that the broadcast of the word "bastard" was intrinsically offensive, RNZ argued that it was a word commonly used in everyday conversation and whether it was intended to insult depended on the context in which it was used. Referring to the circumstances of the discussion in which the colloquial word had been used on this occasion - a discussion about individual responsibility to avoid dangerous situations - and noting that it had been used on a commercial talkback station, RNZ declined to uphold the complaint.


In considering the complaint, the Authority first noted that there is a considerable overlap between the standards under which RNZ assessed the complaint. Both refer to "good taste and decency" and, although only the radio standard specifically refers to context, the Authority is of the opinion that the good taste and decency concept in section 4 of the Act can only be meaningfully applied when consideration is given to context. Consequently, on this occasion, the Authority decided that requirements of s.4(1)(a) of the Act totally overlapped with those of standard 1.1(b).

The Authority then decided that the use of the word "bastard" in a broadcast was not inevitably a breach of the good taste and decency requirement. Consideration had to be given to context which meant both the specific situation in which it was used and the programme on which it was broadcast.

In the view of the Authority, the important points were that the word "bastard" had been used during the broadcast as a self-description and it had not been used intentionally to offend. Indeed, rather than use the word aggressively or vehemently, it had been used by the host almost apologetically as part of a commonly used colloquial phrase. With regard to the programme, the Authority noted that the word was used on a commercial talkback station at an hour at which adults would comprise the bulk of the listeners. Taking these points into account, the Authority decided that the use of the word "bastard" in this context had not breached the broadcasting standards.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
14 June 1993



Appendix

Mr Boys' Complaint to Radio New Zealand Limited

In a letter dated 22 March 1993 (copied to the Minister of Broadcasting and the Broadcasting Standards Authority), Mr Boys complained to Radio New Zealand Ltd about the language used by the presenter (Leighton Smith) on *Newstalk 1ZB* at about 11.30am on the morning of 19 March.

The presenter, Mr Boys said, had used the word "bastard", which he found offensive, unacceptable and in breach of the broadcasting standards. He suggested that the broadcaster be cautioned or fined or otherwise punished as appropriate.

RNZ's Response to the Formal Complaint

RNZ advised Mr Boys in a letter dated 26 March 1993 that the complaint had been assessed against s.4(1)(a) of the Broadcasting Act 1989 and standard 1.1(b) of the Radio Code of Broadcasting Practice, both of which refer to good taste and decency.

RNZ pointed out that the dictionary listed a number of definitions for the word "bastard", that it was a word commonly used in everyday conversation and whether it conveyed an intention to insult depended on the context in which it was used. In the present case, RNZ continued, the presenter has used it about himself, obviously with "oral quotation marks", in view of his previous comments.

Denying that the word was intrinsically offensive, RNZ argued that its use on this occasion in a colloquial context on a commercial talkback station was neither indecent nor in bad taste. It declined to uphold the complaint.

Mr Boys' Complaint to the Broadcasting Standards Authority

Dissatisfied with RNZ's decision, in a letter date 30 March 1993 Mr Boys referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.

Describing the word as bad-mannered foul language, Mr Boys maintained that context was irrelevant as the word should not have been broadcast in any circumstances. He expected that the broadcaster would be reminded of its obligations to comply with the broadcasting standards, an apology and notification that the presenter had at least been censured.

RNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its



letter is dated 22 April 1993 and RNZ's reply, 27 April.

RNZ explained that the talkback discussion on the morning of 19 March had referred to the rape of a young woman who had spent the evening in a hotel which served women with free drinks and the callers had considered the responsibilities of the various parties. The presenter had argued that people, if they put themselves in a bad situation, had to take some responsibility for the consequences. The presenter added, after that comment, that he expected callers to describe him as "a male chauvinist bastard".

Arguing that the use of the word was offensive only if used intentionally to offend or to refer to other people, RNZ said it did not endanger the good taste and decency standards when used to describe oneself as in the present circumstances. It continued:

In summary, the Company considers that, especially in the accepted "robust" context of adult talk-back, the word and its specific application by Smith to himself as a commonly heard epithet, is not capable of offending normal community standards. It is a matter of record that no other complaint, written or telephoned, was received concerning the word (nor, in fact, did a caller subsequently call Smith a "male chauvinist bastard").

Acknowledging that the absence of other complaints may not always be relevant, RNZ stated that it was on this occasion as it provided a gauge for "average community standards".

As an additional point, RNZ noted that Mr Boys, despite the advice he had received, did not always follow the formal complaint procedure in his frequent correspondence with the company. For example, he had referred in his Complaint Referral Form to the irrelevant privacy provisions. RNZ concluded:

Nevertheless, the consideration of the present complaint was no less serious and careful than that the Company has given to any it has received, from Mr Boys or from any other complainant.

Mr Boys' Final Comment to the Authority

Mr Boys was sent a copy of RNZ's response to the Authority for comment if he wished to do so but a reply has not been received.

