

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 89/93
Dated the 3rd day of August 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

CREDO SOCIETY INC.
of Auckland

Broadcaster
ACCESS COMMUNITY RADIO
AUCKLAND INC.

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

DECISION

Introduction

The Reverend Fred Nile, leader of the Call to Australia Party, was described as a person who advocated the isolation of gays and the mutilation of AIDS sufferers on a Radio Gala programme broadcast between 8.15 - 9.15pm on 19 January 1993 by Access Community Radio in Auckland. Gala is an acronym for gays and lesbians on air.

The Secretary of the Credo Society Inc., Mrs Barbara Faithfull, complained to Access Radio that the statement was wrong and that a correction and apology for the allegation were in order.

Access Radio referred the complaint to Radio Gala which arranged for an apology to be broadcast directed at those who did not realise that the comment was the personal opinion of the person being interviewed. Maintaining that the apology which was broadcast was totally inadequate, the Credo Society referred the 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 a tape of the apology broadcast on 16 March 1993 and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

Upon receipt of the complaint, the Authority asked Access Radio to provide a copy of the tape of the broadcast on 19 January to which the complaint referred. The broadcaster has provided the Authority with a tape of the apology broadcast on 16 March but has been unable to provide a copy of the original item. The Authority expresses its displeasure at this turn of events. It trusts that Access Radio in Auckland has put in place a procedure to ensure that when complaints are made within the statutory time limit, as this one was, a tape is available should the complaint be referred to the Authority.

The Authority asked Mrs Faithfull of the Credo Society if she had a copy of the item on 19 January. Expressing her concern at the quality of the recording, she supplied the Authority with a tape and it has been sufficient to confirm that the comment the Society complained about had been transcribed reasonably accurately.

Mrs Faithfull, Secretary of the Credo Society, complained to Access Radio that a comment made during a broadcast by Radio Gala on 19 January was inaccurate. Furthermore, as the comment was inflammatory in its reference to the Reverend Fred Nile, the leader of the Call to Australia Party, she requested a correction and apology. The item on Radio Gala involved an interview with the editor of the newspaper "Man-2-Man" who alleged that Mr Nile advocated the physical isolation of gays and the mutilation of AIDS sufferers. According to the complainant, Mr Bennie said that Mr Nile

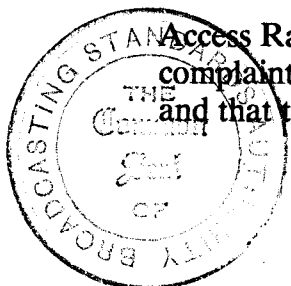
reckons basically gays should be put on an island and shot and ones with AIDS should be put on an island and strangled and mutilated.

In collaboration with Access Radio, Radio Gala broadcast an apology on 16 March. The full text of the apology is included in the Appendix but a number of the relevant points were incorporated in the apology's final paragraph which read:

If it was not clear that Mr Bennie [the editor of "Man-2-Man"] was expressing his own opinion, then Radio Gala regrets and apologises for any unfair statement or inference regarding Mr Fred Nile during the Radio Gala Programme of the 19th January.

On Credo's behalf, Mrs Faithfull referred the complaint to the Authority on the basis that the apology was ambiguous and deceptive. To describe Mr Bennie's remark as an opinion, she added, was "facile nonsense" and the apology was "utterly meaningless"

Access Radio provided the Authority with Radio Gala's comments on the referral of the complaint. Noting that its broadcast was designed for and directed at gays and lesbians and that the comments were part of a gay banter between the presenter and Mr Bennie,



Radio Gala argued that it had responded to the complaint professionally and promptly. Further, while maintaining that the intended audience would have appreciated that the remark was an "over-the-top" opinion and that it was not made maliciously, Radio Gala nevertheless expressed regret that the complainant had taken offence but believed that it had responded appropriately. Nothing further, it considered, would be gained from a further broadcast.

As a final comment to the Authority, Mrs Faithfull expressed her view that "militant homosexual activists", when broadcasting on publicly funded radio, should be required to act as responsible and professional broadcasters.

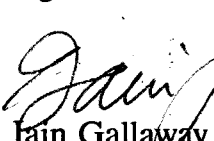
The Authority's task with this complaint was to determine whether the action taken by the broadcaster was sufficient in view of the matter complained about. When examining the broadcast on Radio Gala on 19 January, it considered that two matters were of particular importance. The first was the complainant's argument that, contrary to the thrust of the apology, the comment which was broadcast was more than an opinion. The comment alleged that Mr Nile advocated the isolation of gays and the mutilation of those with AIDS. That remark, the Authority decided, could not be called just an opinion. The second important matter to the Authority was that the comment was made, not by the presenter, but by a guest. The Authority also decided that the type of programme had to be kept in mind in that it was a broadcast for gay men and women by gay men and women. Nevertheless, the Authority noted that neither the type of broadcast nor the type of programme justified any reason or excuse for not complying with the Radio Code of Broadcasting Practice.

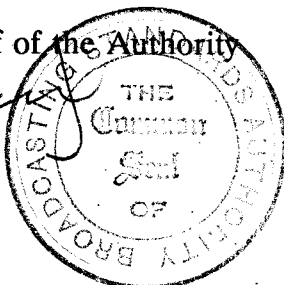
With these matters firmly in mind, the Authority examined the broadcast on 16 March which Access Radio described as Radio Gala's apology. Access added that programme makers made their own apology, in consultation with Access Radio, as it enabled them to develop broadcasting skills.

The Authority appreciated Credo Society's scepticism at the quality of the apology as it emphasised that the comment to which the apology was related was an opinion. Should it have maintained that position through to the end of the broadcast, the Authority could well have concluded by upholding the complaint. However, in the final sentence, it was stated that the broadcaster "regrets and apologises for any unfair statement or inference". When that comment was related to the fact that the remark was made by an interviewee and that most listeners would have realised its exaggerated nature, the Authority was prepared to accept that the apology, although marginal, was sufficient on this occasion. It would add, however, that should a similar broadcast recur, a more forthright apology would be expected.

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson
3 August 1993



Appendix

Credo Society Inc.'s Complaint to Access Community Radio Auckland Inc.

In a letter dated 10 February 1993, the Secretary of the Credo Society Inc. (Mrs Barbara Faithfull) complained to Access Community Radio Auckland about the "homosexual programme Radio Gala" broadcast between 8.15 - 9.15pm on Tuesday 9 January 1993.

The programme had included an interview with Mr Bennie, editor of the "Man-2-Man" newspaper, who had referred to an Australian, the Reverend Fred Nile, who was the leader of the Call to Australia Party. Mr Bennie had said that Mr Nile basically advocated the physical isolation of gays and the mutilation of AIDS sufferers.

Pointing out that she had checked the "inflammatory" remark with Mr Nile's office, Mrs Faithfull said that it was categorically denied that he had ever made such a statement. Accordingly, Mrs Faithfull continued, the broadcast breached the broadcasting standard which requires factual accuracy. Furthermore, if Mr Bennie was unable to substantiate his "outrageous allegation", a correction and apology would appear to be in order.

Access Radio's Response to the Formal Complaint

Access Radio's station manager (Leona Bresnehan) advised the complainant in a letter dated 18 March that, following discussions, Radio Gala intended to begin their broadcast on 16 March with an apology. A copy of the text was enclosed which read:

You're listening to Radio Gala, Gays and Lesbians on-Air, broadcasting on Access Community Radio Auckland.

Radio Gala and Access Community Radio Auckland do not necessarily agree with opinions expressed during this or any other programme.

During a Radio Gala programme broadcast live on Tuesday 19 January, a Mr Jay Bennie, publisher of the gay newspaper "Man-2-Man" was interviewed with regard to an up-coming issue of that publication. Mr Bennie expressed an opinion, relating to an article in that issue regarding the recent visit to New Zealand of Australian personality, Mr Fred Nile.

An Access Radio listener has complained about that opinion expressed by Mr Bennie concerning statements supposedly made by Mr Nile.

If it was not clear that Mr Bennie was expressing his own opinion, then Radio Gala regrets and apologises for any unfair statement or inference regarding Mr Fred Nile during the Radio Gala Programme of the 19th of January.



Credo Society's Complaint to the Broadcasting Standards Authority

As the Society was dissatisfied with the contents of the apology, in a letter dated 3 April 1993 Mrs Faithfull referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Arguing that Access Radio should have taken a greater responsibility when it realised the validity of the complaint, Mrs Faithfull said that the Radio Gala personnel showed both an abysmal level of judgment and a confusion about broadcasting standards. The apology, she continued, was ambiguous and an exercise in deception. It was "facile nonsense" to maintain that Mr Bennie had simply been expressing an opinion and that the complaint only focused on his opinion. The apology, by referring to that opinion, was "perverse obfuscation" and "utterly meaningless".

Mrs Faithfull added:

Not only, then, has this most damaging statement not been corrected, but also more confusion has been generated. There has been no clear unequivocal acknowledgment, no admission of liability, that there even was a factual error broadcast or that an injustice had been done to Rev. Nile and, by implication very likely a great many other people also who share his views on homosexual-related matters. Therefore sadly we conclude that a veritable whitewash and a sham have been the result.

She urged that Access Radio be required to broadcast a clear statement that the offending statement was incorrect and an appropriate apology to Mr Nile and to listeners in general.

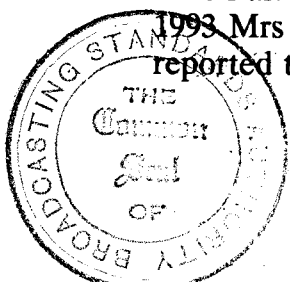
Access Radio's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 13 April 1993 and Access Radio's reply, 25 May.

Dealing with the allegation that it had delegated considerable responsibility to Radio Gala, Ms Bresnehan argued that requiring programme makers to be responsible for their own apologies was part of the training process included in Access Radio's constitution. Ms Bresnehan also enclosed a copy of a letter to Radio Gala in which it had also been asked to contact Mr Bennie to obtain verification of his comments and his reason for making them.

Credo Society's Final Comment to the Authority

When asked to comment on the response from Radio Access, in a letter dated 2 June 1993 Mrs Faithfull on the Society's behalf declined to do so until Radio Gala had reported to Access Radio on the source of Mr Bennie's comments.



Access Radio's Further Response to the Authority

In a letter dated 23 June 1993, Access Radio sent the Authority a copy of a letter it had received from the producer/presenter (Mr Stephen Stehlin) of the Radio Gala programme on 19 January about which the Credo Society had complained.

Having been unsuccessful in its search for material to justify the comments which were broadcast and accepting the complainant's account of the programme's contents, Mr Stehlin argued that Radio Gala had responded to the original complaint both professionally and promptly. He continued:

I agree that the things said about Mr Nile were outrageous etc, but I would like the Broadcasting Complaints Authority to remember that Radio Gala has been broadcasting for something like seven years now and it has a very specific audience: that is Gays and Lesbians. They would have understood that the comments made were over the top, but they would have also understood that the comments were opinion and were part of a gay banter between Jay [Bennie] and myself. It is regretted that Mrs Faithfull chose to record the programme but it wasn't intended for her. In fact I believe that that is the point of Access Radio; to give a voice and expression to those outside of mainstream broadcasting. In that respect, Mrs Faithfull's assertions that we hold a particular point of view are correct.

Mr Stehlin explained further the context in which the remarks were made and, while acknowledging that that did not excuse them, added that the comments about a public figure were not made maliciously.

He expressed regret that the complainant had taken offence but believed the response was appropriate and thought that there was nothing to be gained from any further broadcast on the matter.

Credo Society's Second Final Comment to the Authority

When asked to comment on Radio Gala's comments, in a letter dated 5 July 1993 Mrs Faithfull on the Society's behalf began:

The Radio Gala people have presented not a shred of evidence to substantiate Mr Jay Bennie's scurrilous and outrageous allegation about Rev. Fred Nile made on the above-mentioned programme. Nor have they even referred to his likely reasons for having done so, let alone answered this question put to them by Access Radio.

Mrs Faithfull suggested that Radio Gala be required to broadcast the original allegation followed by a clear and unequivocal statement that it was untrue.

Mrs Faithfull also commented about some of the other remarks in Mr Stehlin's letter, observing:



We of this Society wish to place on record our ongoing concern that the privilege of public broadcasting, and via the publicly funded Access Radio, is at times entrusted to less than responsible people with a sharp axe to grind. In this instance militant homosexual activists who appear either unable or unwilling to subjugate their narrow ideological interests to the wider cause of responsible and professional broadcasting.

Declining to accept Access Radio's excuse that it was a training ground for broadcasters, Mrs Faithfull maintained that the incident, along with the fact that the broadcaster was unable to supply a tape of the programme, displayed an "abysmal level of accountability" on Access Radio's part.

