

broadcast. The tone of the item was deemed to be consistent with the long-standing Radio Hauraki tradition of 'sending up' current events deemed to be of minor importance."

Complaint to the Tribunal

After receiving this letter, 89FM brought their complaint to the Tribunal. 89FM attached their letter to Radio Hauraki and Radio Hauraki's reply. They said:

"... We are concerned that the growing trend where commentary under the guise of news is allowing radio stations to make unsubstantiated attacks on organisations or people. In this instance we feel that this attack on the 89FM news broadcast was in breach of the radio standards and rules and we re-register our initial complaint."

"The complaint should have been upheld and the news commentator concerned disciplined and made more aware of what is required from responsible journalism as regards news comment."

Radio Hauraki's Submissions to the Tribunal

The formal complaint was referred to Radio Hauraki who in a letter dated 15 December 1988 advised that their submissions were those set out in their original reply to 89FM set out above. They continued:

"We note that 89FM has not explained why it considers that reply unsatisfactory.

"We submit that 89FM's expression of concern 'at the growing trend where commentary under the guise of news is allowing radio stations to make unsubstantiated attacks on organisations or people' has been made without evidence to support it and is anyway a general comment without reference to the specific complaint against Hauraki.

"Finally, we note that the Broadcasting Rules Committee has recently rescinded rule 2.3, which is the rule upon which the 89FM complaint substantially relies. We believe that the 89FM complaint was prompted by the Tribunal's decision 37/88 which referred to editorial comment. Given that the Broadcasting Rules Committee's response to that decision was to rescind rule 2.3, we submit that 89FM's concern about editorialising is not shared by the BCNZ or the IBA which have endorsed the rules change."

Decision

The Tribunal rules as follows:

Rule 2.3 (Editorials on Matters Specified Not Permitted): This rule was in force at the time that the complaint was made but the editorialising did not deal with any political or religious matters, industrial disputes or matters of public controversy so we do not uphold the complaint of a breach of this rule.

In short, we accept Radio Hauraki's submission.

Rule 4.2 (a) (Listeners Should Be Able to Distinguish Factual Reporting from Comment, Opinion and Analysis): The Tribunal rules that there was no attempt to distinguish factual reporting from comment, opinion and analysis.

The Tribunal upholds the complaint in this respect.

Rule 4.2 (b) (News Must Be Presented Accurately, Objectively and Impartially): The Tribunal is unable to comment on the accuracy of Hauraki's news item. Clearly the reference to '89 times' was a 'send up' of the station's frequency and identification. However it was certainly lacking in objectivity and impartiality and again the complaint is upheld.

Rule 4.2 (e) (Care in Editing) The Tribunal finds that this is not an appropriate rule to deal with this matter—the complaint is not upheld under this heading.

Rule 4.2 (g) (Responsibility to be Fair): Again, this rule, which

is intended to ensure that different sides to a controversy get a fair hearing, is inappropriate.

The Tribunal declines to recommend that the news commentator concerned should be disciplined.

We considered electing not to determine the complaint which was in the nature of part of a competitive joust between stations. And apparently there has been no repetition of such items.

We do not regard these breaches as having been very serious—the item was obviously meant, in part at least, in fun.

We decided to give a decision to emphasise that news bulletins should not be used to mix facts, information, satire, irony and factual inaccuracies into an item of commercial rivalry. If the station's news is to be relied upon by the casual listener, it should remain sacrosanct from clever mis-statements intended to be understood as humour.

The complaint is upheld in the respects stated.

Co-opted Members

Messrs Carter and Wallace were co-opted as persons whose qualifications and experience were likely to be of assistance to the Tribunal. They took part in the deliberations of the Tribunal but the decision is that of the permanent members.

Signed for the Tribunal:

B. H. SLANE, Chairman.
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Decision No. 4/90

Reference No.: COM 8/89

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by **David George Lewis Bobb**:

Warrant Holder: Television New Zealand Ltd.

Chairman: Judge B. H. Slane.

Member: Robert Boyd-Bell.

Co-opted Members: R. M. Carter and B. W. Stephenson.

Decision

Dated this 16th day of January 1990.

First Letter to Television New Zealand Ltd.

The Saturday night movie broadcast at 9.30 p.m. on 4 February 1989 on TV2 was called *Johnny Dangerously*.

On 9 February 1989 Mr Bobb wrote complaining about the language in the first 10 minutes of the film. He noted a segment which he said included the words:

"Why you miserable cocksucker, I gonna get you for this. Roma Moronie never forgets a fuckin face."

Television New Zealand's Initial Response

On 23 February 1989 the acting director of programmes replied to Mr Bobb's letter. He said the film was comedy—a satire—and the language used by the character quoted was a deliberate parody of the kind of language associated with "gangsters". But neither the language nor the violent action in the film were promoted as being "good": "Moronie was very much the bad guy and was not the hero of the film. At one point the remark is made that 'the years hadn't changed Moronie—he continued to murder the English language'. And the basic premise of the film was a warning to a youth who tries to steal a puppy from a pet shop that 'crime does not pay'.

"The film had been given a censorship classification enabling it to be broadcast after 9.30 p.m. in the adult time band. As a broadcaster, Television New Zealand Ltd. is obliged to 'take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in