



Decision No. ID2025-063

Under The Broadcasting Act 1989

Between **WK**

Complainant

And **THE PLATFORM MEDIA
NZ LTD**

Broadcaster

Before

Susie Staley MNZM, Chair

John Gillespie

Aroha Beck

Karyn Fenton-Ellis MNZM

PROVISIONAL INTERLOCUTORY DECISION of the Broadcasting Standards Authority

Summary

[This summary does not form part of the decision.]

The Broadcasting Standards Authority found it has jurisdiction to consider a complaint about The Platform's Live Talkback programme on the basis the transmission of the programme met the Broadcasting Act's definition of 'broadcasting'. Taking a purposive approach to the Act, which is designed to provide for the maintenance of programme standards in New Zealand broadcasting, the Act is appropriately seen as capturing such modern forms of broadcasting. As there is currently no code of broadcasting standards specifically addressing the online broadcasting context, the complaint will be considered with a view to determining the broadcaster's compliance with its obligations under section 4 of the Act.

Jurisdiction accepted

The complaint

- [1] The complaint relates to concerns about what the complainant alleges were 'unacceptable racist comments' in The Platform's 22 July 2025 programme.
- [2] As contemplated under the Broadcasting Act 1989 (the Act), the complaint was first referred to The Platform. The Platform responded, 'You Plonker we aren't subject to the Broadcasting Standards Authority.'

Is The Platform a broadcaster?

- [3] The Platform, operated by The Platform Media NZ Ltd, is a digital media platform or online radio station. We have therefore addressed, as an interlocutory issue, whether the Authority has jurisdiction over such an entity's programmes.
- [4] The Act governs 'broadcasters' and 'broadcasting'. These terms are defined in section 2:

Broadcaster –

means, subject to subsection (2),¹ a person who broadcasts programmes

Broadcasting –

means any transmission of programmes, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus but does not include any such transmission of programmes –

(a) made on the demand of a particular person for reception only by that person; or

(b) made solely for performance or display in a public place.

- [5] A programme, in turn, is defined as:²

Programme –

¹ Subsection (2) concerns transmission services providers which are not relevant here.

² Broadcasting Act 1989, s 2

(a) means sounds or visual images, or a combination of sounds and visual images, intended –

(i) to inform, enlighten, or entertain; or

(ii) to promote the interests of any person; or

(iii) to promote any product or service; but

(b) does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text.

[6] Based on these definitions, we consider The Platform was broadcasting when airing the relevant content:

a) The definition of ‘programme’ is broad and would readily capture the audio and visual content in The Platform’s Live Talkback offering.

b) The Platform also ‘broadcast’ the programme by virtue of having transmitted it:

i) by ‘other means of telecommunication’ – a broad expression capable of capturing conveyance through the internet; and

ii) ‘for reception by the public’ by means of a ‘broadcasting receiving apparatus’, which we consider includes any device which enables a member of the public to receive the transmission of relevant programmes through the internet, including a computer or mobile device.

[7] While this type of broadcasting may not have been contemplated when these provisions were drafted, under section 11 of the Legislation Act 2019, legislation applies to circumstances as they arise. Taking a purposive approach to the Act, which is designed to provide for the maintenance of programme standards in New Zealand broadcasting, it is appropriately seen as capturing such modern forms of broadcasting.

[8] We accordingly consider the Authority has jurisdiction and is therefore required to consider the complaint.

Applicable broadcasting standards

- [9] The current Code of Broadcasting Standards in New Zealand was developed with a view to application in the context of traditional television and radio broadcasting. We have not yet developed a code of broadcasting standards specifically addressing the online broadcasting context.
- [10] However, the existence of an applicable code of broadcasting standards is not a prerequisite for a valid complaint under the Act. Under section 6(1)(a) of the Act, broadcasters are required to receive and consider formal complaints which constitute an 'allegation that the broadcaster has failed to comply with section 4'. Section 4 not only requires broadcasters to maintain standards consistent with any applicable code of broadcasting practice but also to maintain standards consistent with, among other things, 'the observance of good taste and decency'. The current complaint, concerning 'unacceptable racist comments', is readily seen as an 'allegation that the broadcaster has failed to comply with' the section 4 'good taste and decency' obligation.
- [11] Accordingly, the Authority will consider the complaint, in accordance with its section 21(1)(a) function,³ with a view to determining The Platform's compliance with its section 4 obligations, in particular the obligation to maintain standards consistent with 'the observance of good taste and decency'.
- [12] Finally, while the current code of broadcasting standards and our previous decisions may not expressly address online broadcasts, we expect the principles and approach to determination of a broadcaster's section 4 obligations are likely to be informed by our approach in comparable traditional broadcasting situations. We therefore encourage the parties to consider such resources in preparing submissions on this complaint.

For the above reasons the Authority finds that it has jurisdiction to accept WK's referral of a complaint about The Platform's failure to comply with section 4 of the Broadcasting Act 1989.

³ The Authority's function under section s21(1)(a) is to receive and determine complaints from persons who are dissatisfied with the outcome of complaints made to broadcasters under section 6(1)(a).

Signed for and on behalf of the Authority

Susie Staley

Chair

[date]

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Appendix

The correspondence listed below was received and considered by the Authority:

- 1 WK's original complaint – 31 July 2025
- 2 The Platform's response to the complainant – 1 August 2025
- 3 WK's referral to the Authority – 4 August 2025

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