

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 77/92

Dated the 15th day of October 1992

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

RUSSELL GARBUTT

of Dunedin

Broadcaster

RADIO NEW ZEALAND

LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

The efforts of some Maori to remove or deface a war memorial in Wanganui were the subject of an item on *Mana News* on National Radio on the evening of 19 May 1992. The item was repeated at 6.20am on *Good Morning New Zealand* on 20 May.

Mr Garbutt complained to Radio New Zealand Ltd that the item was delivered in a manner, and accompanied by one presenter's comment, which breached the standard requiring respect for the principles of law. As the item did not include the views of the Wanganui authorities, he added, it also breached the standard requiring impartiality and fairness.

Explaining that the facts reported were accurate and that the broadcast did not include editorial judgment, RNZ concluded that the mode of delivery was appropriate for a light and humorous item. The item was part of an ongoing story, RNZ continued, and it questioned whether the standard requiring impartiality was applicable in this instance. It declined to uphold the complaint. As Mr Garbutt was dissatisfied with RNZ's decision, he referred his complaint to the Broadcasting Standards Authority under s.8(a) of the Broadcasting Act 1989.



Decision

The members of the Authority have listened to a tape of the item as it was broadcast on both *Mana News* and *Good Morning New Zealand* and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has determined the complaint without a formal hearing.

Mr Garbutt complained to RNZ about an item on *Mana News*, repeated the following day on *Good Morning New Zealand*, dealing with attempts to deface or destroy a war memorial in Wanganui. From the reporter's delivery, it was obvious that he found the item ironic, if not humorous, and after the repeat broadcast the presenter, Mr Geoff Robinson, referred to Robert the Bruce. Mr Garbutt said that the reporter's style condoned the actions of those who had attacked the memorial and that Mr Robinson's comment encouraged further law breaking. Accordingly, he complained that the broadcasts breached the standard requiring broadcasters to respect the principles of law. In addition, as the item did not include the views of the Wanganui authorities, it breached the standard requiring impartiality and fairness when dealing with controversial issues.

RNZ assessed the complaint under standards 1.1(f) and 1.1(i) of the Radio Code of Broadcasting Practice. They require broadcasters:

- (f) To respect the principles of law which sustain our society.
- (i) To show balance, impartiality and fairness in dealing with political matters, current affairs and all questions of a controversial nature, making reasonable efforts to present significant points of view either in the same programme or in other programmes within the period of current interest.

Explaining that the item reported the facts accurately and did not include editorial judgment, RNZ declined to uphold the complaint about the substance of the item. The reference to Robert the Bruce, RNZ continued, did not show disrespect for principles of law. It also noted that the Mayor of the Wanganui District Council was unwilling at present to comment on a story which had been an issue for 10 years and that that fact had been reported on *Mana News* several weeks previously. RNZ maintained that the item did not breach standard 1.1(i) and, in addition, questioned whether that standard was applicable to an item which was obviously light and humorous in nature.

After reading the complaint about the broadcast, which included a transcript, the Authority's first impression was that the complaint might well raise a substantial and serious issue. That concern, however, was alleviated after listening to a tape of the item. Although the reporter's style when delivering the item could reflect adversely on his professionalism, its light hearted nature was soon apparent. Furthermore, it was obvious that the Maori reporter was laughing at his own people's efforts. Rather than raising an issue with racial overtones, the Authority considered that the broadcast resembled the "Keystone Cops" type of story. In addition, the *Good Morning New Zealand's* presenter's reference to Robert the Bruce (presumably to the famous story about the spider) principally seemed to highlight the bungled effort rather than being an incitement for

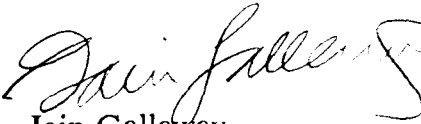


future law breaking. Accordingly, the Authority concluded that the item did not breach standard 1.1(f) of the Radio Code.

In regard to the complaint about balance under standard 1.1(i) and although acknowledging the merit of RNZ's submission that light heartedness may on occasions override the need for impartiality, the Authority approached the issue from a different direction. That approach avoided both the need to decide the relationship between light heartedness and impartiality and whether the item, in fact, dealt with a controversial question which warranted the application of standard 1.1(i). The Authority decided that the story, while containing irony, outlined the facts which indicated clearly that the Wanganui District Council was not supportive of the memorial's removal and that, as the facts spoke for themselves, no balancing statement was required. Thus the Authority decided, the broadcast did not breach standard 1.1(i).

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

Signed for and on behalf of the Authority


Iain Gallaway
Chairperson



15 October 1992

Appendix

Mr Garbutt's Complaint to Radio New Zealand Limited

After some preliminary correspondence, in a letter dated 4 June 1992 Mr Russell Garbutt complained to Radio New Zealand Ltd about an item broadcast on *Mana News* on National Radio on 19 May 1992 and repeated the following morning on *Good Morning New Zealand*.

Mr Garbutt complained, first, that the item was delivered in a way which breached the standard requiring broadcasters to respect the principles of law. The reporter, Mr Garbutt continued, gave the impression that he condoned the action of those who had attempted to deface or damage a war memorial in Wanganui. Moreover, a presenter on *Good Morning New Zealand*, Mr Geoff Robinson, had referred to Robert the Bruce which indicated that he encouraged further law breaking.

Secondly, as the item did not present the views of the authorities in Wanganui, it breached the standard requiring broadcasters to be impartial and fair when dealing with controversial issues.

RNZ's Response to the Formal Complaint

RNZ advised Mr Garbutt of its Complaints Committee's decision in a letter dated 15 July 1992.

Noting that the reporter did not know the people involved in the incidents reported and that the facts were presented accurately, RNZ stated that the item did not offer an editorial judgment:

but concentrated on the humorous aspect of the situation with a mode of delivery which was obviously appropriate to a light and humorous item.

The presenter's reference to Robert the Bruce, RNZ continued, was appropriate to the nature of the item and, as it did not express disrespect for the principles of law, it did not breach the standards which required respect.

With regard to the aspect of the complaint about balance, RNZ said that the argument about the war memorial in question had been an issue for some 10 years, that it had been an ongoing story since 1991 and that the Mayor was unwilling to comment until after a meeting of all the interested parties.

RNZ stated:

Irrespective of those considerations, however, the Company seriously questions whether the item, given its nature and intention, is one which attracts the obligations set out in the standard cited. Its whole approach is light and



humorous, and is not appropriate to controversy (which the Wanganui Council itself seems to have successfully avoided for something like a decade). It is very doubtful whether the situation is controversial in the sense of the Code standard or of the Act's direct provision which it echoes, and the item's reporting of the matter does not raise serious controversy.

It declined to uphold the complaint.

Mr Garbutt's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with RNZ's response, in a letter dated 4 August 1992 Mr Garbutt referred his complaint to the Authority under s.8(a) of the Broadcasting Act 1989.

Mr Garbutt maintained that RNZ, in its reporting of a controversial issue, had treated one side of the issue sympathetically while ignoring the other. Further, when reporting in a humorous manner the efforts by some to deface or destroy the monument, the broadcasts tended to condone unlawful acts. He stated:

A test of the argument would be to reverse the situation and consider the reactions to a Maori memorial being defaced by Europeans. Would the same sort of reporting be acceptable?

RNZ's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. The papers were forwarded on 11 August and RNZ's reply is dated 17 August.

RNZ argued that it was essential when dealing with this complaint to acknowledge that *Good Morning New Zealand*, like a newspaper, included serious current affairs, human interest stories and humorous items. The item complained about, RNZ continued, did not encourage law breaking and, in fact, reported a bungled illegal activity. As the item exposed the folly of human behaviour, RNZ believed that the complaint bordered on the trivial.

Similarly, RNZ argued the story was not of a controversial nature envisaged by the requirement in the standard for fairness and impartiality. Nevertheless, the story was an ongoing one and the Mayor recently confirmed that discussions were in abeyance and that there would be no comment until after a meeting of all parties. Further, RNZ recorded, *Mana News* had carried a report on the subject some two or three weeks earlier which had dealt with the history of the issue and when it was reported that the District Council had held "ongoing talks" for "over a decade".

RNZ concluded:

As a final comment the company, noting Mr Garbutt's point about an item



embodying hypothetical "reversed roles" as a touchstone of evaluation, suggests that were the essential elements and circumstances of the story to remain the same, it would have received the same treatment.

Mr Garbutt's Final Comment to the Authority

When asked to comment on RNZ's response, in a letter dated 21 August Mr Garbutt stated that he was fully aware of the different style of items on *Good Morning New Zealand* and that, if the item had been presented as a satirical piece on the appropriate show, it could well have been acceptable. However, it had been presented on two news programmes and it contained the clear message that the vandalism referred to could be condoned. He maintained that both broadcasts of the item failed to show respect for the laws which sustained society.

In view of the controversial history of the memorial which was now supplied by RNZ, he was unable to accept the broadcaster's argument that the issue was somehow not as controversial and thus not subject to the requirement for balance. He added that as he was now aware of the background from RNZ's letter - not from its broadcasts - the interests of balance should have been met by providing listeners with the information he now had been given.

In conclusion, he wrote:

My contention in this case, is that the item was, and is, controversial and that there was a lack of balance.

