

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 51/91

Dated the 18th day of November 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

P.G. GREER

of Nightcaps

Broadcaster

RADIO NEW ZEALAND LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

On the morning of Monday 8 April 1991, at 7.30, 8.00 and 8.30am, Takitimu Area School in Nightcaps was the subject of a news item on Invercargill's Radio 4ZA. It reported that some children in Otautau were bypassing the Takitimu Area School, the closest secondary school, to attend the Central Southland College in Winton because of "depressingly low" educational standards at Takitimu.

Mrs Greer, a staff member and a parent of children at the Takitimu Area School, was apparently very upset at what she regarded as a sensational item about educational standards in a small Southland community. She complained informally to the broadcaster and was told, she said, that the principal of the school, Mrs Margaret McCorkindale, had approved the item. In a later discussion with 4ZA's station manager she was also told that the item was balanced as Mrs McCorkindale had been given an opportunity to respond "live" at 9.30am.

Later, Mrs Greer complained formally to RNZ, stating that the news item was irresponsible and indicated a lack of research. The emotive language used was unfair and harmful to the teachers and the school. She also said that it was untrue that Mrs McCorkindale had approved the broadcast of the news item.

Radio New Zealand, pointing out that items are not "referred for approval", said that Mrs McCorkindale had had the background of the news item read to her three days



before its broadcast, on Friday 5 April, and had agreed to talk "live" about the issues on the morning of Monday the 8th. Explaining that there was a difference between reporting an opinion and a substantiated fact, RNZ declined to uphold the complaint.

As Mrs Greer was dissatisfied with RNZ's response, she referred her complaint to the Broadcasting Standards Authority for investigation and review under s.8(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have examined the correspondence (summarised in the Appendix) and have read a transcript of the news item broadcast at 7.30, 8.00 and 8.30am and the prepared statement (the "backgrounder") used to introduce the Takitimu Area School Principal (Mrs McCorkindale) at the beginning of the talkback session at 9.30am on 8 April 1991.

The complaint focuses on a news item broadcast by Radio 4ZA on the morning of 8 April 1991. The item was introduced in the following way:

A community divided. This is the sad state of affairs in Western Southland brought on by changes in education legislation. Tui Slade reports on a deepening dissatisfaction and enormous tensions, which don't appear to have an immediate solution.

It continued:

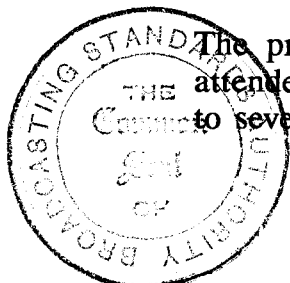
A convenor/researcher will be in the district in a couple of weeks to talk to the people about their feelings on educational standards, which, some say are depressingly low at the Takitimu Area School which has a secondary roll of 60.

And also importantly, who gets free bus transport to which school. Historically the Otautau pupils attend Central Southland in Winton, which has a roll of 600. But a geographical demarcation could force them to go to Takitimu. Meanwhile, some parents in the Nightcaps District have chosen Winton's College for their children.

Both parents and teachers say they regret it may take years for present divisions to heal.

The news item and the backgrounder were both prepared by a reporter. The latter was prepared for the station's talkback host to be used as an introduction to the live broadcast with the School Principal (Mrs Margaret McCorkindale) later during the morning. It said:

The problem is historic. For 26 years secondary pupils from Otautau have attended Winton's Central Southland College, with free bus. However a form one to seven school closer to Otautau, Takitimu in Nightcaps, has been going for



about 13 years, and with a roll of 60 in its secondary division making it a tenth of the size of the Winton college. This school is getting by-passed by some local students in favour of Central Southland. Parents in the district are worried. Some say the academic achievements at Takitimu are suffering for what they call a lack of decent teachers, and say the funds spent there, would be better employed in a school like Central Southland. Others don't want to lose a school with dedicated staff, and one which has had a great deal of money poured into its buildings and facilities. To sort the matter out, first of the bus service, and a geographical demarcation, and more importantly the educational needs of local children, the Minister of Education is appointing a convenor researcher within the next two weeks, and this independent will report back to the Minister Doctor Lockwood Smith.

Some of the background to the broadcasts in question is relevant to the complaint. First, RNZ stated that it spent two days researching the item. That fact is accepted by the Authority without question.

Secondly, the Authority accepted that RNZ had made arrangements for the Principal of the Takitimu Area School (Mrs McCorkindale) to appear live on Radio 4ZA at 9.30am on Monday 8 April. On Friday 5 April, Mr Denton of 4ZA, the talk-show host, had read the backgrounder over the telephone to Mrs McCorkindale at least once. The parties agreed that that occurred. However, there was a dispute about whether Mrs McCorkindale was told that a news item based on the backgrounder would be broadcast on the morning of 8 April. The complainant provided a statement from Mrs McCorkindale in which she wrote:

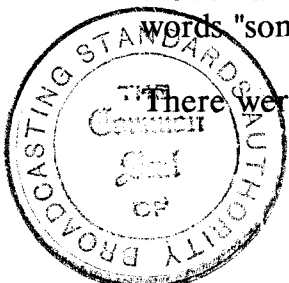
The talk-show host DEFINITELY DID NOT tell me that there would be a news broadcast when he played the "BACKGROUND" on the Friday. If he had, I would have asked why, and if I could hear it in order to make an appropriate response.

RNZ maintained that, as a result of its subsequent enquiries, it was likely that Mrs McCorkindale had been advised of the forthcoming news item. In assessing these conflicting statements, the Authority accepted the Principal's statement that she had not been told of either the forthcoming news item or its content.

RNZ said that the news item and the backgrounder consisted of the same material, although the backgrounder was a slightly expanded form. Mrs Greer, on the other hand, argued that the use of the phrase "depressingly low" educational standards without qualification in the news item introduced an element which the backgrounder had qualified by referring to "a lack of decent teachers".

The Authority agreed with Mrs Greer that this difference was more than, to use RNZ's observation, a "semantic quibble". In the Authority's opinion, the unqualified nature of the remarks in the news item about educational standards, although introduced with the words "some say", reported forcefully a point of view held by the station's informants.

There were also a number of other factual matters in dispute, such as the number of



people who held the view reported and the contents of the conversations between Mr Eccles of 4ZA and various school representatives. For example, Mr Eccles steadfastly maintained that he had at no stage mentioned that two parents had complained about educational standards and that the purpose of his communicating with the School Authorities after the broadcast was for an unrelated purpose. Those involved in supporting this complaint were adamant that his claims were quite incorrect. The Authority did not consider it necessary to resolve these peripheral disputes in order to determine the present complaint.

Mrs Greer's formal complaint to RNZ alleged that the broadcast of the news item on the morning of 8 April 1991 breached eight standards in the Radio Code of Broadcasting Practice. When she referred her complaint to the Authority, she confined her complaint to four standards. The first two require broadcasters:

- 1.1(c) To be mindful of the effect any programme may have on children during their generally accepted listening periods.
- 1.1(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.

The other two provide:

- 5.2(a) Listeners should always be able to distinguish clearly and easily between factual reporting on the one hand, and comment, opinion and analysis on the other.
- 5.2(b) News must be presented accurately, objectively and impartially.

The Authority considered standard 1.1(i) to be the most relevant to the complaint and, in view of the issues raised, it subsumed the requirements of standard 5.2(b). Standard 1.1(c) is regarded by the Authority as being of primary importance when a complaint questions the taste and decency of an item and, accordingly is of minimal relevance to the current broadcast. With regard to standard 5.2(a), the Authority noted that although the introduction of the news item could be seen as reporting fact by the use of the phrases "a community divided", "deepening dissatisfaction" and "enormous tensions", the material in the body of both the news item and the backgrounder was reported as the opinion of local residents. Accordingly, the Authority concluded that the broadcast had not breached standard 5.2(a).

With regard to standard 1.1(i) and specifically the presentation of significant points of view within the current period of interest, the Authority acknowledged RNZ's written comment to Mrs Greer that, although it claimed that the current item had not breached the standard, it had issued a reminder to staff of the need to provide an opportunity to an affected party to respond to an item before its broadcast. The Authority draws RNZ's attention to the fact that this is the second occasion within a period of a few months that a complaint has been made concerning its Invercargill operations.



While noting that balancing comment is not necessarily available for every news item, the Authority considers its ready availability in the present circumstances - especially in light of the length of time spent in researching the item - favours the conclusion that a breach of standard 1.1(i) occurred. Moreover, and while not fully conversant with the reasons for the disagreement about education in the Nightcaps community, the Authority wonders why Radio 4ZA, which had been in contact with Mrs McCorkindale, neither advised her of the proposed highly critical news item to be introduced with a series of dramatic and emotional statements nor sought her response.

Despite not ensuring that Mrs McCorkindale was advised of the proposed news item, RNZ maintained that the requirements of the standard were met by providing her with the opportunity to present her point of view "within the period of current interest" by pre-arranging a "live" interview at 9.30am on Monday 8 April. Further, RNZ stated, extracts from the "live" interview were used in news bulletins later during the day. Specifically, in regard to RNZ's point that Mrs McCorkindale was given an opportunity to respond "live" at 9.30 am, the Authority registers its view that a response at 9.30am to a news item broadcast between 6.00 - 9.00am may well not be sufficient to fulfil the requirement for balance within the period of current interest. The Authority notes that the listening audiences before and after 9.00am may vary substantially both in numbers and composition. On this occasion, the Authority considers that the station's arrangements failed to comply with the requirements of the standard.

For the reasons set forth above, the Authority upholds the complaint that the broadcast of the news item at 7.30, 8.00 and 8.30am by Radio 4ZA on 8 April breached standard 1.1(i) of the Radio Code of Broadcasting Practice.

The Authority declines to uphold the complaint which alleged breaches of a number of other standards in the Codes.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



18 November 1991

AppendixMrs Greer's Formal Complaint to Radio New Zealand Ltd

Mrs P G Greer, a teacher and parent of pupils at Takitimu Area School in Nightcaps, complained about an item broadcast on RNZ's Invercargill station, 4ZA, at 7.30, 8.00 and 8.30am on the morning of Monday 8 April 1991. According to the transcript later supplied to the Authority by RNZ, the item included the following comment:

A convenor/researcher will be in the district in a couple of weeks to talk to people about their feelings on educational standards, which, some say are depressingly low at the Takitimu Area school which has a secondary roll of 60.

And also importantly, who gets free transport to which school. Historically the Otautau pupils attend Cental Southland in Winton, which has a role of 600. But a geographical demarcation could force them to go to Takitimu. Meanwhile, some parents in the Nightcaps District have chosen Winton's college for their children.

After some discussion and correspondence with 4ZA's station manager, Mrs Greer formally complained to RNZ in a letter dated 29 May 1991. She described as untrue the manager's remark to her that the principal of Takitimu Area School (Mrs Margaret McCorkindale) had approved the broadcast. She also described as untrue the station manager's comment that Mrs McCorkindale had been given the opportunity to respond to the news item with a "live" statement at 9.30am as Mrs McCorkindale was asked to respond to a statement prepared as a "backgrounder", not to the news item.

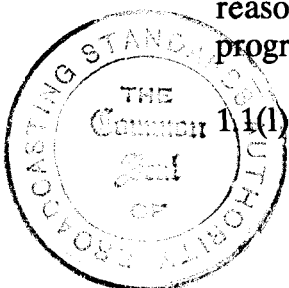
Mrs Greer described the item as irresponsible and asserted that it indicated a lack of research. The emotive language used and the claims about education standards and the school's teachers, she added, were "totally unfair". Further, the news item had used unreliable sources and the reporter did not check the facts. The item, she wrote, breached standards 1.1(a), (c), (i), (l) and (m), and 5.2(a), (b) and (c) of the Radio Code of Broadcasting Practice. The first five require broadcasters:

1.1(a) To be truthful and accurate on points of fact in news and current affairs programmes.

1.1(c) To be mindful of the effect any programme may have on children during their generally accepted listening periods.

1.1(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.

1.1(l) To correct factual errors speedily and with similar prominence to the



offending broadcast or broadcasts.

1.1(m) To act responsibly and speedily in the event of a complaint and when an accusation of unfairness is found to be correct, to provide appropriate redress as early as possible after the original broadcast.

The other three provide:

5.2(a) Listeners should always be able to distinguish clearly and easily between factual reporting on the one hand, and comment, opinion and analysis on the other.

5.2(b) News must be presented accurately, objectively and impartially.

5.2(c) The standards of integrity and reliability of news sources should be kept under constant review.

RNZ's Response to the Formal Complaint

RNZ advised Mrs Greer of its Complaints Committee's decision in a letter dated 17 July 1991. As a preliminary point, it examined Mrs Greer's claim that it was untrue that Mrs McCorkindale had approved the item as, she said, had been alleged by the station manager. RNZ said that all journalistic practice, including its own, did not involve obtaining "approval" for news items. RNZ added that it had earlier arranged for Mrs McCorkindale to appear "live" on the morning of Monday the 8th and, on Friday the 5th, the morning talk show host (Mr Phil Denton) had read to her over the telephone a "backgrounder" with much the same content as the news item although in a slightly expanded form. Mrs McCorkindale was also advised that there was to be a matching news bulletin and, RNZ said, she mentioned that she had appreciated the opportunity to prepare her comments. As the "backgrounder" contained all the points on which the news story was based, RNZ objected to Mrs Greer's description of it as a "composed" statement.

RNZ then explained to Mrs Greer that she seemed confused about the difference between the reporting of an opinion and the reporting of a fact. It continued:

To put it simply, to report an allegation the existence of which is a substantiated fact is not to report that the views reported (or any events alleged to have occurred) have themselves a factual basis; a dispute over the validity of an allegation cannot change the fact that the allegation exists.

RNZ added that the opinions reported were a matter of public interest and that Mrs Greer was incorrect in alleging that only "two" people held the view expressed.

Further, RNZ observed:

The Committee was unable to find in the reporting of the opinions any editorial indication that they represented a factual situation, or any RNZ



comment, opinion, or analysis, offered or to be assumed, which would imply such an indication, and was satisfied that there is no editorial bias in the reports.

Accordingly, RNZ concluded that standards 1.1(a), 5.2(a) or (b) were not breached. As there were no factual inaccuracies requiring correction, standards 1.1(l) and (m) were not in question. As Mrs McCorkindale expressed her views during the "live" broadcast, and as some of her comments were broadcast in late afternoon bulletins, standard 1.1(c) was not in jeopardy.

These points were also relevant to the standards which requires balance (1.1(i) and s.4(1)(d) of the Broadcasting Act 1989) and RNZ believed balancing material had been broadcast. Standard 5.2(c) requires broadcasters to maintain the integrity and reliability of news sources. As the item reported opinion and not fact, RNZ stated that the provision was irrelevant.

RNZ did not uphold the complaint. In addition, the Complaints Committee informed Mrs Greer that it regarded seriously its responsibility to provide a fair opportunity to respond. As the current item was prepared some time before its broadcast, RNZ felt that it would have been appropriate to incorporate a response in the morning's news bulletins. Accordingly, RNZ staff were to be reminded of the need to follow this principle and to allow parties a reasonable opportunity to respond.

Mrs Greer's Complaint to the Broadcasting Standards Authority

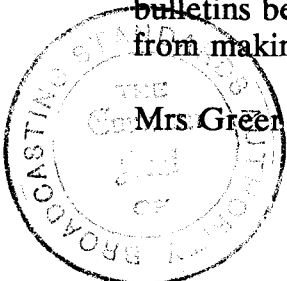
Mrs Greer referred her complaint first to the Authority in a letter dated 17 July as she had not heard from RNZ. When she received RNZ's response to her formal complaint, she completed the Authority's Complaint Referral Form in which she elaborated on her complaint and argued that standards 1.1(c), 1.1(i), 5.2(a) and 5.2(b) in the Radio Code of Broadcasting Practice had been breached.

Mrs Greer began:

The talk show host telephoned Mrs McCorkindale on Friday 5 April 1991 to ask her if she was prepared to talk "live" in response to the backgrounder (which was played to her over the telephone). The backgrounder DID NOT INCLUDE THE COMMENT ON "Depressingly low educational standards". The talk show host DID NOT inform Mrs McCorkindale of any matching news bulletin story. He confirmed with Mrs McCorkindale that there would only be the backgrounder followed by her "live" comment. Mrs McCorkindale trusted his word.

She added that when Mrs McCorkindale expressed her disappointment with the news bulletins before the "live" broadcast, she agreed with the host's entreaties to refrain from making this comment during the broadcast.

Mrs Greer maintained that there was one significant difference between the



backgrounder and the news bulletins in that the former suggested that low educational standards resulted from a shortage of teachers while the news bulletin just spoke of low educational standards without explanation.

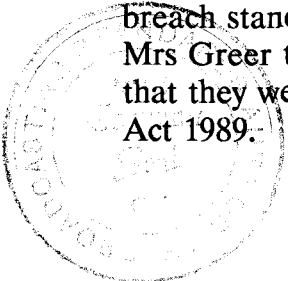
Mrs Greer stressed the point that she believed the item in reporting opinion was unbalanced and that there was minimal evidence of effort to present other significant points of view. She concluded:

1. Because a 4ZA News Reporter chose to report the opinion of two parents and evolve a sensational story without researching validity of that opinion, the reputation of Pupils, Staff, Board of Trustees and community is damaged publicly. There has been no public damage to 4ZA.
2. The 4ZA did not deal justly and fairly with Mrs McCorkindale (nor the Board of Trustees or Staff) ie. no one knew that there would be a news broadcast let alone its content and Mrs McCorkindale heard ONLY the backgrounder. She was assured of no further publicity.
3. The issue was a controversial matter because of communication with the Minister of Education over bus transport. Educational standards were not in question. There has not been balance, impartiality or fairness in dealing with the matter. No effort (let alone reasonable effort) was made to present the opposing view point especially as the view point reported was that of two parents.
4. The news broadcast was constructed in such a way that it implied fact. There was no balancing statement. There was a clear difference between the content and the presentation of the backgrounder to that of the news broadcast.
5. The news broadcast (to quote 4ZA's term) "evolved" and therefore accuracy, objectivity and impartiality are in question.

RNZ's Response to the Authority

The Authority referred Mrs Greer's complaint to RNZ for comment on 5 August and the reply is dated 21 August 1991.

RNZ began by repeating its comments that the news bulletins broadcast allegations, not facts. RNZ added that, contrary to Mrs Greer's comment, the reporter confirmed that she had talked at length with more than two parents and had spent two days researching the story. The views reported were fair comment on a matter of public interest and as they did not include any editorial comment, therefore they did not breach standards 1.1(a), 5.2(a) or 5.2(b). RNZ also repeated its comments made to Mrs Greer that it did not believe the broadcasts breached standards, to the degree that they were relevant, 1.1(l), 1.1(m), 5.2(c), 1.1(i), or s.4(1)(d) of the Broadcasting Act 1989.



In regard to the points made by Mrs Greer in her complaint to the Authority, RNZ considered that the complaint now appeared to be made on Mrs McCorkindale's behalf, although neither she nor the Board of Trustees had made a formal complaint.

Moreover, RNZ had made further inquiries on the points raised by Mrs Greer. While being unable to confirm positively that Mrs McCorkindale was advised on Friday the 5th that the backgrounder would be used for a accompanying news item, both the talk back host and the reporter kept in mind that the talk show introduction was an extension and development of one or more news stories. As the host was not involved with news bulletins, he would not have given any assurances about the content of news bulletins.

RNZ was also not able to state positively that the talk back host had asked Mrs McCorkindale not to express her disappointment with the news item during the morning. However, RNZ said that Mrs McCorkindale had been played the backgrounder (on three occasions) in order to give her the opportunity to formulate a response. RNZ regarded the difference in the backgrounder and the news item, which Mrs Greer described as significant, as a semantic quibble.

Mrs Greer's comments at the time of her initial complaint to 4ZA and Mrs McCorkindale comments which were repeated in later bulletins, RNZ averred, disclosed that the school was aware of the criticism made in the broadcast. RNZ continued to insist that it was not a complaint by "two" parents and provided an account as to why Mrs Greer seemed to assume that to be so.

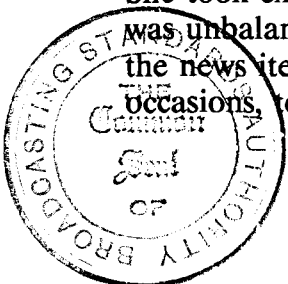
RNZ concluded by repeating the comment it had made on a number of occasions that Mrs Greer had declined, and continued to decline, RNZ's invitation to respond to the news bulletins on 8 April. It ended its letter:

With regard to there having been no complaints made concerning Radio New Zealand's broadcasts by either the Principal or the Board of Trustees, the Authority may wish to note that the Board is currently seeking through the Ombudsman to ascertain, under the provisions of the Official Information Act, the identity of Radio New Zealand's "sources" in the matter at issue. The Company infers that the Board's major concern can be seen to involve the identity of those holding the views reported, rather than Radio New Zealand's reporting of them.

Mrs Greer's Response to RNZ's Comments

Mrs Greer was asked to respond to RNZ's comments and her reply is dated 10 September 1991.

She took exception to a number of RNZ's points. She maintained that the news item was unbalanced; that the school should have been approached for comment before the news item was broadcast; that she was asked only once, not on numerous occasions, to respond to the news item and she declined as that was the school's



Principal's or the Board of Trustees' task; that the Principal had not been told of the impending news item; that the Board of Trustees supported her complaint; that the Principal had also complained formally; and that the Board's secretary had been told that the news item reflected the views of two parents only.

She enclosed letters from the principal (Mrs McCorkindale) and from the Secretary of the Board of Trustees (Mrs E M Sayers) in which both confirmed their stances as explained by Mrs Greer.

RNZ's Final Comment to the Authority

As Mrs Greer contested a number of RNZ's comments, on 13 September the Authority referred her letter to RNZ. Its reply is dated 22 September 1991.

RNZ stated that it had made the appropriate inquiries and that it did not want to revise any of its earlier points. It repeated that Mrs McCorkindale had been aware from her discussion with the talkback host of the criticism of the academic standards at Takitimu Area School; that Mrs Greer had been asked to respond on two occasions to the news broadcast; that on balance it was probable that Mrs McCorkindale had been advised of the forthcoming news item; that this was the first occasion on which RNZ had been advised that school's Board of Trustees fully supported Mrs Greer; and that in view of the importance of preserving confidentiality, no-one at 4ZA had referred to "two parents" as the source of the story.

In regard to Mrs Greer's comment that the backgrounder and the news item dealt with different issues, RNZ wrote:

The question whether the meaning of the backgrounder and the news bulletins, with reference to the particular issue in question, is essentially the same, is a key point. Further discussion is unprofitable. Mrs Greer is entitled to her opinion, but the Company must respectfully disagree, and stands by its contention that the reference in the backgrounder is not at variance with the news reports of the particular opinion concerned, and conveys the same meaning.

RNZ concluded by noting that, although it had held discussions with other interested parties, no other formal complaint was made.

Mrs Greer's Final Comment to the Authority

When asked to comment on RNZ's reply, in a letter dated 8 October 1991 Mrs Greer maintained the correctness of the statements in her previous correspondence to the Authority. She wrote:

the News Broadcast by 4ZA was unbalanced.



- b] No person from 4ZA (at any time) contacted the Staff, Principal or B.O.T. to obtain their views.
- c] The Principal was NOT informed of the proposed News Broadcast.
- d] There IS a clear difference in content, tone and inference between the backgrounder and the news broadcast. The backgrounder was played once; the news broadcast repeated at peak listening time.
- e] The 4ZA station manager (Mr Lance Eccles) appears to be extremely confused as to sentences he spoke.
- f] Myself, the Principal and the Board of Trustees can no longer trust and have no respect for 4ZA (especially the Manager).
- g] The School has suffered publicity from the Broadcast; 4ZA have not.

She concluded by expressing the opinion that 4ZA went to any lengths, because of competition, to broadcast sensational news.

