

Symposium on Trusted, Long-Term Decision Making

Response to Information Request

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What insight can be provided on the role of the ABC and SBS in relation to trust in government decision-making processes?

Thank you for the opportunity to contribute to the Symposium. Much could be said about the role of public broadcasters in democratic society; indeed, their relationship with the commercial sector in an era of digital media is the subject of debate in Australia and overseas. Here, we focus on an aspect of the ABC's role in providing news and current affairs. Despite massive changes in news media over recent years, a large-scale study of community attitudes in Canada earlier this year found 'an almost reverential respect for the role news and journalism play in a democracy' (Public Policy Forum, 2017). But it also found community concern that the decline of news organisations could lead to 'less accountability on the part of politicians and other powerful interests'. In considering this question of news and trust in government decision-making, and with limited time available to prepare this response, we have chosen to highlight the more rigorous responsibilities imposed on the Australian national broadcasters through their news standards schemes. Though we would like to test our assumptions through more comprehensive research, we suggest these schemes play an important role in influencing the community's trust in government by encouraging quality in news and information about public policy and public affairs generally.

Australian news standards schemes

The standards governing news and current affairs in Australia are found in a number of co-regulatory and self-regulatory instruments. Different codes of practice or principles on aspects such as accuracy, fairness and the protection of privacy apply to the following sectors or participants: the ABC, SBS, commercial television, commercial radio, pay TV, community radio, narrowcasting services, print and online media. The last category (print and online) is overseen for the most part by the Australian Press Council, although the print and online services of Seven West Media (including *The West Australian*) are part of a separate scheme known as the Independent Media Council. Both of these schemes are industry-based, self-regulation schemes with no statutory involvement. Broadcasting codes of practice are developed by industry groups, exposed for public consultation, then registered with and enforced by the Australian Communications and Media Authority under the *Broadcasting Services Act 1992*.

For this short, illustrative exercise, we will discuss only the rules relating to fairness and balance as they apply to the ABC compared to commercial television and commercial radio.

The ABC

The ABC's Code of Practice and its Editorial Standards deal squarely with 'impartiality and diversity of perspectives'. The code rules – or 'standards' – to which the ABC is held accountable, are as follows:

- 4.1 Gather and present news and information with due impartiality.
- 4.2 Present a diversity of perspectives so that, over time, no significant strand of thought or belief within the community is knowingly excluded or disproportionately represented.
- 4.3 Do not state or imply that any perspective is the editorial opinion of the ABC. The ABC takes no editorial stance other than its commitment to fundamental democratic principles including the rule of law, freedom of speech and religion, parliamentary democracy and equality of opportunity.
- 4.4 Do not misrepresent any perspective.
- 4.5 Do not unduly favour one perspective over another.

In addition to these standards, there are ‘principles’ that inform the application of the standards. The principles note that in applying the impartiality standards as objectively as possible, the ABC is guided by several ‘hallmarks of impartiality’. These include:

- ‘a balance that follows the weight of evidence’ and
- ‘fair treatment’.

These concepts are themselves explained in an Editorial Guidance Note on impartiality. Fair treatment is explained as applying to people and also to ideas. It is said to relate to ‘the way in which you frame an issue’ and to ‘the manner in which you interact with the people you talk to’. For example, it can mean providing appropriate background or context in the introduction to an interview and not signing off with ‘good luck’ if that could be seen as endorsing a particular view.

This is related to, but separate from, the code provisions dealing with ‘fair and honest dealing’ (code 5) which include concepts like informing participants of the nature of their participation and giving opportunities to respond to allegations. This is a crucial aspect of ABC news standards, but not something we will explore here.

On ‘balance’, the Guidance Note stipulates that ‘a balance following the weight of evidence’ does not mean equal time or even presentation of different viewpoints, ‘as if they were poised on either side of a scale’. The vaccination debate is given as an example.

It is worth noting on this point, in light of proposals set out in the Australian Broadcasting Corporation (Fair and Balanced) Bill which is currently before Parliament, that the ABC’s view of balance is aligned with the regulator’s view. In its report, *Investigation Concepts: Fairness, Impartiality and Viewpoints*, the ACMA noted that in various investigation decisions it has rejected the idea that balance means equal time; it has rejected the suggestion that all views on a particular topic must be explored; and it has rejected the idea all ideas should be given equal importance. The ACMA said the elevation of some, minority views might in fact mislead viewers about a matter of public importance, such as public health concerns. This it terms ‘false balance’.

Some of the ABC’s critics (in politics and media) confuse these fundamental notions, asserting or implying that fair and balanced does indeed mean equal coverage/importance. While more time is needed to explore this aspect in this response, it is heartening — from the ABC’s point of view — that its reputation with the viewing and listening public remains largely intact. This level of trust in public service broadcasting has been noted in other countries. In reviewing the literature on public service and commercial broadcasting, Ken Newton (2016) found people in countries with public service broadcasters generally have greater confidence in public institutions and that policies that undermine this sector are ‘likely to undermine the public understanding and knowledge of politics’.

Commercial television and commercial radio

Unlike the ABC code, the codes for the commercial, free-to-air sectors blend the concept of accuracy with the concepts of fairness, impartiality and the representation of viewpoints.

The Commercial Television Code of Practice 2015 provides as follows:

3.3 Accuracy and fairness

3.3.1 In broadcasting a news or Current Affairs Program, a Licensee must present factual material accurately and ensure viewpoints included in the Program are not misrepresented.

...

3.4 Impartiality

3.4.1 In broadcasting a news Program, a Licensee must:

a) present news fairly and impartially;

...

3.4.2 Nothing in this Section 3 requires a Licensee to allocate equal time to different points of view, or to include every aspect of a person's viewpoint, nor does it preclude a critical examination of or comment on a controversial issue as part of a fair report on a matter of public interest.

3.4.3 Current Affairs Programs are not required to be impartial and may take a particular stance on issues.

In the Commercial Radio Codes of Practice 2017, these standards are expressed as follows:

3.1. In broadcasting News Programs, a Licensee must use reasonable efforts to:

3.1.1. present news accurately and impartially;

...

3.2. In broadcasting Current Affairs Programs, a Licensee must use reasonable efforts to ensure that:

...

3.2.3. viewpoints expressed to the Licensee for broadcast are not misrepresented or presented in a misleading manner by giving wrong or improper emphasis on certain material or by editing material out of context.

...

3.8 Nothing in this section 3 obliges the Licensee to allocate equal time to different points of view, nor to include every aspect of a person's viewpoint, nor does it preclude a critical examination of, or comment on, a controversial issue as part of a fair report on a matter of public interest.

3.9 Current Affairs Programs are not required to be impartial and may take a particular stance on issues. However, a Licensee must provide reasonable opportunities for significant alternative viewpoints to be presented when dealing with controversial issues of public importance, while the issue has immediate relevance to the community.¹

Comparison

¹ [The code includes the following footnote] For the purposes of this provision, 'reasonable opportunities' can be accommodated within the same Program or a similar Program. The requirement does not impose an obligation on Licensees to allocate equal time to different points of view, nor to broadcast all viewpoints expressed to it.

As can be seen, a major difference between the ABC standards on the one hand and those of the commercial free-to-air broadcasters on the other is their scope. The ABC applies strong rules to fairness in both news and current affairs. The ABC uses the term ‘news and information’ so the fairness rules apply wherever that type of content is found. In the commercial broadcasting sector, however:

- commercial television applies its rule about misrepresentation of viewpoints to both news and current affairs, but limits its rule about fairness and impartiality to news;
- commercial radio applies its rule about misrepresentation of viewpoints only to current affairs and its rule about impartiality only to news.

Further, commercial television and commercial radio standards apply *only* to the representation of viewpoints expressed to them or actually broadcast; the ABC has a more far-reaching obligation.

Finally, for both commercial television and commercial radio, there are no rules relating to newsgathering – to the conduct of news crews, as opposed to what is actually broadcast – not even for invasions of privacy. This is why in 2016 the conduct of *60 Minutes* in its child abduction story involving Sally Faulkner and Ali El Amin in Beirut did not breach any broadcasting standards.

Conclusion

In highlighting the differing standards that apply to the ABC and the commercial sector, we do not mean to suggest there are systemic problems with commercial news and current affairs. The *60 Minutes* case was an extraordinary incident that brought its own level of accountability through public opprobrium. But it also demonstrated a deficiency in the culture that had developed around that program and the absence of clear and defensible standards of practice to guide newsgathering and presentation. That situation is less likely to arise under the standards in place at the national broadcasters, which, as government-funded independent networks, are justifiably held to higher standards of practice.

Finally, while it is questionable whether the proposals set out in the current Fair and Balanced Bill are needed, it is certainly important to ensure that current standards are maintained. The effect of the *Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017* was to remove the last of Australia’s cross-media rules. After careful consideration, this was a move that we supported on the grounds that competition from global publishers, social media and technology firms irrevocably changes the environment for the production of news and current affairs in Australia. In our view, the need for policy objectives supporting localism and, without being alarmist, the cultivation of business models that will allow at least some level of news and current affairs, now outweighs the risks of further concentration of local sources through the repeal of cross-media rules. We are now waiting to see the first blush of these policies in the details of the Federal government’s \$60m regional innovation fund.

In this cross-media environment, however, two other policy priorities start to emerge: first, the enhanced importance of content standards (as aspects of structural regulation are removed); and second, the critical role of the national broadcasters in contributing to media pluralism. Our work at the Centre for Media Transition will embrace these themes as, for example, we explore the feasibility of cross-media news standards as an alternative to the current, fragmented scheme.

The development of new policy and regulatory approaches to suit the current digital news environment has only begun, and it is not possible to make any definitive statements about community trust more generally. However, even at this stage, it is reasonable to say that the

more rigorous standards of the national broadcasters are a critical part of the Australian media environment, and are likely to be an important factor influencing trust in government decision-making processes.

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