

Controversial Issues – Viewpoints (Balance) as a Broadcasting Standard in Radio

Background

Section 4(1)(d) of the Broadcasting Act 1989 requires broadcasters to maintain standards consistent with the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Prior to 1 July 2008, the relevant standard was Principle 4 (balance), and it was worded as follows:

Principle 4 Balance (in force until 30 June 2008)

In programmes and their presentation, broadcasters are required to maintain standards consistent with the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Guidelines

4a Broadcasters will respect the rights of individuals to express their own opinions.

4b Broadcasters may have regard, when ensuring that programmes comply with Principle 4, to the following matters:

- (i) An appropriate introduction to the programme; and*
- (ii) Any reasonable on-air opportunity for listeners to ask questions or present rebuttal within the period of current interest. Broadcasters may have regard to the views expressed by other broadcasters or in the media which listeners could reasonably be expected to be aware of.*

The new Standard 4 (controversial issues – viewpoints) came into effect on 1 July 2008 after a review of the Radio Code. The standard was given a new heading and the guideline information was simplified, as follows:

Standard 4 Controversial Issues – Viewpoints (in force since 1 July 2008)

When discussing controversial issues of public importance in news, current affairs or factual programmes, broadcasters should make reasonable efforts, or give reasonable opportunities, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Guideline 4a

The assessment of whether a reasonable range of views has been allowed for takes account of some or all of the following:

- the programme introduction;*
- the approach of the programme (e.g. taking a particular perspective);*

- *whether listeners could be reasonably be expected to be aware of views expressed in other coverage;*
- *the programme type (e.g. talk or talkback which may be subject to a lesser requirement to present a range of views)*

The purpose of this Practice Note is to provide guidance to complainants and broadcasters about the way these standards have been interpreted by the BSA with respect to talkback programmes.

Comment

General

The controversial issues/balance standard only applies to news, current affairs and factual programmes. It is intended to ensure that audiences are presented with all significant viewpoints on controversial issues of public importance. Accordingly, the BSA assesses balance complaints about radio programmes from the point of view of the listening audience (2005-083).

Controversial issues of public importance

The requirement to present significant perspectives only applies to programmes which discuss “controversial issues of public importance”. There are two elements to this concept: first, the issue must be of “public importance” and, second, it must be “controversial”.

The BSA has typically defined an issue of public importance as something that would have a “significant potential impact on, or be of concern to, members of the New Zealand public” (2005-125).

A controversial issue will be one which has topical currency and excites conflicting opinion (2002-147).

The following issues were found to be controversial issues of public importance in radio programmes:

- an anonymous interviewee’s allegations of historical bullying made against the then Associate Minister of Education (2005-083)
- the potential involvement of the Rail and Maritime Transport Union of New Zealand and Maritime Union of New Zealand in a situation where industrial action was being taken by Progressive Enterprises against its employees (2006-117)
- allegedly poor financial planning by the Canterbury District Health Board and Christchurch Hospital (2004-133)
- a Private Member’s Bill aimed at legalising assisted euthanasia of the terminally ill (2003-062)
- genetic modification, transgenesis and cloning (2002-024)
- New Zealand’s immigration policy (2004-125)

The following issues were found not to be controversial issues of public importance in radio programmes:

- one grandmother’s personal experience with Ritalin (2004-132)
- a press release from the Catholic Church concerning the “Anti-Smacking Bill” (2007-059)
- a reception held for a celebrity at Premier House (2004-065)

- potential electricity shortages in Queenstown (2007-072)
- individual panellists' views about whether the Treaty of Waitangi would survive the establishment of a republic (2002-147)
- the health implications of smoking (2000-096)

What is a “discussion” of a controversial issue of public importance?

The BSA has found that the controversial issues/balance standard will not apply where issues are raised in a brief, humorous or peripheral way, and so are not “discussed” (2005-120, 2006-117).

The BSA has distinguished between programmes which purport to present a serious and even-handed examination of an issue – and so are subject to the controversial issues/balance standard – and those which are unambiguously opinion-based, and in which the host’s role is to elicit audience reaction by taking a strong position on a topical issue (2008-108). Talkback programmes have generally been found to fall into the latter category.

The following programmes were found not to have “discussed” a controversial issue of public importance in radio programmes:

- an interview with a lawyer about the release of a report on domestic violence by the Ministry of Justice, which did not purport to be a general discussion about domestic violence (2008-029)
- a discussion where the idea of New Zealand becoming a republic was raised incidentally (2005-046)
- a radio host’s speculation that the Indian community may be treated differently under the new National-led government, and his call for feedback (2008-135)
- a programme discussing diet soft drinks where an interviewee mentioned a view that butter was a “natural poison” (2004-022)
- an opinion-based discussion about child poverty, its causes and solutions (2008-108)

Significant viewpoints

The controversial issues/balance standard states that broadcasters must make reasonable efforts, or give reasonable opportunities, to present “significant points of view” on the controversial issue under discussion.

Determining which viewpoints are “significant” depends on the focus of a particular programme and the way in which the controversial issue of public importance has been framed – in other words, a significant viewpoint is one which is essential to the audience’s ability to reach a full and informed view of the information presented.

The Authority found the following to be “significant points of view”:

- an explanation of the current sheltered workshops regime, during an interview about legislative change to introduce paying the minimum wage to disabled people (2007-077)
- a response from a person accused of sexual abuse by an anonymous interviewee (2004-115).

The following were found not to be “significant points of view”:

- emails from radio listeners about an anonymous interviewee’s allegations of bullying against a Cabinet Minister (2005-083)

- views of non-Taxi Federation companies in a discussion about taxi safety, where police, Taxi Federation and Land Transport New Zealand were interviewed (2006-130).

Reasonable efforts and reasonable opportunities

The question of whether a broadcaster has made “reasonable efforts” or given “reasonable opportunities” to present significant points of view has been discussed in radio complaints where an individual has been invited, but has refused, to participate in a programme.

The BSA has said on many occasions that a decision by an interested party not to participate does not absolve a broadcaster of the responsibility for ensuring balance (2004-115).

When this situation has occurred, the BSA has noted that significant perspectives can be provided:

- by the host of a programme explaining the other points of view, or adopting a “devil’s advocate approach” (2005-083)
- by the presentation of information gathered through the broadcaster’s own research (2008-117).

The period of current interest

If a broadcaster has not complied with the requirements of Standard 4 within a particular programme, the standard still allows for significant viewpoints to be presented “within the period of current interest”. This acknowledges that it is not always possible for broadcasters to canvass all sides of a controversial issue of public importance within one programme.

The length of the period of current interest depends very much on the issue under discussion. Highly contentious “moral” issues, such as euthanasia or abortion, tend to have an ongoing period of current interest, so that the broadcaster can look to past coverage of the issue, and to any scheduled future coverage, when assessing the range of views presented. On the other hand, urgent matters will typically shorten the period of current interest. This includes situations where allegations of a serious nature are made (2004-115).

Decisions in which the BSA has had to consider whether significant perspectives were provided within the period of current interest include:

- an anonymous interviewee making serious but unspecified allegations of sexual abuse (2004-115)
- an anonymous interviewee alleging that a Cabinet Minister was guilty of bullying students he had taught (2005-083)
- individual panellists’ views about whether the Treaty of Waitangi would survive the establishment of a republic (2002-147)
- a discussion surrounding genetic modification, transgenesis and cloning (2002-024).

Radio Talkback

Guideline 4a to the controversial issues standard acknowledges that talkback programmes may be subject to a lesser requirement to present a range of views. This very nature of talkback, which has an open line format, allows for listeners to call and put forward alternative perspectives on a controversial issue of public importance.

In addition, complaints about talkback radio usually relate to the treatment of individuals (either the subjects of discussion, or talkback callers) or the accuracy of statements made by the host

and callers. Therefore controversial issues/balance complaints about talkback have often been subsumed into the Authority's consideration of the accuracy and fairness standards (2006-030, 2005-099, 2004-193).

Recommended further reading:

Significant Viewpoints: Broadcasters Discuss Balance (Proceedings of a symposium convened by the Broadcasting Standards Authority, Auckland, May 2006), Broadcasting Standards Authority. Available for download through the "Publications" link on the BSA's website www.bsa.govt.nz

Media Minefield: A Journalists Guide to Media Regulation in New Zealand, Steven Price, New Zealand Journalists Training Organisation, Wellington, 2007.

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Disclaimer: Nothing in this Practice Note binds the BSA in determining the outcome of any future complaint. Each complaint is determined on the particular facts surrounding a broadcast.