

# 2022 Public Consultation on the review of the Broadcasting Standards Codebook

## Other submissions

### **Submitter: A Barron**

#### **Question 1:**

The Standard of 'harm' applied to medical misinformation is of concern. I had a complaint not upheld when the broadcaster (RNZ) had not submitted on this, but the BSA decided to dismiss on the level of harm. Because RNZ had never raised this as an issue, I could not respond to the nature of harm as seen by the BSA. I find a decision made on a factor never raised to me, in which I am unable therefore to address, procedural breach.

That notwithstanding, for disabled harm is any misinformation put into the community by a broadcaster. This has been seen with Covid19 and vaccination, but is not the standard which is applied uniformly to disability and other medical matters. Issues of Disability have been used for entertainment or manufactured rate-boosting debate, there is an absolute requirement for accuracy and balance as any misinformation has major impact or cumulative impact on the most vulnerable.

#### **Question 2:**

As above.

Addressing medical misinformation has not been adequately covered by the BSA. The same standard as applied to other areas of rights protection (ethnic identity, concepts of race, gender identity, sexual identity etc) is not applied to disability. Indeed, broadcasters have 'shopped' around for obscure medical opinion without attempt to balance with the mainstream views of the medical regulators. There seems no attempt to analyze the impact on those with the medical condition or disability. The stigmatisation of the disabled is an on-going persecution by broadcasters barely commented upon.

If there has been some external comment on Covid19 misinformation, this does not extend to Long Covid, or other post-viral fatigue (CFS /ME). This disability has not been given the dignity of accuracy. I use this as an example as it is my disability, and I am aware that other disabilities (eg. AIDS / HIV or MS) are treated with more care. However, as globally 100,000,000 + have contracted a form of CFS / ME in the last 2 years, no broadcaster should be involved in shopping for those that will give medical views outside the major medical regulators without clear balance.

#### **Question 3:**

My dealings with the State broadcaster show that they do not have any form of dispute resolution which is accessible for those with cognitive disability. This is despite being required to in the New Zealand Public Health and Disability Act 2000.

It is my view that if the broadcaster decides to discuss illnesses with cognitive disability, there is an obligation to accommodate those disabilities in a complaint process.

The BSA is more supportive, however, it is a drawn out process of multiple submission. This should be the last option for those with cognitive disability dealing with the broadcaster, not the only option.

**Question 4:**

As above.

Far more work needs to be done on the issues of medical misinformation and disability. The BSA need to understand the harm of stigmatization of cumulative medical misinformation. Processes require review as to whether they are disabled friendly.

NB: there will be a new Ministry for Disabled Persons

**Question 5:**

I hope this can provide consistent and accurate medical information.

**Question 6:**

As my submission is primarily on disability, I should remind the BSA of medicalized violence (as recently noted by the HRC disability Commissioner), this includes the promotion of 'treatments' that can be deemed dangerous and harmful to the disabled.

**Question 7:**

N/A

**Question 8:**

I believe that this is essential for the protection of the disabled from medical misinformation causing harmful stigmatization [NB: that stigmatization impacts on insurance, medical care, benefits and social and personal well-being].

**Question 9:**

If 'reinforcing or embedding negative stereotypes' is accepted, balanced broadcasting must be provided each broadcast. If a minority medical view is authoritatively put forward but there is no discussion as to the predominant and accepted medical view then the issue is deliberately misleading.

**Question 10:**

Yes, and must be in the same time and program of the broadcast, and within a timely manner

**Question 11:**

Yes. RNZ have tried to hide behind freedom of expression for opinions that they have induced that are misleading. If professionals are interviewed, broadcasters are purposely giving authoritative veneer to 'opinions'.

**Question 12:**

If a person is required to disclose their own medical condition to make a complaint, consideration of privacy should be with the complainant.

**Question 13:**

N/A

**Question 14:**

As above -

If a person is required to disclose their own medical condition to make a complaint, consideration of privacy should be with the complainant.

**Question 15:**

I recommend that consultation includes disabled persons

## **Submitter: A Climie**

My focus is on the lack of balance on “climate change” as presented by TV1, wherein there is a complete absence of coverage of natural variability, which has always driven continuously changing climate. TV1’s membership of the global media organisation “Covering Climate Now”, which promotes Anthropogenic Global Warming (AGW) hypothesis, discourages any broadcast coverage of alternative scientific explanations of our modest warming since a colder period ended 170 years ago, clearly reveals bias and lack of balance. Our warming is absolutely normal in an interglacial.

It greatly concerns me that the BSA gives a free pass to TV1 on this specific issue, and that the country is on an economy-damaging path following an hypothesis based on failed models and lacking any empirical or physical evidence.

...

My concerns relate to Standards 5. Balance and 6. Accuracy and the manner in which these have been addressed in the past under the stewardship of the BSA. More specifically, the unbalanced and serially inaccurate and misleading coverage by 1 News of the controversial issue of “climate change” - as perversely defined by ideologically-driven UN IPCC to mean Anthropogenic Global Warming (AGW) - ignoring natural variation which has driven climate cycles for hundreds of millions of years.

The issue is of critical importance to New Zealanders as the NZ Climate Change Committee is recommending major changes in energy policy that would have a profoundly negative impact on the NZ economy and its international competitiveness. Yet New Zealanders have been presented with only one side of the issue. 1 News presents solely material promoting AGW, an unproven hypothesis based solely on failed models. 1 News belongs to the international media organisation, “Covering Climate Now” (as does the NZ Herald), that promotes AGW hypothesis and essentially suppresses any coverage of natural variability. Membership of this organisation immediately establishes that 1 News climate coverage lacks balance. Yet, NIWA, which also follows government policy on the climate issue, acknowledges on its website under Natural Climate Fluctuations that, during our current (Holocene) interglacial, temperatures have fluctuated by up to 2C since the last major ice age (12,000 years ago). This alone raises serious questions on the validity of AGW hypothesis.

### **Standard 5. Balance:**

The definition of “balance” - surely a cornerstone of a credible media coverage - appears to excuse lack of coverage of controversial issues provided opposing points of view can be accessed elsewhere. NZ does not have TV coverage presenting information on natural variability which would allow 1 News viewers to gain a balanced perspective. So-called “experts” consulted by 1 News to endorse their climate material are invariably within institutions driven directly or indirectly by Government policy, and are committed to the AGW cause.

### **Standard 6. Accuracy:**

Under guidelines it notes: “However, broadcasters should still make reasonable efforts to ensure analysis, comment or opinion is not materially misleading with respect to any facts: referred to; or upon which the analysis, comment or opinion is based”. 1 News presents highly selective material in its incessant climate coverage, which is frequently misleading either through omission, absence of context or inaccuracies.

Again, endorsement is provided by institutional academics who promote AGW hypothesis and are no doubt incentivised by the abundant available research funding to promote this cause.

A specific example of how BSA oversight has failed: A 1 News programme (21-11-2020) reporting a developing marine heatwave (MHW) affecting northern NZ waters reported in a fraught, alarmist manner. It did not place the MHW into the correct context that this warming was related to an entirely natural La Nina event (a global cooling phase of El Nino Southern Oscillation [ENSO] which temporarily warms waters in the western Pacific). This was presented in a manner which may have alarmed viewers and inferred AGW was a significant driver (unproven). An "expert" who was consulted for his endorsement, talked in a confusing manner, also out of context, about the consequent acidification of the ocean, associated dangers to marine life, and of sea level rise. I pointed out in a complaint to 1 News and, subsequently, the BSA, that ocean warming actually results in the outgassing of CO<sub>2</sub>, following Henry's Law of physics, so acidification is impossible. This is very straightforward and could easily have been checked by the BSA. Yet "expert" advice of academics committed to promoting the AGW cause is automatically accepted without question.

The oversight process is not working and the public has been badly misinformed on an issue of critical national importance.

**Submitter: B Insull**

**Question 1:**

Clarity. Yes.

Definition of context should be tighter rather than liberal or any misdemeanour will hide behind the context clause.

Children. Be clear about WHY there is a need to protect children from certain content. I do not see any censorship in in 6pm TVNZ news when children are sitting with parents eating dinner.

**Question 2:**

Use more te reo and indigenous languages. Eventually it will become the norm. More good news stories about New Zealanders who are not white European

**Question 3:**

I would give a longer complaint period. 60 days.

Valid complaints shouldn't be disregarded because they exceed a short three week window.

**Question 4:**

More public discussion on the the effects of non censored content for children. What age is a child.

On the effects of mis information. Extremist and sensational content/outlets on a society that's needs to cooperate and 'be kind' to survive.

**POLLS**

Question the validity and consequences of extensive reporting as fact and lead stories based on the news stations own polls. EG TVNZ poll on Jacinda Aderns popularity resulting in a ten minute lead story.

Commercial news stations sicken me.

I can't be the only one. Whatever regulations can be designed to reduce sexist/ racist/ denigrating and humiliating broadcasting should be made.

Media watch is fantastic. It's analysis of poor and mis information and appalling public broadcasting is a bright light in the media world. Only on national radio.

There should always be a public broadcasting station where honest journalism and good language can be preserved and listened to by people like me.

**Question 5:**

See above re public broadcasting.

**Question 6:**

Define children

Adhere to 8.30 pm time to protect our children

Tighten the definition of context.

Laughing shock jocks should not get away with denigrating comments and language because there show is 'light hearted fun'

**Question 7:**

No alcohol advertising should be broadcast. NZ has a huge drinking problem.

**Question 8:**

Absolutely agree

**Question 9:**

No. Tighter control is needed across the media types.

Who would think people scroll around to check they have received a balanced fair viewpoint??

**Question 10:**

Yes

**Question 11:**

Yes

**Question 12:**

Yes At the moment there seems to be no concern for privacy or disclosure.

**Question 13:**

**Question 14:**

Follow the law. If legally a name is suppressed it should not be revealed.

**Question 15:**

Well written survey thanks. I answered it after reading a sub stack article.

I am a 66 year old tertiary educated female with seven grandchildren

**Submitter: C Soper**

**Question 1:**

There is mention that NZ is a diverse society. But there is no mention that Aotearoa (NZ) is a bi-cultural country founded on the principles of the Treaty of Waitangi.

**Question 2:**

- A) Ensure that the principles of the Treaty are identified and the rights of thangata whenua are reflected,
- B) Values of both New Zealands treaty partners is important and non-treaty partners should not have additional special privileges,

**Question 3:**

Making a Broadcasting complaint is somewhat pointless. The BSA have no interest and care about the integrity of the news. The BSA are just a rubber stamp for compliance to TVNZ and their liberal / racist activities. There is a clearly divisive and combative nature of news media these days. Being an inaugural Director of Maori Television I noted the the TVNZ stories that are untrue and clearly designed to create conflict and anti- Maori sentiment. Is it any wonder people distrust TVNZ and the news they present (I can provide many examples of this if required)?

**Question 4:**

**Question 5:**

**Question 6:**

**Question 7:**

**Question 8:**

Anyone with a viewpoint other than that of the left is condemned as hateful. The reality of the world is the left are the modern-day Nazis and hate. Anyone different to them and are condemned, abused and vilified.

**Question 9:**

There is no balance in the news today. It is all slanted and unfair. Sensible people get their news from more reputable (and balanced) sources like RTV, Joe Rogan and Tim Poole.

Without fairness and baland our society will continue to decline into polarised factions. This needs to change and should be a role of the BSA.

**Question 10:**

There is no balance in the news today. It is all slanted and unfair. Sensible people get their news from more reputable (and balanced) sources like RTV, Joe Rogan and Tim Poole. Without fairness and balance our society will continue to decline into polarised factions. This needs to change and should be a role of the BSA.

**Question 11:**

**Question 12:**

**Question 13:**

**Question 14:**

People should have the option of name suppression. If anyone dares to criticise the left of Jacinta they are abused .

**Question 15:**

There needs to be more of a change than a codebook. The BSA needs changes in Governance, management and policy to better reflect their role as arbiters of the truth. Instead of having all left-wing people in the organisation include some alternative/ moderate/ centerist points of view and also have some Maori oversight.

## Submitter: D Christoforou

### Prologue

A review of the Broadcasting Standards is welcome and well overdue. I am in general agreement with most of the proposed changes. I especially applaud efforts at clarification and simplification as well as bringing the different platforms under one simple set of standards. At the same time, I believe that the standards have always been seriously deficient in the areas of Accuracy and Balance and this deficiency has not been addressed at all in the new draft standard.

### Matters of public importance

The Balance standard clearly states that it only applies when matters of “public importance” are discussed. It states that “[the standard] will only apply where the subject matter is... an issue ‘of public importance’ (something that would have a significant potential impact on, or be of concern to, New Zealanders).” I believe that this is morally unjust. Points to note:

1. New Zealand is indeed a diverse society, as acknowledged in the introduction to the standard. So which group is being referred to when New Zealanders are mentioned? Is it **the majority** of New Zealanders? If this is the case, then that would be unfair, because it would mean that this standard would not be applicable to issues of importance only to minority groups; the clear implication being that when discussing or reporting such issues, broadcasters have free rein to make unbalanced and inaccurate statements provided the issues are deemed to be of little importance to the majority of New Zealanders. It should be remembered that minority groups are also part of New Zealand society and their interests and rights need to be protected in law. Examples of such groups include (but are not limited to) ethnic, cultural and religious groups, the LGBTQ community, and the disabled.
2. The proposed Balance standard raises the important question: Who will determine if the majority of New Zealanders see an issue which is the subject of a BSA formal complaint, as being important or of concern to them and how will the BSA make such a determination? Short of carrying out a survey on each issue, this would seem to be very difficult under the proposed BSA standard.
3. Sometimes issues which at first do not appear to be of importance to and / or impact the majority, suddenly become controversial after they have been aired in an unbalanced and possibly sensational or even egregious manner. Public indignation can raise the profile of an issue over time and hence raise more people’s interest in the issue. As it takes time for this to happen, the issue could become defined as being of public importance well after the time limit for making a formal complaint has expired.

The way out of this impasse, is to ensure that accuracy and balance should apply to **all** matters broadcast, not just those somehow deemed to be of importance to an undefined Page 2 of 3 “average” New Zealand society. It is noted that the current four members of the BSA board are of remarkably similar cultural backgrounds and although they may be well versed in considering the views of Aotearoa New Zealand’s tangata whenua, they cannot in all fairness be expected to be aware or even to consider the cultural sensitivities of all minority cultural, religious or ethnic groups in New Zealand. For this reason, the views and sensitivities of minority groups need to be specifically allowed for and locked into the standards. This is very important, since the new draft standard purports to “... ensure the standards and guidelines reflect today’s **diverse** society and contemporary broadcasting environment...” [emphasis added]. The implication is that the standards should be fair to all cultural groups and not sideline any group because they are considered to be a mere minority, as if their sensitivities do not matter.

### Opportunity for airing opposing views

Often, broadcasters making a programme on a particular issue, correctly request a response or statement from a person or an entity holding the opposite view, in the interests of providing balance. In many cases, the party being asked for a statement declines to supply one, perhaps because they are unaware before the programme has been aired as to the extent of “accusations” about to be made until after the programme is aired. In cases where a response is received after the programme has been aired, the broadcaster should be bound by the standards to provide this response via the same medium and at the same time and day of the week as the original broadcast. It should not be sufficient to provide the response tucked away on the broadcaster’s website, for example, or worse still, not to provide it at all because it is considered to be too late. This represents another deficiency in the Balance standard which needs to be addressed. The same should apply to corrections made. It is mentioned that a correction should be made at an “appropriate” time but this needs to go further and define the appropriate time as I have done, above.

### Cross-checking information

The Accuracy standard relies on the broadcaster making “reasonable efforts” to ensure accuracy. The guidelines state that reasonable efforts could include consideration of the source of the material and examples are given such as using a “reputable organisation” or an “authoritative expert”. This is extremely difficult to determine when the programme originates from outside of New Zealand. The standard should include the necessity of using at least two sources to cross-check information broadcast, hence increasing the broadcaster’s confidence in determining the accuracy of its broadcast, including any allegations made therein.

### Representative spokespersons

The selection of interviewees is a very important consideration when controversial issues are covered in an investigative media report, as often only those that make the most noise are actually chosen. Perhaps they are the easiest ones to find as they have likely attracted attention to themselves. However, it should be incumbent on broadcasters to ascertain **independently** by carrying out research as to whether their interviewees are truly representative of the group or issue they claim to represent, or whether they are merely a few “left field stirrers” claiming to represent everyone generally within their group or wider population. This might seem onerous for broadcasters to carry out in some cases, but it would only be relevant where a formal complaint is made and investigated by the BSA. The BSA must be bound to determine whether the information presented was truly representative of the whole population it was purported to be relevant to, and to take into consideration any supporting evidence provided by the person making the formal complaint asserting that it was not. Again, it should be noted that when choosing interviewees, at least some random Page 3 of 3 people in the street (for example) should be questioned to determine whether an issue is really genuine and representative of the particular group. For a genuinely reputable broadcaster, this should not be difficult.

It is recommended that this standard be improved by including in paragraph 6.3 a requirement such as: “Where a group is making assertions (via interviews or statements) on behalf of a larger population and purporting to represent that population generally, the broadcaster should be bound to make every effort to verify that this is the case by attempting to cross-check its information, for example, by interviewing members of the general population to verify whether an assertion is truly valid in a wider sense.” This is important so that the views of a minority action group or “stirrers” cannot gain a platform to make false statements which could possibly denigrate another group (whether cultural, religious or

ethnic) and provide misleading information to a New Zealand audience. As the present standard has been drafted, this remains as a very real possibility, especially in cases where the average New Zealand audience is totally unaware of the issue, when it is being brought to their attention for the first time.

#### Unbiased determination of complaints

Finally, the comment that “complaints under this [Balance] standard will rarely be upheld”, is prejudicial and should be removed as it implies that the BSA, in making a determination will start from a “not upheld” viewpoint, rather than having a neutral mindset, taking each complaint on its merits. Whether this statement is included to deter vexatious complaints is unknown, but nevertheless it should not be included in the standard and should be removed.

#### Epilogue

The standard should not rely on viewers or listeners making the effort to find opposing views elsewhere, especially where an issue of minority interest is being presented. In today’s world, many viewers / listeners seek to become informed on worldwide issues, often relating to cultures or groups that do not have a high profile in New Zealand, and which is often presented by only one programme on one single platform by one broadcaster. In such cases, it is important that balance is maintained throughout, without the audience needing to make internet searches to find opposing views or to rely on other sources.

I believe that the recommendations in my submission need to be adopted in order to safeguard the rights of minority groups and to reflect the cultural diversity in New Zealand. They do not in my view restrict freedom of expression as it relates to broadcasting media and news / current affairs reporting

**Submitter: D McDonald**

yours go to rgdsm.wp dPost science.

Review.. bsa broadcasting standards in nz codebook.

Keep up the great work Don.

They're trying to scare complainants off because the Government won't give them the staff necessary to handle all the complaints they get.

A sad state of affairs.

Kind regards

JT

**MEDIA MATTERS IN NZ**

On Mon, Apr 4, 2016 at 11:08 PM, DON McDonald [REDACTED] wrote:

Review.. bsa broadcasting standards in nz codebook.

This free booklet is a five year update of vital standards for new zealand media.

Save 50x your power bill.

Radio nz

28 complaints. Five years.

Never a shadow of acknowledge. Ow.

Useless bsa.

The previous may 2011 version was unreadable (see per donal ads [REDACTED]). Example black words on red paper or background and small type.

Therefore 500 complaints had no fair chance of succeeding.

Apparently i can be fined up to \$5000 for making a formal complaint. It is impossible to interpret the avenues for orders.

Notwithstanding strenuous representations from the science community, broadcasting standards authority seeks to condemn a number of so-called trivial complaints.

Therefore pages 63-65 codebook largely refer to a few of my complaints.

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This will only prove the poverty of reason in the media watchdog. Which i continue to expose.

Government Superannuation Fund and new zealand superannuation are entirely different schemes with separate funding and scale and fiscal burden. 2009-164.

A solar car may require 98% less energy (1-50th) but i doubt 50 times less.

Fifty per cent less is 100% more. Maths lesson. 2009-150.

Mens pay was 1.58x womens pay. This is NOT 31% DIFFERENCE in men's and women's pay. Difference is MINUS. Dollars. Per cent is TIMES.

If 1.58x is correct how about saying women are paid 37% less than men.

This is a critical social justice and political issue. It is worth getting the Maths right. 2010-15.

The news said neither who was paid nor more or less nor how much.

Wind chill factor below zero in new York and Antarctica is vastly different if zero Fahrenheit.

And foreign to nz experience. 2010-033.

A search for missing sailor is not a line from earth to moon. Km. You have to search the area of lake taupo or 360 000 km2.

If this fails i am afraid he was never seen again. 2010-055



Growth is bad X wgtm mayor (2013 16 1719)  
than cars (===) pop flites/  
WCC ticket pardon. Dgrace prkng  
what d u? thinking clearly.  
when it isn't right. temps FCK °  
BACKUPx do.no.gamb@g

> Media MattersNZ site, viewers.org.nz,  
x "opinion on the Tv,Intnet scene in NZ"

**Submitter: G Liddell**

**Question 1:**

**Question 2:**

**Question 3:**

**Question 4:**

Concentrate on analysis of the content that will be more fundamental and persevering target of efforts to improve public dialog.

**Question 5:**

This categorisation will be rapidly overtaking by emerging mixtures of diverse distribution and payment methods (as we pay by giving information for instance).

**Question 6:**

**Question 7:**

**Question 8:**

The overemphasis on personality distorts the often more distributed responsibility for mistakes. The undeserved emotionalising of criticism before culpability is clarified is corrosive.

**Question 9:**

This section rests on assumptions confounded by the evidence of our human limitations. We do not see alternative (usually correcting) information close enough to connect the statements. The first exposure to widespread misreporting , exaggerated or uncomprehending reports overshadows later corrections.

**Question 10:**

The requirement needs strengthening so reduce the widespread distribution of incorrect material in the first place.

**Question 11:**

The requirement needs strengthening so reduce the widespread distribution of incorrect material in the first place.

**Question 12:**

**Question 13:**

**Question 14:**

**Question 15:**

**Submitter: J and B Maltby**

The main area of concern that we have is the standards that you apply.

For example we have in the past lodged complaints about the Mike Hosking breakfast show Where he has been rude ,disrespectful, denigrating, etc, way short of the standards that we think should be acceptable. It is apparent that there is no benchmark standard for such programmes but rather the standard is set at what the authority thinks that the types of people who listen want to hear.

To us that is not a standard and is subject to the whims of the lowest common denominator.

We would like to see clearly defined acceptable standards set.

## **Submitter: Professor J Burrows**

Thank you for the opportunity to comment on this draft. Having been involved with media law over many years I take a keen interest in the BSA Codes. I would however issue this caution: I have been retired for a while, and in some matters may be a bit out of touch with the environment in which the BSA has to work. But here are my reactions for what they are worth.

### *A single code.*

I am interested in the decision to go with a single code. That makes sense in this age of convergence. Overall I think the unification works, but there is the occasional awkwardness. In two of the standards – Standards 1 and 2 – I am not sure that the current draft has got it quite right. This is because the overwhelming proportion of the content is about television, and in particular about the classification system which of course radio does not have. Radio does not get much of a look in. My impression is that radio broadcasters will have to work through these new Standards 1 and 2 very carefully to find out how, if at all, they fit into the new scheme. Sometimes the references to radio are extremely brief. Talkback radio receives mention only in the last sentence of page 7 of the commentary to Standard 1, and the statement that “different standards may apply to programmes of this kind” is not particularly helpful. Likewise, what does Guideline 2.12 to Standard 2 mean when it says that nothing at all in the standard applies to radio outside normal children’s listening time, given that school time is not within that normal listening time?

### *Reduction in number of Standards*

The new draft reduces the number of standards from 11 to 8. I support that. It reduces repetition, and the rolling together of like Standards enables overarching principle to be more clearly discerned. The loss of the old Standards on Programme Information, Violence and Alcohol is no bad thing, provided nothing of importance is left out in the process. The only one that gave me pause was Violence, where what seemed to me to be some quite helpful Guidelines in the current Codes have disappeared.

### *Standards Guidelines and Commentary*

I thought the two sentences at the foot of page 3 were excellent. They make it clear that what matters in determining a complaint are “the wording of each standard and its objectives”. The commentary to each standard begins with a summary what the objectives are. It is then explained that the Guidelines and commentary inform how each standard is interpreted.

It might perhaps be useful to add a sentence to the effect that the Guidelines are just that – guidelines and not firm rules – and are not exhaustive. A broadcaster can be in breach of a standard even though no specific guideline has been infringed.

### *Standards 1 and 2 Offensive and Disturbing Content and Children’s Interests*

There is inevitable overlap between these two standards. But I think the explanation in the last sentence of the commentary to Standard 2 should remove any confusion. But I did wonder whether Guideline 2.9 would be better placed in Standard 1 than Standard 2. It is clearly of general application, and goes much wider than just the protection of children.

### *Standard 3 Promotion of Illegal, Dangerous or Antisocial Behaviour*

I strongly agree with the replacement of the current Law and Order Standard by this one. The inclusion of dangerous or antisocial behaviour is in line with other codes, both in NZ and abroad. But, for myself, I think the Standard's criterion that the broadcast must "actively promote" the behaviour sets the bar a bit too high. It suggests that the broadcaster must be intentionally inciting the audience to engage in the behaviour in question. I'd prefer the phrase "encourage or condone" - or perhaps something like "be likely to result in".

In the same vein, in the second para of the commentary on page 12, I'd have thought that direct incitement to break the law should virtually always be a breach of the standard rather than just being "likely" to be.

#### *Standard 4 Discrimination and Denigration*

I agree with this. It is in line with the wording of the Act, and in my view sets the standard correctly.

I do suspect, however, that some complainants will complain about racial slurs under Standard 1, the "Offensive and Disturbing Content" Standard, rather than this Standard 4. There is precedent for this. The ASA deals with such material under the "Decency and Offensiveness" rule in its Code (Rule 1(c)). And when a Rangiora woman was charged last year with racial abuse in a shop the charge was laid under the offensive conduct provisions of the Summary Offences Act. I am not sure how the BSA will deal with this – whether it will say that racist material can only be dealt with under Standard 4, or whether it will allow complainants the alternative avenue of Standard 1, which will engage different criteria. (It may well be that this problem has already presented itself to the BSA.)

#### *Standard 5 Balance*

The Balance standard remains the most difficult in the Code. Of all the standards, it is the one which has been most overtaken by the new methods of communication.

I like the new formulation in the draft code. The new Standard, and the Guidelines under it, summarise very clearly and accurately the sensible way in which the BSA has dealt with the issue over the past decade or so. The problem, of course, is that this Standard is one of the few where the Act prescribes the actual wording of the Standard. And the proposed wording in the draft Code grafts a very significant qualification on the statutory language. Is the draft consistent with the Act? I suppose it could be argued that it is – least with the purpose and spirit of it when interpreted in 2022. There could be an interesting argument about that.

Be that as it may I support the new formulation. It is after all what the BSA has been doing for some time, and it is the only way of making sense of the statutory standard in this modern world.

There is another point that I think is worth raising. The second sentence of the first paragraph of the commentary says that the Standard does not require news and current affairs "to be presented impartially or without bias". Nor in express language does it. But I have no doubt that the public expect their news to be presented impartially and in an unbiased way, and they have a right to do so. It is a long-standing precept of good journalism. If there were to be a glaring case of bias I suspect the BSA would find a way of dealing with it, either under the Balance or the Accuracy Standards. I think it might be best to delete this sentence.

#### *Standard 6 Accuracy*

I agree with the Standard, in particular with the elevation of correction to be part of the Standard itself. I have always thought that while a broadcaster can (rightly) avoid liability for inaccuracy by being careful, it is important that when it becomes clear that an error has been made it should be put right. Clearly this need not apply to minor mistakes, but only to ones which really matter. The word “material” in the draft Standard captures that.

I think it might be useful to draw attention in the Guidelines to the fact that omissions can be misleading. It is quite possible for every fact in a statement to be true, yet for it convey a misleading impression because important qualifying information has been left out. Half-truths are misleading.

### *Standard 7 Privacy*

I note that reference is no longer made in the Privacy Standard to any requirement that the publication be highly offensive to an objective reasonable person. I do not agree with this change, and think the requirement should be retained.

There has certainly been debate about it over the years, some people believing that the criterion of a “reasonable expectation of privacy” is able to do the job on its own, but currently the common law of New Zealand retains the “highly offensive” criterion. The question of whether it should remain as a criterion has recently been raised before the Court of Appeal (twice) and the Supreme Court, but both courts have declined to rule on it. So “highly offensive” is still with us. Since BSA decisions can be appealed to the High Court, it seems safer for the BSA to keep things as they are. I am not saying that a court would necessarily overturn a BSA decision for this reason, but it seems better, and less confusing, for everyone if courts and BSA are in harmony on this point.

In any case I myself think the “highly offensive” criterion performs a useful role, for several reasons. First, by requiring that the infringement of privacy be offensive to an ordinary reasonable person, it gives a clear signal that redress for breach of privacy should not extend to trivial claims, or claims by unusually sensitive people. Secondly, the “reasonable expectation of privacy” and “highly offensive” tests deal with different things. The first governs the *type of information* which has been disclosed; the second with the *type of publicity* given it. Thirdly, when in doubt, one should choose the alternative which places the least restraint on freedom of expression under the Bill of Rights Act.

So I would be for retaining the “highly offensive” criterion, while nevertheless keeping an eye on what the courts are doing.

I would make another, more minor, point. Guideline 7.1 provides that the privacy standard “applies only when private information or material is disclosed...” This seems to say that the only type of privacy with which the BSA is concerned is the *disclosure of private information*. This might be thought to rule out the other sort of privacy infringement, “intrusion into solitude or seclusion”. This is conduct like trespass, surveillance, or the use of hidden cameras, and is usually about obtaining information rather than disclosing it. At common law they are separate torts.

Yet Guideline 7.6 retains the “solitude or seclusion” type of privacy. It provides that broadcasters “should not intentionally intrude upon a person’s solitude or seclusion...”. I do not want to make too much of this, because the BSA Codes have long recognised both sorts of privacy. I think the minor concern I feel is due to the emphasis in 7.1 on the Standard applying *only* to the disclosure of information.

### *Standard 8 Fairness*

This Standard has not changed, although the Guidelines have been expanded somewhat. I have commented above at page 1 on the changes resulting from the transition to a single Code. Some are visible in relation to this Standard too. Under it both radio and television will be subject to restrictions on doorstepping; under the current Codes only television is. Conversely, the current guidance about prank calls on radio has disappeared altogether in the new draft.

I did wonder whether enough emphasis has been given to the protection of children in the Guidelines to the Standard. Guideline 8.8 does refer to children, certainly, but I thought one might add a bullet point to Guideline 8.1 to this effect: "the vulnerability of an individual due to age, illness or other cause". I also wondered whether Privacy Guideline 7.9 about parental consent might be repeated under the Fairness standard. By no means all unfairness involves a breach of privacy.

### *Conclusion*

I have no comment to make on the two policy proposals in the Appendix.

Overall I think there is much to like about the new draft Code. It is clear and refreshingly simple, and makes some useful changes. So the few concerns I have go mainly to matters of detail rather than structure or principle.

Thank you for the opportunity to comment.

**Submitter: J Terris, Media Matters in NZ**

**Question 1:**

Clarity is not your organisation's problem.

Your problem appears to be bureaucratic arrogance (see below)

**Question 2:**

We (MEDIA MATTERS IN NZ INC) have submitted a complaint about a serious instance of ageism, relating to the co-presenter of TVNZ's programme SEVEN SHARP.

Your response was a hail of abuse, including the baseless allegation that our complaint was frivolous and trivial. It has been obvious for a long time that the BSA, like many bureaucratic institutions in the country, has completely lost touch with the public. This particular instance of bureaucratic arrogance is all the more offensive because the writer, aged 83, has experienced instances of ageism on many occasions in Aotearoa NZ.

Get with the programme, People. Ageism of the calibre you display is no longer acceptable and must cease.

**Question 3:**

The complaints process is hopelessly convoluted and by no means can it be said to be user friendly.

1) You have to be a lawyer with special training to pursue a successful complaint.

2) The fact that 80% of complainants fail is an indictment on you, for a complete failure to understand that the majority of your complainants have no legal training and expect better treatment than to be subject to ridicule and abuse.

**Question 4:**

You could start by making your complaints process open to the people who use it. You are seriously failing in your public duty to engage with Consumers.

You can't future proof standards. They don't evolve. Decency, kindness and fair play are not subject to changes in the regulatory environment or the evolution of the media. They are above them.

The Broadcasting Standards Authority should undertake a series of public workshops around the country in a serious attempt to inform and critique the current "Standards" and make them more in line with community attitudes.

You are seriously failing in your public duty to engage with Consumers in this exercise.

This cannot be done at the level of an internet Questionnaire. You have to get out and meet people and mine their ideas.

**Question 5:**

See above. Subject this proposition to serious public examination, which should also include an honest assessment of your own performance over the last 30 years. This has been abysmal.

The only way you will be able to apply standards is by introducing heavy fines for non-compliance, levied on the corporates who have hi-jacked the media in this country (which is why the public no longer trust them.)

**Question 6:**

See above.

**Question 7:**

It is unconcionable that alcohol, which is a substance which is a proven danger to public health should be allowed to continue to be advertised on Television.

Why have you not recommended to the Government that alcohol advertising be banned?

You were set up to police standards, not condone their breach. I was a member of the governing party which instituted this legislation and so I know what was intended.

**Question 8:**

See above.

You can't make a silk purse out of a sow's ear by tweaking it.

We the public require Reform in this space, and if you can't initiate it, why on earth are you taking up the space reserved for it?

**Question 9:**

Indicating support for this idea is abdicating your primary role.

**Question 10:**

See above.

**Question 11:**

See above

**Question 12:**

This is legal gobbledegook and not worth the time of day necessary to unravel its meaning. A pay day for lawyers with no value to the Consumer.

**Question 13:**

When is the Broadcasting Standards Authority going to have something to say about the exploitation of gullible people for fun and profit, represented by the world wide influence of Google and Facebook, who monetize ordinary citizens privacy for fun and profit.

Do stop trying to pretend that what you are doing, which is fiddling while Rome burns, has any value at all?

**Question 14:**

**Question 15:**

**Submitter: L Abey-Koch**

My complaint was not dealt with by the BSA but, after a lengthy delay, avoided. It concerned the right of a public broadcaster - RNZ - to editorially choose what to broadcast in the circumstance of a National Emergency when the Prime Minister was addressing the nation.

I lost confidence in the BSA, regarding it as a highly paid quango whose chief activity was the separation of language from meaning. Please delete me from your email contact list. In addition to a link offering a subscription to your newsletter, you are obliged to offer a link to 'Unsubscribe'.

**Submitter: M Sinton**

**Question 1:**

Thank you for the opportunity to contribute to this review of the Broadcasting Standards Authority (BSA) codebook.

I believe the codebook is clearly written. Is it available in a range of languages?

**Question 2:**

I note that the revised BSA code does not include the guiding principles of Te Tiriti o Waitangi. Te Tiriti is “widely considered to be a constitutional document” (justice.govt.nz, 2022) and its principles are now an accepted guideline for government departments and an increasing number of private organisations and businesses. The Ministry of Culture and Heritage under which the BSA is administered, acknowledges the importance of Te Tiriti on its website.

Te Ture mō Te Reo Māori 2016 recognises that te reo Māori is a taonga of both iwi and Māori, and is protected by Article 2 of Te Tiriti o Waitangi. I would like to see this protection of te reo incorporated into the BSA code.

As tangata whenua I have a vested interest in this, but I have an industry and academic interest also. I am a former talkback producer now lecturing in Māori media at Auckland University of Technology. An example of the denigration of te reo and therefore a breaching of Article 2 is given in my doctoral thesis on talkback radio (<https://openrepository.aut.ac.nz/handle/10292/14272>).

In this example I cite the occasion in October 2019 when a Newstalk ZB producer (or host) put a talkback call to air knowing, due to the screening process, that the caller’s kaupapa was to defend mispronunciation of te reo Māori by an earlier caller. In doing so it breached Article 2 by failing to protect te reo. “The station was promoting debate on an issue that is not up for debate; the value of te reo Māori is immutable” (p.92). Worse still, this kind of incitement used on a commercial network is a commodification of the denigration of te reo Māori. Inclusion of the need to uphold the principles of Te Tiriti would alert broadcasters to their responsibilities.

**Question 3:**

Yes, this is clear and helpful.

**Question 4:**

See my suggestion in # 2 above re incorporating the principles of Te Tiriti o Waitangi.

**Question 5:**

I support this change

**Question 6:**

I support this change.

**Question 7:**

I support this change.

**Question 8:**

I support the proposed change in Section 8 to guideline 4.2 to recognise that “reinforcing or embedding negative stereotypes” can be enough to breach the Discrimination and Denigration standard. I believe that the previous setting of the bar which meant that complaints could be overturned if they did not include “malice or nastiness” was too low. Discrimination, like its first cousin prejudice, can be purposefully subtle and insidious and it is not recognised for what it is. I provide an example of this in my answer to question 2 above.

**Question 9:**

**Question 10:**

**Question 11:**

**Question 12:**

**Question 13:**

**Question 14:**

**Question 15:**

Kia ora rawa atu for this opportunity to contribute to this process. The BSA has an important role to play in our heavily mediated society.

**Submitter: M Roberts**

F■■ off you c■■ are a waist of time

**Submitter: P Perrott**

I did make a complaint to BSA and found it to be a complete waste of time, energy and made no sense what so ever as does your use of a dead language. So simply disband the whole outfit and lets save some tax payers \$'s.

## Submitter: R Spring

I am very old and semi-educated. So I listen to talk-back radio. Chap phones up. It might have been to talk about Global Warming. He questioned how we had a history of Ice Ages before Humans caused it. There was really no reply, he was just cut off. His opinion, not being in conformity with the 'right' opinion could not be broadcast.

We have similar short shift to anti-vaxxers, etc. Go and get Advice is the mantra, but if a Health Professional ventures that maybe you should not have the jab, they are suspended without pay. They would not be allowed to talk on Radio. I was not allowed to run a half hour a month programme on Christchurch Plains FM. I applied. They told me they had the Diversity principle of Broadcasting. I said wonderful, I would like to talk about Diversity of Thought. The reply was, we cannot allow that, and put the phone down.

I would like to now provide some Book Reviews.

1/. The Past is Myself. Christabel Bielenberg, a Niece of Lord Northcliffe, newspaper baron. 1968, Chatto & Windus. She married a German lawyer in 1934 and lived in Germany until 1945. She incredibly believed the propaganda about how nice Hitler was. She went on to murder a Jewish family, denying them any help or protection in her home, I would have done the same. She managed to just save her husband from a German death camp. The problem was, she believed the idiot propoganda, No War, put out by her Uncle.

2/. Winston Churchill, the wilderness years. Martin Gilbert. 2012. Tauris Parke Paperbacks. Martin Gilbert is Churchill's official biographer, etc. From 1929 to 1939 Churchill was denied any time on BBC Radio. He made some broadcasts to UK from the Eiffel Tower Radio. The UK had, with America, voted for Peace. An admirable objective. But I saw the Bombs falling on Birmingham. I had a detonator factory just up the road from my home. Thankfully Chamberlain pricked the bubble with "Peace in our time, I have Hitler's signature", at the airport. Czechoslovakia was handed over complete with its Arms factories. Maybe WW2 could have been prevented if Churchill had been allowed to speak. Churchill did state that WW2 was the easiest war in the world to prevent. The opportunity was lost because Churchill was silenced. He only became UK Prime Minister in WW2 due to the UK Labour Party setting that as the condition for them joining a Coalition.

3/. Ordinary Men. The Final Solution in Poland. Christopher R. Browning. Penguin Books 2011.

Ordinary, random, Police Battalion 101 and the final solution in Poland. Not to be read in the evening.

New Zealand is preventing discussion of vital issues. I suspect people now obtain news and comment from the Internet. I understand there are lots of groups and radio stations. I think that what is happening is people are going down so called Rabbit Holes. But are they the truth? And if people switch off and stop listening to the Kiwi Propaganda Stations then it will be the result of a total absence of sensible guidelines. We are in danger of losing our ability to provide a Kiwi view of NZ and the world. The very idea that there is only one true version of history or the present is bizarre. Yet that is what our NZ media is doing.

I have almost lost confidence in the NZ News system. The four year old niece of George Floyd, Black Lives Matter, has been seriously injured with a bullet in the stomach. It is important news. As far as I am aware the NZ Media has not reported it. A 12 year old girl has been seriously injured in Toxteth, Liverpool, England. Not reported in NZ, and nor should it be. But these sort of news items build up and make people think that UK has lost control of its major cities.

I remember reading of the Brixton Riots. London, 1981. Yet the riots were duplicated over many large Cities in UK, including Birmingham where I come from. My brother-in-law helped one of his friends salvage what he could after the riot. The shop was closed down. In America, a young black man in the condemned cell has a longer life expectancy than a similar black man in the city Ghettos.

Patrick Gordon Walker was the MP for Smethwick, near Birmingham. As Commonwealth Secretary in 1950, Gordon Walker persuaded the cabinet to agree to prevent Seretse Khama, the heir to the throne of the British protectorate of Bechuanaland, from becoming its king – on the grounds that he had wed a white English woman, Ruth Williams.

But in 1968 Enoch Powell turned up. Immigration, particularly immigration from the Commonwealth, became the sole issue in a Smethwick election. Walker lost the seat. He lost the next safe Labour seat he tried to get elected to. I remember reading about one of his second-attempt election meetings. A lady stood up to question him about immigration. She was Hissed to Silence. Walker took control, Let her ask the question. And he answered it but lost the seat. That was no problem in a Westminster Democracy. He was sent to the Lords and continued in Government.

Mass Immigration is a major issue in the Western World. I left England over the issue. We must be able to discuss it in the media and not silence alternative views. Let a thousand flowers bloom, let a hundred thoughts contend. And that is Democracy. It lasted two weeks in China. We must do better.

**Submitter: R Beaumont Bell**

**Question 1:**

Yes, I think it is clearly written.

**Question 2:**

In the context of my recent complaint regarding what I considered casual use of racist language that can 'reinforce or embed negative stereotypes' (amendment 4.2), I wonder whether consultation with a population that represents NZs cultural diversity is required prior to decisions being made on whether or not a complaint is upheld?

**Question 3:**

No issues.

**Question 4:**

No

**Question 5:**

I think this seems reasonable.

**Question 6:**

I have no issues with this aspect of the draft codebook.

**Question 7:**

This also looks fine.

**Question 8:**

This has been my main area of concern and was relevant in a complaint that I had made to a broadcaster and the BSA recently. I am pleased to see that it has been addressed to some extent with the above amendment (4.2.)

The paragraph, "However, in some cases, broadcast content which has the effect of reinforcing or embedding negative stereotypes may be enough to meet the threshold for finding a breach, without any malicious intent or a high level of condemnation," suggests that there would have been more of a chance that my complaint around racist language that reinforced or embedded negative stereotypes would have been upheld. Language is so important and I would emphasise that words do not need to be used with malice or intent to embed negative stereotypes. 'Casual' use of such problematic language in society is a huge issue. Broadcasters permitting use of such language is likely to further perpetuate its use in society.

I note the list of 'low level language' on the 'complaints that are unlikely to succeed' page. I wonder whether a list of language that different ethnicities find 'reinforce negative stereotypes' and perpetuate racism is needed? This would require consultation with a variety of ethnic groups, that represent our diverse population.

**Question 9:**

No issues.

**Question 10:**

Agree.

**Question 11:**

Agree

**Question 12:**

Agree

**Question 13:**

No issues/suggestions

**Question 14:**

No issues/suggestions

**Question 15:**

No

**Submitter: S M Wightman**

**Question 1:**

**Question 2:**

**Question 3:**

**Question 4:**

**Question 5:**

**Question 6:**

**Question 7:**

**Question 8:**

**Question 9:**

**Question 10:**

**Question 11:**

**Question 12:**

**Question 13:**

**Question 14:**

**Question 15:**

My issue with the broadcasting code is that it does not cover the specific situation I found myself in last year when I lodged a complaint against TV3, and then the BSA. I was filmed talking to the police at a crime scene, which was later broadcast on the 6pm news. I had no idea I was being filmed, and was very surprised and then concerned to hear that I was on the 6pm news. I am strongly of the opinion that TV3 should have approached me and sought my permission before broadcasting my image. Broadcasting a person talking to the police at a crime scene places them in a particularly vulnerable position, such that it should be mandatory that they seek the permission of the person involved, and thus constitute an exception to the 'public domain' rule.

**Submitter: T Foster**

How can I provide feedback?

Cos I find you motherf[REDACTED] absolutely useless n[REDACTED]. And that's just using some words that you say are okay to broadcast to children.

**Submitter: W Moreton**

**Question 1:**

Have not read it

**Question 2:**

Forget communities. They are intrinsically divisive. Focus on humanity - globally like covid etc do

**Question 3:**

Not read it lately

**Question 4:**

Because everything evolves it is impossible to future proof anything

**Question 5:**

Not read the code book.

**Question 6:**

This is hard. Is there anything the reader of my submission here has not at some point accessed? How do/did you deal with it? Hope others give you a better answer

**Question 7:**

This one intrigues me. I might look and see what this is about. I wonder if The Harmful Digital Communications and Family Violence acts might suggest improvements

**Question 8:**

Yes. I support this

**Question 9:**

Yes I support this.

**Question 10:**

Yes I strongly support this

**Question 11:**

Support

**Question 12:**

Yes support. Privacy Act applies

**Question 13:**

No - but I have not read App A

**Question 14:**

I am sure the BSA review team will come up with the right policy

**Question 15:**

Nope