



15 March 2022

Broadcasting Standards Authority
PO Box 9213
WELLINGTON 6141
By email: info@bsa.govt.nz

RBA RESPONSE TO BSA CODEBOOK REVIEW 2022

The Radio Broadcasters Association represents the interests of the commercial radio sector in New Zealand. This currently includes MediaWorks, NZME, Sports Entertainment Network, Rhema Media, Pacific Media Network, Radio Samoa, Free FM, Radio Southland, Monarch Media, 95bFM, Best News Entertainment, Central FM, Peak FM, Brian FM, Beach FM, Radio Bay of Plenty, Radio Tarana, Coromandel FM & Real 104FM.

In principle we support the review of the BSA Codes and many of the suggested changes.

We note in the introduction to the new Code your comments in regards to:

- The radically different environment we operate in from when the Broadcasting Act was introduced in 1989.
- The social changes we have seen and increased diversity in the makeup of our communities.
- The changed media landscape and the amount of media distributed by non-New Zealand media channels and platforms.
- The increasing need to truly understand the role a strong and independent mainstream media play in the role of a well-functioning democracy.

To this end our overriding observations are general:

Critical Importance of Debate in a Democracy

New Zealand broadcasters are fundamentally wanting to be responsible. They want to allow for the presentation of news and current affairs content alongside discussion and debate of ideas

in a moderated/balanced environment. Within reason, no matter how radical some views may be, it is healthier that they are aired in environments where they can be challenged, than presented in “underground” environments where there may be no balance or challenge to them. Society and communities are changing and this makes for many challenging conversations.

Media should be encouraged to be a “safe” place for this, not encouraged to “dilute” their content to the extent it cannot include challenging debate. Sometimes the most dangerous actions in society come from those that are marginalized and do not feel they have their democratic voice.

Mainstream media outlets should be one of the safest most balanced environments these debates can take place in. If they are encouraged not to, it will move the conversations to the “extreme” niche media channels where people who share similar views are not challenged with facts or other opinions. We have seen increasing examples of this in recent weeks.

In my time in the media, I have had to defend opinions made by broadcasters I not only disagree with but personally find outdated, outrageous and sometimes quite offensive. However I would always defend the right for them to say things if they represent views that don't cause harm, are held by many in the community and are done in a moderated environment where they can be challenged and debated for their veracity, or sometimes, sheer stupidity.

As the media fragments and there are more underground or radical channels who are usually unregulated or unmoderated by standards or regulations, it is more important than ever that mainstream media and broadcasters are not punished for being a safe place for diverse debate.

Different Rules for Different Media

I think everyone would agree it is unreasonable that New Zealand based broadcasters are held to a different standard than our global competitors. While all governments are grappling with this issue, we have seen the damaging impacts of this double standard in the past weeks, both in New Zealand and on the global stage where mis- and dis-information have created havoc.

Work was started over 3 years ago on the future of content regulation on all platforms and we believe this was a far greater priority to be addressed than building a framework for a Stronger Public Media organisation.

Ironically, while many social media channels are still producing “code- breaching” type content that is shared as/if not more widely than broadcasters, they have also provided a feedback loop for our channels that sometimes means issues are addressed quicker by broadcasters and certainly quicker than they come to the BSA.

Both these points also highlight the huge disparity between this and the largely co-regulated framework in advertising that is significantly less expensive for media outlets to contribute to and also has been able to adapt across all media channels.

In terms of specific responses to your questions please note the following:

1. Is it clearly written? If not, how would you improve it?

Essentially Yes.

2. Is there anything else we could do to ensure it reflects the interests of Aotearoa/New Zealand's diverse community? If so, what?

I think it is not only about reflecting the diverse nature of the population but more specifically those using the broadcast channels regulated by the Codes.

3. Is the guidance under 'What is needed for my complaint to be 'a formal complaint'?' helpful (Under 'THE BSA COMPLAINTS PROCESS' in the draft revised Codebook)? If not, how would you improve it?

No issues.

4. The review seeks to 'future proof' broadcasting standards in the face of an evolving media and regulatory environment. However, there are limits to what can be done within current law. Do you have any suggestions for 'future proofing' the Codebook?

See general comments above. The 1989 Act and whole content regulatory framework requires overhaul to be relevant to the media landscape today, never mind being future-proofed.

5. The Radio, Free-to-Air-TV and Pay TV codes have been combined (but with a view to preserving key differences between these codes): a. Do you support this? b. Do you have any suggestions to improve the Codebook on this topic?

Yes, we support the combination of the Codes and note our members feedback on specific improvements.

6. The 'good taste and decency' and 'programme information' standards and aspects of the 'violence' standard have been combined into one 'offensive and disturbing content' standard: Do you support this? b. Do you have any suggestions to improve the Codebook on this topic?

We have no points to make in regard to this and note our members' specific feedback.

7. The 'alcohol' and 'law and order' standards and aspects of the 'violence' standard have been combined into one 'promotion of illegal, dangerous or antisocial behaviour' standard: a. Do you support this? b. Do you have any suggestions to improve the Codebook on this topic?

As above.

8. Recognising the importance of freedom of expression, a 'high level of condemnation, often with an element of malice or nastiness' is generally required to breach this standard. Proposed amendments (guideline 4.2) recognise that 'reinforcing or embedding negative stereotypes' can be enough in some cases. Do you support this and, if not, why?

We think this threshold needs to be malice and harm not malice and "nastiness". Offensiveness and nastiness can sometimes be very subjective based on things like age, religion and cultural backgrounds.

9. Amendments to the balance standard and commentary recognise that, given the current proliferation of media/information sources, balancing viewpoints will normally be available across time, different programmes or different media (such that complaints under this standard will rarely be upheld). Do you support this and, if not, why?

Yes, we support this but as with 10, would say mainstream broadcasters take balance and accuracy far more seriously than many of our new global channel and platform competitors and context is important to this e.g talkback.

10. The obligation to correct material errors of fact has been elevated from a 'guideline' to form part of the standard itself. Do you support this and, if not, why?

Yes.

11. Amendments to the guidelines (guideline 6.1) clarify this standard's potential application with respect to analysis, comment or opinion (ie where facts referred to, or on which such content is based, are misleading). Do you support this and, if not, why?

Yes.

12. Recognising privacy law developments, guidelines to the privacy standard have been amended to remove the requirement that private information be disclosed in a way that is 'highly offensive to an objective reasonable person'. Factors that might previously have been considered in assessing offensiveness, are considered when assessing the 'reasonable expectation of privacy'. Do you support this and, if not, why?

Yes.

We have no further comment on the review further to the general comments made at the start of this letter.

Please don't hesitate to contact me if we can provide any further information of use to the review.

Kind regards

**JANA
RANGOONI**
CHIEF EXECUTIVE
RADIO BROADCASTERS ASSOCIATION

