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Comment on BSA Codes of Practice

I would like to submit some observations in response to the Broadcasting Standards Authority's request for feedback on the current Codes of Practice for broadcasting. The review of the codes is certainly welcome given the significant development of digital transmission and reception platforms and the changing shape of the New Zealand media ecology since the 1989 Broadcasting Act was formulated. Although the solicitation of comments on the Codes of Practice do not extend to a more fundamental review of the legislative frameworks, it is useful to reflect on the contemporary merit of the codes in the digital media environment and indeed, the scope and function of the BSA, before proceeding to make observations on the Codes of Practice for Radio, Free-to-air Television and Pay Television. This document will only comment briefly on the Electoral Programmes Code in this document because the relevant standards are generic to other platforms.

A) Contextual Considerations:

The broader policy settings that underpin the BSA's current Codes of Practice and scope of function lie outside the purview of the BSA's call for feedback. However, it is important to take into consideration the wider political, economic and technological developments that have re-shaped the media sector since 1989. The most distinct characteristics of the NZ media market include;

- A relatively small, primarily English-speaking population, resulting in low economies of scale, high opportunity costs for many local content forms, and consequently high levels of imported media content.
- A continuing monetarist macro-economic framework underpinning government policy settings, entailing a laissez-faire approach to market regulation, minimal controls on media ownership, cross-media holdings or competition, and a preference for contestable funding models to address potential market failures (the exceptions to which are Radio NZ and Maori TV as well as some funds for small regional broadcasters).
- A highly commercialised media sector with incumbent duopolies or oligopolies in print news (Fairfax, NZME), telecommunications (Spark, Vodafone) free-to-air television (TVNZ, Mediaworks) and Radio (Mediaworks, NZME), and an effective monopoly in satellite linear Pay-TV (Sky) plus a nascent SVoD sector (Lightbox [Spark], Neon [Sky], Netflix).
- Rapid development of and consumer take-up of online media services and related reception technologies has intensified competition, especially on advertising-dependent platforms which were squeezed during the economic downturn 2008-10 (and which in the case of print news has not recovered).
- Competition for premium content packages has increased with the growth of Sky (and its FTA subsidiary, Prime) and this is likely to intensify with the growth of SVoD providers. The upshot of this is that free-to-air operators are fighting to maintain narrow margins of profitability and are under pressure from their respective shareholders to optimise financial performance.
- Despite the evident changes in the media sector, there are important continuities too. Recent studies¹ show that despite the trend toward time-shifted/ on-demand viewing and listening on new platforms, audiences for linear free-to-air broadcasting remain relatively stable. In many respects, new platforms extend or complement, rather than supplant, existing broadcasting models.
- The Government's long-awaited paper on convergence issues has just been made public and there are sections in this document that raise important questions about the future of content regulation, its institutional arrangements and the points of intervention on the value chain.

¹ e.g. see http://www.thinktv.co.nz/wp-content/uploads/TV-Trends-Report_2014.pdf and <http://www.nzonair.govt.nz/research/all-research/childrens-media-use-study-2015/>

B) The Continuing Relevance of Content Regulation

There is a view in some sections of industry and government that the complexity of converging digital media markets, the ready availability of online content sourced outside the state's jurisdiction, and the trend toward greater audience agency in actively 'pulling' time-shifted content from on-demand services (in lieu of the tradition linear 'push' of scheduled content delivery) renders content regulation both impractical and unnecessary. It is true that the trends outlined above complicate regulatory questions both in terms of the shape of the regulatory mechanism and the point of intervention in the value chain. This does not, however, mean that the normative and practical premises of content regulation are obviated. Although the early 20th Century assumptions of powerful and generic media influence on passive audiences have been largely debunked in favour of emphasising the active role of audiences in interpreting content, this does not mean that media content has *no* potential to shape how audience beliefs, emotions or behaviours form over time. On the contrary, the proliferation of content and platforms makes it even more important that judicious regulation continues. As consumers, audiences still require information about the nature of the content they are able to access in order to make responsible, informed choices. As citizens, the need for factual content that is accurate, fair and balanced is arguably greater than ever before, given the massive increases in the availability of genre-bending infotainment and reality-TV formats and partisan opinions and misinformation presented in formats akin to news and current affairs.

Ideological opponents of media regulation may dismiss any content restrictions as nanny-state interference in the free market, while vested interests within industry often contend that in a complex digital environment, practitioners are better positioned to regulate itself than any government-appointed body. The commercial broadcasting sector has a preference for industry self-regulation over a statutory regulator whose decisions can sometimes carry commercial consequences. The need to remedy the obvious gap between the Broadcasting and Telecommunication Acts, especially in regard to content has been recognised for several years (e.g. see the 2006 Millwood Hargave report for the BSA² and the 2008 MCH paper on the Future of Content Regulation³). However, the government has heretofore not prioritised these issues. The broadcasting sector's move to establish the Online Media Standards Authority was in many respects a welcome move to bridge the interim policy gaps, although its ulterior motive was evidently to pave the way for government to delegate the policy complexities and the costs of converged content regulation to OMSA once the legislative frameworks were eventually reviewed. The recent publication of the government's discussion paper, Exploring Digital Convergence⁴, may well present such an opportunity. As with the Law Commission's review of news media regulations in 2013⁵, industry's default position of antipathy to statutory regulation is largely premised on the specious conflation of legislation with government interference, seemingly motivated by a desire to avoid the commercial risk of being subject to legally-enforceable decisions with financial repercussions. Insofar as statutory regulation is regarded as a source of commercial uncertainty, such misgivings are perhaps understandable in a tight market where even small margins and market advantages are fiercely defended. Yet with appropriate checks and balances and appeal provisions, it is possible to use a statutory framework to establish independent regulatory bodies at arm's length from government. Such entities can be insulated from both political and commercial interference, treat all media actors equitably and consistently and (like the BSA) set out standards with sufficient flexibility to allow periodic revision (including consultation with affected stakeholders) without necessitating constant legislative repeal. The substantive legislative issue for the BSA (and other content regulators) is to ensure the Telecommunications and Broadcasting Acts align and permit consistent standards to be developed across platforms.

Concerns that statutory powers could be used to suppress free speech and media activity should not be dismissed lightly. Recent police actions taken against investigative journalists suggests complacency in defending democratic freedoms would be unwise. However, in defending the media freedoms against state control, one must also be cautious of expedient conflations of free speech and free trade. Not all state interventions in the market are a threat to liberty, and indeed, some level of control over media content may be required to protect the rights of citizens. In respect to the BSA, the power to impose significant fines or require a broadcaster to cease transmission has only been deployed in very rare cases of gross disregard for content standards or failures of governance which, crucially, cannot be adequately addressed by non-statutory codes that cannot be legally enforced. A more common (and perhaps legitimate) concern among industry is inconsistency or unpredictability of decisions on complaints which incur appeal expenses and take up time and resources. However, there can be no guarantee that a non-statutory regulator would prevent the need to

² Available here- <https://bsa.govt.nz/images/assets/Research/Issues-Facing-Broadcast-Content-Regulation-BSA2006.pdf>

³ Available here- <http://www.mch.govt.nz/files/ConsultationPaperFutureofContentRegulation.pdf>

⁴ Available here- <http://convergencediscussion.nz/wp-content/uploads/2015/08/Exploring-Digital-Convergence-Issues-for-Policy-and-Legislation-2015-08-27.pdf>

⁵ Available here- <http://r128.publications.lawcom.govt.nz/>

appeal against decisions. Unless codes are defined in such mechanical terms that they preclude considerations of context, then some degree of interpretation of how particular standards apply to particular content examples is inevitable in any form of content regulation.

Just as the changes in the shape of media markets may serve to intensify commercial pressures on the media (e.g. intensified competition for ratings cuts in newsroom budgets) so there is increased potential for the tensions between what is in the wider public interest and what is commercially expedient for broadcasters to be exacerbated. Insofar as the function of the BSA in upholding broadcast content standards is intended to protect the interests of audiences and enable informed choices about broadcast media consumption, this requires complaint deliberations to be insulated from *both* political and commercial pressures. An independent regulatory body with statutory powers is more likely to facilitate impartial deliberation of complaints than a self-regulating industry body. Even with the best of intentions, industry self-regulation without any statutory power or recourse to legal appeal would be institutionally prone to accommodating prevailing media practices as the *de facto* benchmark of what is acceptable, especially if not doing so would set commercially disadvantageous precedents.

The BSA's structure and function doubtless requires updating to meet the challenges of the digital media environment, but given the above considerations, it remains an important component of the New Zealand broadcasting ecology and helps ensure that public interest principles continue to play a role in content and scheduling decisions. The next section provides more specific comments on the Codes of Practice themselves.

C) Broadcasting Content Codes of Practice

Although some formats and platforms do remain distinct in the digital environment (e.g. the visual aspect of television is obviously not part of radio broadcasts), convergence across formerly discrete media platforms suggests there is merit in trying to ensure a level of cross-platform consistency in content standards. Although variations in the mode of audience engagement may sometimes depend on the context and technology of reception, the manifold variables that influence how audiences engage with and respond to content make it very difficult to maintain that there are intrinsic platform-related qualities which require the same media content to be subject to different regulatory treatments. Insofar as the currently separate Radio, Free-to-Air and Pay-TV codes are premised on such assumptions, changes in audience consumption of broadcast content, including the use of new reception devices, on-demand services and time-shifting suggest that maintaining rigid distinctions between the codes is out-dated.

Insofar as the need to take account of multi-platform interactive distribution and reception technologies provides a *prima facie* case for a more generic set of content codes, it is important to emphasise that this does not *automatically* constitute a reason to default to the least restrictive code of practice. For example, Pay-TV providers have been able to operate under a different set of codes from Free-To-Air operators partly on the premise that subscription platforms with filtering technologies engender greater audience agency and active decision-making in comparison to the ostensibly more passive audience reception in the case of linear free-to-air viewing. As the BSA introduction to the Pay-TV Code outlines, *"Pay television overall enjoys a less restrictive environment than free-to-air television because of the special choice customers make in paying to receive broadcasts. The freedom and capacity of an audience to choose what it views and to be able to prevent children and young people from viewing inappropriate material are significant factors in determining what is, and what is not, acceptable. [...] Pay television broadcasters provide these protections through appropriate classifications and warnings, filtering technology, PIN codes and an electronic programme guide. Additionally, pay television broadcasters may offer channels over which they have no, or little, editorial control (for example, foreign pass-through channels). This limited control of the broadcaster will be an important consideration when assessing whether a programme has breached standards.*

⁶ However, given the prevalence of PVR and other on-demand reception technologies for free-to-air broadcasts, the rationale for assuming this distinction is no longer self-evident. There are now many options for time-shifting or on-demand services on both FTA TV and radio. Moreover, there is also a significant quantity of international content on FTA channels over which the broadcasters do not have editorial control. Meanwhile, a substantial proportion of the viewing on pay platforms is still of linear scheduled free-to-air content. On that basis, some will argue that digital convergence and shifting audience behaviours are a pretext for the FTA codes to be liberalised in respect to watershed points for adult content along the lines of the Pay-TV codes, (with the commensurate requirement of content classification and warnings). However, if the aim of the codes is to protect audiences (especially children) from content that could be harmful, *there is just as strong a pretext for introducing the FTA watershed restrictions to Pay-TV.* After all, PVR and other time-shifting/on-demand technologies allow mature/adult content to be actively selected by audiences *during pre-watershed times* even when

⁶ Available from: <http://bsa.govt.nz/code-review/134-pay-tv-code/7796-pay-tv-code-introduction>

the linear schedule does not include such content. Some vested interests will probably regard this argument as obtuse, but the watershed principle is arguably *reinforced* by, not made redundant by, the advent of new reception technologies. Digital convergence could therefore be construed as a pretext for applying the broader FTA broadcaster codes to the Pay-TV sector. Indeed, this would go some way to 'levelling the playing field' between the Pay and FTA sectors without discarding content standards wholesale. It would also align with the government's preference for platform-neutral regulation. In making the case for more consistent regulation of content across platforms, it does not necessarily follow that higher/tighter standards are required- only that in assuming the desirability of a more consistent set of cross-platform standards, the case for relaxing/minimising those standards cannot be logically premised on some notion of technological inevitability stemming from digital convergence- the case must be made on the basis of demonstrable harm minimisation and outcomes in the wider public interest.

One further caveat to note here is the tacit assumption in some content codes that in disclosing relevant information about classifications, strong language, sexual/violent content and so forth, the audience is thereby empowered to make an informed choice. It may be true that without such information, the audience would not be sufficiently informed; it does not follow that providing information about programmes provides the literacies needed to make viewing or listening choices in the long term best interests of the individual or society as a whole. As noted earlier, New Zealand is one of the most lightly regulated media sectors in the OECD, and the free market ethos which has underpinned broadcasting policy since the late 1980s has inhibited successive governments from imposing social responsibilities on commercial media operators, even to the point of publicly subsidising much of the local content that is broadcast. Faced with increasing market uncertainty as convergence blurs value chains and fragments revenue streams, it is unsurprising that commercial media companies' natural response has been to oppose any form of regulatory burden which impedes the maintenance and maximisation of profits. In regard to content regulation, the incremental shuffling toward regarding programme information disclosure as the principal and only obligation of broadcasters toward the audience is potentially insidious. It is incumbent on (all) media providers to recognise that their content and services influence the social imagination and shape the discourses underpinning culture and identity in ways that make them incomparable to most other consumer goods. Just as car manufacturers and oil companies can (or should) take some responsibility for the environmental consequences the widespread use of their products have on the environment, so too should the media be cognizant of their collective influence on society. For future reference, given the recent release of the government's discussion papers on convergence, it is important not to default to lowest-common-denominator prescriptions to eliminate regulation as a barrier to commercial flexibility and economic growth. Where content regulation regimes can be seen to be inconsistent across platforms and arbitrarily disadvantage some media subsectors over others, the platform neutrality and 'level playing field' principles requires solutions that enable all media operators to accept basic social responsibilities, not to abrogate them.

The BSA has proposed a revised set of draft codes for the three platforms. Overall, the revised versions are a significant improvement in moving towards consistent standards across the 3 codes of practice for Free-to-air TV, Pay-TV and Radio. That said, there are some proposed revisions which invite further clarification or require reconsideration. Below, these are cross-referenced side-by-side (which is something the BSA should consider making possible in its current documentation), with the current code on the top row (in black) and the revised code below (in blue). The proposed changes and the variations between the 3 sets of codes will be discussed in the section following the table.

Comparative chart of the 3 current broadcasting codes and the revised drafts proposed by the BSA. NB- the current codes (in black) are presented in the row over the draft proposal (in blue). Some minor abbreviations and format adjustments have been made for the sake of space. Also note the numerical sequence of the current codes has been changed to allow easier cross-referencing.

Free to Air TV Code	Pay TV Code	Radio Code
<p>FTA TV STANDARD 1 – Good Taste and Decency Broadcasters should observe standards of good taste and decency. 1a Broadcasters will take into account current norms of good taste and decency bearing in mind the context in which any content occurs and the wider context of the broadcast e.g. programme classification, target audience, type of programme and use of warnings etc. 1b The use of visual and verbal warnings should be considered when content is likely to disturb or offend a significant number of viewers except in the case of news and current affairs, where verbal warnings only will be considered. Warnings should be specific in nature, while avoiding detail which may itself distress or offend viewers.</p>	<p>Pay TV STANDARD P2 – Good Taste and Decency Current norms of good taste and decency should be maintained consistent with the context of each programme and its channel. (a) Appropriate use of classifications, warnings and filtering technology in accordance with standard P1 above may assist broadcasters to comply with this standard. (b) The likely expectations of the audience for a channel, a programme and its scheduling will also be considered. (c) Explicit adult sex programmes classified 18 may screen only on premium channels.</p>	<p>Radio STANDARD 1 – Good Taste and Decency Broadcasters should observe standards of good taste and decency. 1a Broadcasters will take into account current norms of good taste and decency, bearing in mind the context in which any language or behaviour occurs and the wider context of the broadcast e.g. time of day, target audience.</p>
<p>1. GOOD TASTE AND DECENCY –Proposed Draft Current norms of good taste and decency should be maintained, consistent with the context of the programme and the wider context of the broadcast. 1a The context in which content occurs and the wider context of the broadcast are relevant to assessing whether a broadcast has breached this standard, including, the nature of the programme and the channel, the programme’s classification and scheduling, whether the broadcast was live, the use of audience advisories, if any, the target and likely audience, audience expectations of the channel and the programme, the availability of filtering technology, the public interest in the broadcast. 1b Where broadcasters take effective steps to inform their audiences of the nature of their programmes, they are less likely to breach this standard. 1c If content is likely to offend or disturb a significant section of the audience, an appropriate audience advisory should be broadcast prior to the content. 1d Where effective filtering technology is available to the audience, or programming is restricted to those who must take steps to access it beyond what is normal for free-to-air channels, complaints under this standard are less likely to be upheld.</p>	<p>1. GOOD TASTE AND DECENCY –Proposed Draft Current norms of good taste and decency should be maintained, consistent with the context of the programme and the wider context of the broadcast 1a The context in which content occurs and the wider context of the broadcast are important when assessing whether a broadcast has breached this standard, including: the nature of the programme, the nature of the channel, the programme’s classification, where filtering technology is not available, the programme’s scheduling, whether the broadcast was live, the use of audience advisories, if any, the target and likely audience, audience expectations of the channel and the programme, the availability of filtering technology, the public interest in the broadcast. 1b Where broadcasters take effective steps to inform their audiences of the nature of their programmes, they are less likely to breach this standard. 1c If content is likely to offend or disturb a significant number of viewers because it is outside the expectations of the target audience, an effective audience advisory should be broadcast prior to the content. 1d Where effective filtering technology is available to the audience, complaints under this standard are less likely to be upheld. 1e Explicit adult sex programmes classified 18 may screen only on Premium channels.</p>	<p>1. GOOD TASTE AND DECENCY –Proposed Draft Current norms of good taste and decency should be maintained, consistent with the context of the programme and the wider context of the broadcast. 1a The context in which content occurs and the wider context of the broadcast are relevant to assessing whether a broadcast has breached this standard, including: the nature of the programme, the nature of the station, the programme’s scheduling, whether the broadcast was live, the use of audience advisories, if any, the target and likely audience, audience expectations of the station and the programme, the public interest in the broadcast. 1b Where broadcasters take effective steps to inform their audiences of the nature of their programmes, they are less likely to breach this standard. 1c In general, the more explicit, gratuitous, or obscene offensive material is, the more likely the broadcast is to breach the standard 1d Talkback is an opinionated environment and is granted some latitude to be provocative and edgy in the interests of robust debate. 1e If seriously offensive material from a third party is inadvertently broadcast, it is less likely to breach the standard if the host immediately redresses the issue.</p>
<p>FTA TV STANDARD 8 – Responsible Programming Broadcasters should ensure programmes: <ul style="list-style-type: none"> • are appropriately classified; • display programme classification information; • adhere to timebands in accordance with Appendix 1; • are not presented in such a way as to cause panic, or unwarranted alarm or undue distress; and • do not deceive or disadvantage the viewer. 8a Broadcasters should use established classification codes: <ul style="list-style-type: none"> • classification symbols should be displayed at the beginning of each programme and after each advertising break; </p>	<p>Pay TV STANDARD P1 – Content classification, warning and filtering Viewers should be informed by regular and consistent advice about programme content (including classifications and warnings) and, where available, filtering technology. Classifications and warnings (a) These classifications should be broadcast on all content except for news and current affairs and live content: -Approved for General viewing -Parental Guidance recommended for young viewers -Suitable for Mature audiences -16 years and over People under 16 years should not view -People under 18 years should not view</p>	<p>Radio STANDARD 8 – Responsible Programming Broadcasters should ensure that programme information and content is socially responsible. 8a Broadcasters should be mindful of the effect any programme content may have on children during their normally accepted listening times. 8b The time of transmission and the audience profile of the station are important considerations in the scheduling of programmes which contain violent themes. 8c If a programme is likely to disturb, an appropriate warning should be broadcast. 8d Advertisements and infomercials should be clearly distinguishable from other programme material.</p>

<p>• warnings should be considered when programme content is likely to offend or disturb a significant number of the intended audience.</p> <p>8b All promos (including promos for news and current affairs) should be classified to comply with the "host programme" (the programme in which they screen):</p> <ul style="list-style-type: none"> • promos for AO programmes shown outside AO time should comply with the classification of the host programme; • promos shown in G or PGR programmes screening in AO time should comply with the G or PGR classification of the host programme; <p>when a promo screens during an unclassified host programme (including news and current affairs) in G or PGR time, the promo must be classified G or PGR and broadcasters should pay regard to Standard 9 – Children’s Interests;</p> <ul style="list-style-type: none"> • when a promo screens adjacent to an unclassified host programme (including news and current affairs) in G or PGR time, the promo should comply with the underlying timeband; • broadcasters should be aware that promos showing footage of violence or other explicit material outside the context of the original programme may be unacceptable to viewers in the context of the host programme in which they screen. <p>8c Except as justified in the public interest, news flashes screening outside regular news and current affairs programmes, particularly during children’s viewing time, should avoid unnecessary, distressing or alarming material or should provide a prior warning about the material.</p> <p>8d Advertisements and infomercials should be clearly distinguishable from other programme material.</p> <p>8e Broadcasters should ensure that there is no collusion between broadcasters and contestants that results in unfair advantage to any contestant. 8f Broadcasters should not use the process known as “subliminal perception” or any other technique which attempts to convey information to the viewer by transmitting messages below or near the threshold of normal awareness</p>	<p>(b) Classifications should screen at the beginning of programmes, be included in all electronic programme guides and accompany printed guides where possible.</p> <p>(c) News, current affairs and live content is not, because of its distinct nature, subject to classification. However, broadcasters must be mindful of children’s interests and other broadcasting standards and include warnings where appropriate.</p> <p>(d) Visual warning labels should be broadcast immediately prior to content which is likely to distress or offend a substantial number of viewers, particularly where it is likely that viewers would not anticipate this effect due to the context or the nature of the content.</p> <p>(e) Visual warning labels will include: Content may offend Language may offend Contains violence; Violence and language may offend; Sexual content may offend</p> <p>(f) Visual warning labels should also be included in electronic programme guides and in all relevant promotional material.</p> <p>(g) Verbal warnings should also be used when content is particularly likely to distress or offend a substantial number of viewers. When used, verbal warnings should screen at the start of the programme, with accompanying text if necessary.</p> <p>(h) Visual and verbal warnings are not required for live content on foreign ‘pass through’ channels with no local editorial intervention. Barriers to accessing content</p> <p><i>Barriers to accessing content</i></p> <p>(i) Where filtering technology is not automatically made available in accordance with Guideline (j) below, content classified 18 may screen only between 8pm - 6am, or 9am - 3pm (other than weekend days, school holidays and public holidays when it may screen only between 8pm - 6am).</p> <p>(j) If filtering technology is automatically made available to subscribers free of charge, and regularly promoted by the broadcaster for subscriber use, content classified 18 may screen at any time provided other applicable broadcasting standards are adhered to.</p> <p>(k) The filtering technology may be made available on the basis that subscribers elect to use it, provided that a subscriber is easily able to initiate use at any time through the television remote or similar device.</p> <p>(l) Content classified 18 may screen at any time on premium channels (those where a separate and additional fee is payable by subscribers), provided other applicable broadcasting standards are adhered to.</p>	<p>8e Programmes should not be presented in such a way as to cause panic, or unwarranted alarm or undue distress.</p> <p>8f Broadcasters should ensure that there is no collusion between broadcasters and contestants which results in the favouring of any contestant or contestants.</p>
<p>2. PROGRAMME INFORMATION –Proposed Draft</p> <p>Broadcasters should ensure that programmes are correctly classified and screened in appropriate time-bands, and where appropriate, issue an audience advisory where the content of a broadcast may not be suitable for likely viewers.</p> <p>2a The following classifications should be broadcast on all content except news, current affairs, sports and live content:</p> <p>G General</p> <p>Programmes which exclude material likely to be unsuitable for children. Programmes may not necessarily be designed for child viewers but should not contain material likely to alarm or distress them.</p> <p>G programmes may be screened at any time.</p> <p>PGR Parental Guidance Recommended</p> <p>Programmes containing material more suited for mature audiences but not necessarily unsuitable for child viewers when subject to the guidance of a parent or an adult.</p> <p>PGR programmes may be screened between 9am and 4pm, and after 7pm until 6am.</p>	<p>2. PROGRAMME INFORMATION –Proposed Draft</p> <p>Viewers should be informed by regular and consistent advice about programme content (including classifications and warnings) and, where available, filtering technology. Broadcasters should ensure that programmes are correctly classified, and if filtering technology is not available, appropriately scheduled.</p> <p>2a These classifications should be broadcast on all content except news, current affairs, sports and live content:</p> <p>G – approved for general viewing</p> <p>PG – parental guidance recommended for younger viewers</p> <p>M – suitable for mature audiences 16 years and over</p> <p>16 – people under 16 years should not view</p> <p>18 – people under 18 years should not view</p> <p>2b Classifications should screen at the beginning of programmes, be included in electronic programme guides and accompany printed guides where possible.</p> <p>2c News, current affairs, sports and live content is not, because of its distinct nature, subject to classification. However broadcasters must be mindful of</p>	<p>2. PROGRAMME INFORMATION –Proposed Draft</p> <p>Broadcasters should, where reasonably possible, issue an audience advisory where the content of a broadcast is outside audience expectations.</p> <p>2a While this standard will rarely apply to radio, an appropriate audience advisory should be broadcast if programme content is likely to be outside audience expectations of the radio station or of the particular programme</p>

<p>AO – Adults Only Programmes containing adult themes and directed primarily at mature audiences. AO programmes may be screened between midday and 3pm on weekdays (except during school and public holidays as designated by the Ministry of Education) and after 8.30pm until 5am. 2b Broadcasters should exercise caution when determining the level of AO content to be screened during any transition from G or PGR programming to AO programming, and give careful consideration to children’s interests (Standard 3). [click here for explanation of changes 2] 2c News, current affairs, sports and live content is not, because of its distinct nature, subject to classification. However broadcasters must be mindful of children’s interests and other broadcasting standards and include warnings where appropriate. 2d If a programme is likely to disturb or offend a significant number of viewers, or programme content is likely to be outside audience expectations, an appropriate audience advisory should be broadcast. 2e Promos for programmes should comply with the classification of the programme during which they screen.</p>	<p>children’s interests and other broadcasting standards and include advisories where appropriate. 2d Audience advisories should be broadcast immediately prior to content which is likely to disturb, distress or offend a significant number of viewers. Audience advisories include: C – content may offend L – language may offend V – contains violence S – sexual content may offend 2e Audience advisories should also be included in electronic programming guides and printed guides where possible. 2f Audience advisories are not required for content on foreign pass-through channels with no (or little) local editorial intervention. 2g Promos for programmes should comply with the classification of the programme during which they screen. 2h If filtering technology is made available to customers free of charge, and regularly promoted by the broadcaster for customer use, content classified 18 may screen at any time provided other applicable broadcasting standards are adhered to. 2i Where filtering technology is not made available, content classified 18 may screen only between 8pm and 6am, or 9am and 3pm (other than weekends, school holidays and public holidays when it may screen only between 8.30pm and 5am). 2j The filtering technology may be made available on the basis that customers elect to use it, provided that a customer is easily able to initiate use at any time through the television remote or similar device. 2k Content classified 18 may screen at any time on Premium channels, provided other applicable broadcasting standards are adhered to.</p>	
<p>FTA TV STANDARD 9 – Children’s Interests During children’s normally accepted viewing times (see Appendix 1), broadcasters should consider the interests of child viewers. 9a Broadcasters should be mindful of the effect any programme or promo may have on children during their normally accepted viewing times – usually up to 8.30pm – and avoid screening material that would disturb or alarm them. 9b When scheduling AO material to commence at 8.30pm, broadcasters should ensure that strong adult material is not shown soon after the watershed. 9c Broadcasters should have regard to the fact that children tend to: • stay up later than usual on Friday and Saturday nights and during school and public holidays; and • watch television through to midday on Saturday and Sunday mornings, and during school and public holidays. Accordingly, special attention should be given to providing appropriate warnings during these periods. 9d Programmes containing disturbing social and domestic friction or sequences in which people – especially children – or animals may be humiliated or badly treated, should be handled with care and sensitivity: • all gratuitous material of this nature should be avoided and any scenes shown must pass the test of relevancy within the context of the programme. If thought likely to disturb children, the programme should be scheduled later in the evening. 9e Children’s cartoons should avoid gratuitous violence – especially violence involving humans or human-like creatures - unless it would be clear to the child viewer that the themes are fanciful or farcical.</p>	<p>Pay TV STANDARD P3 – Children Broadcasters should ensure that child viewers are protected from unsuitable content. (a) Channels targeted at children should only contain content appropriate for children. (b) Content not intended for children’s viewing should not be specifically promoted to children and will be screened in accordance with standard P1. (c) Content classified M or above, especially that containing sexual or violent material, should not screen adjacent to content aimed at children. (d) Themes and scenes in fictional content dealing with matters known to disturb children, such as domestic friction or the humiliation or ill-treatment of children, should be appropriately classified and scheduled. (e) Any portrayal of realistic violence in content likely to be viewed by children should be scheduled and classified with care. (f) Security systems, e.g. filtering technology, which are in place to protect children, should be clearly and regularly promoted to subscribers. [For the purposes of this Code, a ‘child’ is a person under 14 years of age unless otherwise specified.]</p>	<p>No equivalent (but See Radio code 8a)</p>
<p>3. CHILDREN’S INTERESTS –Proposed Draft Broadcasters should ensure children can be protected from broadcasts which might adversely affect them.</p>	<p>3. CHILDREN’S INTERESTS –Proposed Draft Broadcasters should ensure children can be protected from broadcasts which might adversely affect them.</p>	<p>3. CHILDREN’S INTERESTS –Proposed Draft Broadcasters should ensure children can be protected from broadcasts which might adversely affect them.</p>

<p>3a Material likely to be considered under this standard includes: sexual material and themes, violent content or themes, offensive language, social or domestic friction dangerous, anti-social or illegal behaviour, material in which children or animals are humiliated or badly treated, graphic descriptions of people in extreme pain or distress that is outside the expectations of the programme's classification.</p> <p>3b Context is an important consideration when assessing complaints under this standard, including the programme's classification, the time of broadcast, the target and likely audience, audience expectations, the public interest in the broadcast and any factors that mitigate the likely harm to children, such as humour or educational benefit.</p> <p>3c In news, current affairs and factual programmes, disturbing or alarming material should be justified in the public interest. Broadcasters must use judgement and discretion when deciding the degree of graphic material to be included in news programmes, and should broadcast an audience advisory when appropriate, particularly when children are likely to be viewing.</p> <p>3d When programmes broadcast during children's normally accepted viewing times contain material which is outside audience expectations and likely to disturb children, an audience advisory should be broadcast. The advisory should be specific in nature to allow parents or guardians to make an informed choice about their children's exposure to the content, while avoiding detail which itself may disturb or alarm children.</p>	<p>3a On pay television, children are frequently protected through security systems, eg filtering technology. Where these are available, they should be clearly and regularly promoted to customers.</p> <p>3b Material likely to be considered under this standard includes: sexual material and themes, violent content or themes, offensive language, social or domestic friction, dangerous, anti-social or illegal behaviour, material in which children or animals are humiliated or badly treated, graphic descriptions of people in extreme pain or distress that is outside the expectations of the programme's classification.</p> <p>3c Context must always be considered, including whether filtering technology is available (so that parents can protect children from viewing unsuitable content), the nature of the programme and the channel and the public significance of the broadcast.</p> <p>-Channels targeted at children should only contain content appropriate for children.</p> <p>-Content not intended for children's viewing should not be specifically promoted to children and should be screened in accordance with Standard 2 – Programme Information.</p> <p>Content classified M or above, especially that containing sexual or violent material, should not screen adjacent to content aimed at children.</p> <p>Themes and scenes in fictional content dealing with matters known to disturb children, such as domestic friction or the humiliation or ill-treatment of children, should be appropriately classified and scheduled.</p> <p>Any portrayal of realistic violence in content likely to be viewed by children should be scheduled and classified with care.</p>	<p>3a This standard will only apply during times when children are likely to be listening</p> <p>3b Material likely to be considered under this standard includes:-sexual material and themes, violent content or themes, offensive language, social or domestic friction, dangerous, anti-social or illegal behaviour, material in which children or animals are humiliated or badly treated, graphic descriptions of people in extreme pain or distress which is outside audience expectations of the station or programme.</p> <p>3c Context is an important consideration when assessing complaints under this standard, including the public interest in the broadcast, the target and likely audience, audience expectations and any factors that mitigate the likely harm to children, such as humour or educational benefit.</p>
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<p>FTA TV STANDARD 10 – Violence</p> <p>Broadcasters should exercise care and discretion when dealing with the issue of violence.</p> <p>10a Any violence shown should be justified in the context of screening and not be gratuitous.</p> <p>10b Broadcasters should be mindful of the cumulative effect of violent incidents and themes: • the impression that violence is dominating a single programme, a programme series, or a line-up of programmes screened back-to-back should be avoided.</p> <p>10c Programmes in which rape or sexual violence is a theme should be treated with care:</p> <ul style="list-style-type: none"> • explicit detail and prolonged focus on sexually violent contact should be avoided; • any programme in which rape is depicted should be preceded by a warning; • the combination of violence and sexuality in a way designed to titillate should not be shown. <p>10d In news, current affairs and factual programmes, where disturbing or alarming material is often shown to reflect a world in which violence occurs, the material should be justified in the public interest:</p> <ul style="list-style-type: none"> • editors and producers must use judgement and discretion in deciding the degree of graphic detail to be included in news programmes when children are likely to be watching; • warnings within news programmes should be used when appropriate; • when executions and assassinations are shown the coverage should not be explicit, prolonged, or repeated gratuitously. <p>10e In sports programmes violent incidents during or surrounding play should not be repeated gratuitously:</p> <ul style="list-style-type: none"> • sports announcers and commentators should avoid making comments which appear to approve of, or glamorise, any dangerous or violent behaviour, on or off the field, that is not in accordance with the rules of the particular sport. 	<p>Pay TV STANDARD P4 – Violence</p> <p>Violent content should be appropriate to the context of the programme and classified carefully in accordance with Standard P1.</p> <p>(a) Content featuring violence should be appropriately classified, with warnings if necessary, in accordance with standard P1.</p> <p>(b) Content should not include any combination of violence and sex designed to titillate.</p> <p>(c) Rape as a theme in any content should be treated with utmost care. Explicit detail and prolonged focus on sexually violent contact should be avoided.</p> <p>(d) Devices and methods of inflicting pain or injury, particularly when capable of easy imitation, should not screen without the most careful consideration by the broadcaster.</p> <p>(e) Violent incidents during or surrounding play in sporting coverage should not be gratuitously repeated.</p>	<p>No equivalent</p>
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<p>4. VIOLENCE –Proposed Draft Broadcasters should exercise care and discretion when portraying violence. Violent content should be appropriate to the context of the programme, and classified carefully. 4a Any depiction of, or reference to, violence should be justified by context. 4b Broadcasters should be mindful of the cumulative effect of violence or violent incidents and themes, within programmes, and across programme line-ups. 4c Broadcasters should exercise caution with content likely to incite or encourage violence or brutality. 4d In news, current affairs and factual programmes, where disturbing or alarming material is often shown to reflect a world in which violence occurs, the material should be justified in the public interest. -Judgement and discretion must be used in deciding the degree of graphic detail to be included in news programmes, particularly when children are likely to be watching. -An audience advisory should be used when appropriate. 4e Programmes in which rape or sexual violence feature should be treated with care, and broadcasters should use an audience advisory if the content is likely to disturb. 4f Content should not include any combination of violence and sex designed to titillate, beyond current socially acceptable community norms.</p>	<p>4. VIOLENCE –Proposed Draft Broadcasters should exercise care and discretion when portraying violence. Violent content should be appropriate to the context of the programme, and classified carefully. 4a The level of editorial control of the broadcaster over programme content will be an important consideration when assessing complaints under this standard. For example, broadcasters exercise no or little editorial control over content screened on foreign pass-through channels. 4b Broadcasters should exercise caution with content likely to incite or encourage violence. It should be classified carefully and carry audience advisories where necessary, in accordance with Standard 2 – Programme Information. 4c In news, current affairs and factual programmes, disturbing or alarming material should be justified in the public interest and carry audience advisories where appropriate. 4c Broadcasters must use judgement and discretion when deciding the degree of graphic material to be included in news programmes, and should broadcast an audience advisory when appropriate, particularly when children are likely to be viewing. 4e Programmes in which rape or sexual violence feature should be treated with care, and broadcasters should use an audience advisory if the content is likely to disturb. 4f Content should not include any combination of violence and sex designed to titillate, beyond current socially acceptable community norms.</p>	<p>4. VIOLENCE –Proposed Draft Broadcasters should exercise care and discretion when portraying violence. 4a This standard will rarely apply to radio (as violent material has more impact visually). 4b Any description of, or reference to, violence should be justified by context. 4b Broadcasters should exercise caution with content likely to incite or encourage violence or brutality. 4c In news, current affairs and factual programmes, where disturbing or alarming material is often reported to reflect a world in which violence occurs, the material should be justified in the public interest-Judgement and discretion must be used in deciding the degree of graphic detail to be included in news programmes, particularly when children are likely to be listening. - An audience advisory should be used when appropriate.</p>
<p>FTA TV STANDARD 2 – Law and Order Broadcasters should observe standards consistent with the maintenance of law and order 2a Caution should be exercised in broadcasting items which explain the techniques of crime in a manner which invites imitation. 2b Factual programmes should not glamorise criminal activity or condone the actions of criminals. 2c Except where justified in the public interest, ingenious devices or unfamiliar methods for inflicting pain, injury or death should not be shown. 2d The realistic portrayal of anti-social behaviour, including violent and serious crime and the abuse of liquor and drugs, should not be shown in a way that glamorises these activities. 2e Programmes should not glamorise suicide and should not give detailed descriptions about methods of suicide</p>	<p>Pay TV STANDARD P5 – Law and Order Content should be consistent with the maintenance of law and order. (a) Content should not promote serious antisocial or illegal behaviour. (b) News or events should not be simulated in a way which encourages widespread public alarm.</p>	<p>Radio STANDARD 2 – Law and Order Broadcasters should observe standards consistent with the maintenance of law and order. 2a Caution should be exercised in broadcasting items which explain the technique of crime in a manner which invites imitation.</p>
<p>5. LAW AND ORDER –Proposed Draft Broadcasters should observe standards consistent with the maintenance of law and order, taking into account the context of the programme and the wider context of the broadcast. 5a Programmes should not actively promote serious anti-social or illegal behaviour, including violence, suicide, serious crime and the abuse of drugs. 5b Broadcasters should exercise caution when describing criminal techniques in a manner that invites imitation, and ensure it is editorially justified. 5c Broadcasts should not glamorise suicide or include detailed descriptions of methods of suicide. 5d The context of the programme and the wider context of the broadcast are important considerations when assessing complaints under this standard. For example, a distinction will usually be drawn between factual, and fictional or dramatic depictions, and the level of public interest in a programme will be a significant factor.</p>	<p>5. LAW AND ORDER –Proposed Draft Broadcasters should observe standards consistent with the maintenance of law and order, taking into account the context of the programme and the wider context of the broadcast. 5a Programmes should not actively promote serious anti-social or illegal behaviour, including violence, suicide, serious crime, and the abuse of drugs. 5b The context of the programme and the wider context of the broadcast are important considerations when assessing complaints under this standard. For example, a distinction will usually be drawn between factual, and fictional or dramatic depictions. The availability of filtering technology and the level of public interest in a programme will be significant factors.</p>	<p>5. LAW AND ORDER –Proposed Draft Broadcasters should observe standards consistent with the maintenance of law and order, taking into account the context of the programme and the wider context of the broadcast. 5a Programmes should not actively promote serious or illegal behaviour, including violence, suicide, serious crime and substance abuse 5b The context of the programme and the wider context of the broadcast are important considerations when assessing complaints under this standard. For example, a distinction will usually be drawn between factual, and fictional or dramatic depictions, and the level of public interest in a programme will be a significant factor.</p>

<p>FTA TV STANDARD 7 – Discrimination and Denigration Broadcasters should not encourage discrimination against, or denigration of, any section of the community on account of sex, sexual orientation, race, age, disability, occupational status, or as a consequence of legitimate expression of religion, culture or political belief. 7a This standard is not intended to prevent the broadcast of material that is:</p> <ul style="list-style-type: none"> • factual, or • the expression of genuinely held opinion in news, current affairs or other factual programmes, or • legitimate humour, drama or satire. 	<p>No equivalent</p>	<p>Radio STANDARD 7 – Discrimination and Denigration Broadcasters should not encourage discrimination against, or denigration of, any section of the community on account of sex, sexual orientation, race, age, disability, occupational status, or as a consequence of legitimate expression of religion, culture or political belief. 7a This standard is not intended to prevent the broadcast of material that is: (i) factual (ii) a genuine expression of serious comment, analysis or opinion; or (iii) legitimate humour, drama or satire.</p>
<p>6. DISCRIMINATION AND DENIGRATION –Proposed Draft Broadcasters should not encourage discrimination against, or denigration of, any section of the community on account of sex, sexual orientation, race, age, disability, occupational status or as a consequence of legitimate expression of religion, culture or political belief. 6a ‘Discrimination’ is defined as encouraging the different treatment of the members of a particular section of the community, to their detriment. ‘Denigration’ is defined as devaluing the reputation of a particular section of the community. 6b The importance of freedom of expression means that a high level of condemnation, often with an element of malice or nastiness, will be necessary to conclude that a broadcast encouraged discrimination or denigration in contravention of the standard. 6c This standard is not intended to prevent the broadcast of material that is: factual, a genuine expression of serious comment, analysis or opinion, legitimate humour, drama or satire. 6d Context must always be considered when assessing whether the broadcast ‘encouraged’ denigration or discrimination, including: the public interest in the broadcast, the nature of the programme and the channel, the time of broadcast, the target and likely audience, audience expectations, whether the programme was live or pre-recorded, the level of the broadcaster’s editorial control over the content.</p>	<p>6: DISCRIMINATION AND DENIGRATION –Proposed Draft Broadcasters should not encourage discrimination against, or denigration of, any section of the community on account of sex, sexual orientation, race, age, disability, occupational status or as a consequence of legitimate expression of religion, culture or political belief. 6a ‘Discrimination’ is defined as encouraging the different treatment of the members of a particular section of the community, to their detriment. ‘Denigration’ is defined as devaluing the reputation of a particular section of the community. 6b The importance of freedom of expression means that a high level of condemnation, often with an element of malice or nastiness, will be necessary to conclude that a broadcast encouraged discrimination or denigration in contravention of the standard. 6c This standard is not intended to prevent the broadcast of material that is: factual, a genuine expression of serious comment, analysis or opinion, legitimate humour, drama or satire. 6d Context must always be considered when assessing whether the broadcast ‘encouraged’ denigration or discrimination. Relevant factors include: the public interest in the broadcast, the nature of the programme, the nature of the channel, the target and likely audience, audience expectations, whether the programme was live or pre-recorded, the level of the broadcaster’s editorial control over the content (eg, foreign pass-through channels).</p>	<p>6. DISCRIMINATION AND DENIGRATION –Proposed Draft Broadcasters should not encourage discrimination against, or denigration of, any section of the community on account of sex, sexual orientation, race, age, disability, occupational status or as a consequence of legitimate expression of religion, culture or political belief. ‘6a Discrimination’ is defined as encouraging the different treatment of the members of a particular section of the community, to their detriment. ‘Denigration’ is defined as devaluing the reputation of a particular section of the community. 6b The importance of freedom of expression means that a high level of condemnation, often with an element of malice or nastiness, will be necessary to conclude that a broadcast encouraged discrimination or denigration in contravention of the standard. 6c This standard is not intended to prevent the broadcast of material that is: -factual, a genuine expression of serious comment, analysis or opinion, legitimate humour, drama or satire. 6d The context in which content occurs and the wider context of the broadcast are relevant to assessing whether a broadcast has breached this standard, including: the nature of the programme, the nature of the station, the programme’s scheduling, whether the broadcast was live, the use of audience advisories, if any, the target and likely audience, audience expectations of the station and the programme, the public interest in the broadcast.</p>
<p>FTA TV STANDARD 11 – Liquor Broadcasters should observe restrictions on the promotion of liquor appropriate to the programme genre being broadcast. Liquor Promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase liquor. 11a Liquor Promotion must not appear in programmes specifically directed at children. 11b Broadcasters must ensure that Liquor Promotion does not dominate programmes. 11c Broadcasters must avoid advocacy of excessive liquor consumption. 11d Broadcasters are not required to exclude promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation but must take guideline 11b into account. 11e Sponsorship of a programme must be confined to the brand, name or logo and must not include a sponsor’s sales message:</p> <ul style="list-style-type: none"> • when scheduling liquor-sponsored programmes, broadcasters will also take into account the requirements of principle 4.4 and Guideline 4(c) of the Advertising Standards Authority’s Code for Advertising Liquor (which requires broadcasters to take care to avoid the impression that liquor promotion is dominating the viewing period); • promos for a liquor-sponsored programme shall clearly and primarily promote the programme. The sponsor and sponsorship may be featured only in a 	<p>Pay TV STANDARD P10 – Liquor Restrictions on the promotion of liquor will be applied appropriately to the programme genre being broadcast. Liquor promotion must be socially responsible and must not encourage consumption by people who are under the legal age to purchase liquor. Definition Liquor promotion comprises:</p> <ul style="list-style-type: none"> • promotion of a liquor product, brand or outlet (‘promotion’) • liquor sponsorship of a programme (‘sponsorship’) • advocacy of liquor consumption (‘advocacy’) <p>(a) Liquor promotion must not appear in programmes specifically directed at children. (b) Broadcasters must ensure that Liquor promotion does not dominate programmes. (c) Broadcasters are not required to exclude promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation but must take guideline (b) into account. (d) Sponsorship of a programme must be confined to the brand, name or logo and must not include a sponsor’s sales message. (e) Promos for a liquor-sponsored programme shall clearly and primarily promote the programme. The sponsor and sponsorship may be featured only in a subordinate manner, be confined to the brand, name or logo and must not include a sponsor’s sales message.</p>	<p>Radio STANDARD 9 – Liquor Broadcasters should observe restrictions on the promotion of liquor appropriate to the programme genre being broadcast. Liquor Promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase liquor. Definition Liquor Promotion comprises:</p> <ul style="list-style-type: none"> • promotion of a liquor product, brand or outlet (‘promotion’) • liquor sponsorship of a programme (‘sponsorship’) • • advocacy of liquor consumption (‘advocacy’) <p>9a Liquor Promotion must not occur in programmes specifically directed at children. 9b Broadcasters must ensure that Liquor Promotion does not dominate programmes. 9c Broadcasters are not required to exclude promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation but must take guideline 9b into account. 9d Sponsorship of a programme must be confined to the brand, name or logo and must not include a sponsor’s sales message. 9e Promos for a liquor-sponsored programme shall clearly and primarily promote the programme. The sponsor and sponsorship may be featured only in a subordinate manner, be confined to the brand, name or logo and must not include a sponsor’s sales message.</p>

<p>subordinate manner, be confined to the brand, name or logo and must not include a sponsor's sales message.</p>	<p>(f) When scheduling liquor-sponsored programmes, broadcasters must also take into account the requirements of principle 4.4 and Guideline 4(c) of the Advertising Standards Authority's Code for Advertising Liquor (which requires broadcasters to take care to avoid the impression that liquor promotion is dominating the viewing period). (g) In the preparation and presentation of programmes, broadcasters must avoid advocacy of excessive liquor consumption</p>	<p>9f When scheduling liquor-sponsored programmes, broadcasters will also take into account the requirements of principle 4.4 and Guideline 4(c) of the Advertising Standards Authority's Code for Advertising Liquor (which requires broadcasters to take care to avoid the impression that liquor promotion is dominating the viewing period). 9g In the preparation and presentation of programmes, broadcasters must avoid advocacy of excessive liquor consumption.</p>
<p>7. ALCOHOL –Proposed Draft In addition to compliance with laws or regulations relating to the promotion of alcohol, broadcasters should observe restrictions on the promotion of alcohol appropriate to the programme genre being broadcast. 7a Alcohol promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase alcohol. 7b Alcohol promotion must not occur in programmes specifically directed at children. 7c Alcohol promotion must not dominate a broadcast. 7d Programmes must avoid advocacy of excessive alcohol consumption. 7e Sponsorship must be confined to the brand, name or logo, and exclude sales messages. 7f Promos for alcohol-sponsored programmes must primarily promote the programme, with the sponsorship subordinate. 7g Broadcasters are not required to exclude alcohol promotion from coverage of an event or situation where such promotion is a normal feature of that event or situation. Other guidelines under this standard should be considered. 7h Broadcasters must take into account the requirements of the Advertising Standards Authority's Code for Advertising Alcohol when scheduling promos for alcohol-sponsored programmes.</p>	<p>7. ALCOHOL –Proposed Draft In addition to compliance with laws or regulations relating to the promotion of alcohol, broadcasters should observe restrictions on the promotion of alcohol appropriate to the programme genre being broadcast. 7a Alcohol promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase alcohol. 7b Alcohol promotion must not occur in programmes specifically directed at children. 7c Alcohol promotion must not dominate a broadcast. 7d In the preparation and presentation of programmes, broadcasters must avoid advocacy of excessive alcohol consumption. 7e Sponsorship must be confined to the brand, name or logo, and exclude sales messages. 7f Promos for alcohol-sponsored programmes must primarily promote the programme, with the sponsorship subordinate. 7g Broadcasters are not required to exclude alcohol promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation. Other guidelines under this standard should be considered. 7h Broadcasters must take into account the requirements of the Advertising Standards Authority's Code for Advertising Alcohol when scheduling promos for alcohol-sponsored programmes.</p>	<p>7. ALCOHOL –Proposed Draft In addition to compliance with laws or regulations relating to the promotion of alcohol, broadcasters should observe restrictions on the promotion of alcohol appropriate to the programme genre being broadcast. 7a Alcohol promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase alcohol. 7b Alcohol promotion must not occur in programmes specifically directed at children. 7c Alcohol promotion must not dominate a broadcast. 7d Programmes must avoid advocacy of excessive alcohol consumption. 7e Sponsorship must be confined to the brand, name or logo, and exclude sales messages. 7f Promos for alcohol-sponsored programmes must primarily promote the programme, with the sponsorship subordinate. 7g Broadcasters are not required to exclude alcohol promotion from coverage of an event or situation where such promotion is a normal feature of that event or situation. Other guidelines under this standard should be considered. 7h Broadcasters must take into account the requirements of the Advertising Standards Authority's Code for Advertising Alcohol when scheduling promos for alcohol-sponsored programmes.</p>
<p>FTA TV STANDARD 4 – Controversial Issues – Viewpoints 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. 4a No set formula can be advanced for the allocation of time to interested parties on controversial issues of public importance. Significant viewpoints should be presented fairly in the context of the programme. This can only be done by judging each case on its merits. 4b The assessment of whether a reasonable range of views has been presented takes account of some or all of the following: • the programme introduction; • whether the programme approaches a topic from a particular perspective (e.g. authorial documentaries, public access and advocacy programmes); • whether viewers could reasonably be expected to be aware of views expressed in other coverage.</p>	<p>Pay TV STANDARD P6 – Balance News and current affairs content dealing with controversial issues of public importance should be balanced, with significant sides to these issues presented in as fair a way as possible. (a) Factual content which clearly approaches such issues from a particular perspective may not be required to be balanced but should be fair in accordance with standard P7. (b) No set formula can be advanced for the allocation of time to interested parties on controversial issues.</p>	<p>Radio STANDARD 4 – Controversial Issues – Viewpoints 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. 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 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).</p>

<p>8. BALANCE –Proposed Draft When controversial issues of public importance are discussed 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. 8a For the standard to apply, the subject matter must be an issue 'of public importance', it must be 'controversial' and it must be 'discussed' in a news, current affairs or factual programme. 8b No set formula can be advanced for the allocation of time to interested parties on controversial issues of public importance. 8d The assessment of whether a reasonable range of other perspectives has been presented includes consideration of the following, where relevant: the programme's introduction and the way in which the programme or item is presented, for example,; the nature of the discussion (was it a serious examination of an issue, or was the issue raised in a brief, humorous or peripheral way?); whether the programme/item purported to be a balanced examination of an issue; whether the programme/item was clearly signalled as approaching a topic from a particular perspective (eg, authorial documentaries, public access and advocacy programmes, partial or politically-aligned programmes); whether the programme/item was narrowly focused on one aspect of a larger, complex debate; the nature of the issue/whether viewers could reasonably be expected to be aware of views expressed in other coverage, including coverage in other media (eg, is it an ongoing topic of debate, such that viewers can reasonably be expected to have a broad understanding of the main perspectives on the issue?); the likely expectations of the audience as to content; the level of editorial control of the broadcaster over the programme content.</p>	<p>8. BALANCE –Proposed Draft When controversial issues of public importance are discussed 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. 8a For the standard to apply, the subject matter must be an issue 'of public importance', it must be 'controversial' and it must be 'discussed' in a news, current affairs or factual programme. 8b No set formula can be advanced for the allocation of time to interested parties on controversial issues of public importance. 8c News, current affairs and factual programmes broadcast on foreign pass-through channels, over which the broadcaster retains little or no editorial control, are not required to be balanced by the broadcaster. 8d The assessment of whether a reasonable range of other perspectives has been presented includes consideration of the following, where relevant: the programme's introduction and the way in which the programme or item is presented, for example: whether the programme/item purported to be a balanced examination of an issue; whether the programme/item was clearly signalled as approaching a topic from a particular perspective (eg, authorial documentaries, public access and advocacy programmes, partial or politically-aligned programmes); whether the programme/item was narrowly focused on one aspect of a larger, complex debate; the nature of the discussion (was it a serious examination of an issue, or was the issue raised in a brief, humorous or peripheral way?); the nature of the issue/whether viewers could reasonably be expected to be aware of views expressed in other coverage, including coverage in other media (eg, is it an ongoing topic of debate, such that viewers can reasonably be expected to have a broad understanding of the main perspectives on the issue?); the likely expectations of the audience as to content; the level of editorial control of the broadcaster over the programme content (eg, foreign pass-through channels)</p>	<p>8. BALANCE –Proposed Draft When controversial issues of public importance are discussed 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. 8a For the standard to apply, the subject matter must be an issue 'of public importance', it must be 'controversial' and it must be 'discussed' in a news, current affairs or factual programme. 8b No set formula can be advanced for the allocation of time to interested parties on controversial issues of public importance. Competing viewpoints should be available, where necessary, to enable viewers to be aware of a reasonable range of other perspectives on the controversial issue of public importance. 8c The assessment of whether a reasonable range of other perspectives has been presented includes consideration of the following, where relevant: the programme's introduction and the way in which the programme or item is presented, for example: the nature of the discussion (was it a serious examination of an issue, or was the issue raised in a brief, humorous or peripheral way?); whether the programme/item purported to be a balanced examination of an issue; whether the programme/item was clearly signalled as approaching a topic from a particular perspective (e.g., authorial documentaries, public access and advocacy programmes, partial or politically-aligned programmes); whether the programme/item was narrowly focused on one aspect of a larger, complex debate; the nature of the issue/whether listeners could reasonably be expected to be aware of views expressed in other coverage, including coverage in other media (e.g., is it an ongoing topic of debate, such that listeners can reasonably be expected to have a broad understanding of the main perspectives on the issue?); the likely expectations of the audience as to content; the level of editorial control of the broadcaster over the programme content.</p>
<p>FTA TV STANDARD 5 – Accuracy Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming: • is accurate in relation to all material points of fact and/or • does not mislead. 5a The accuracy standard does not apply to statements which are clearly distinguishable as analysis, comment or opinion. 5b In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity. 5c News must be impartial.</p>	<p>Pay TV STANDARD P8 – Accuracy Significant errors of fact should be corrected at the earliest opportunity.</p>	<p>Radio STANDARD 5 – Accuracy Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming: • is accurate in relation to all material points of fact; and/or • does not mislead. 5a The accuracy standard does not apply to statements which are clearly distinguishable as analysis, comment or opinion. 5b Talkback radio will not usually be subject to the accuracy standard, except where the presenter makes an unqualified statement of fact. 5c In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity.</p>
<p>9. ACCURACY –Proposed Draft Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming: - is accurate in relation to all material points of fact; - does not mislead. 9a The requirement for accuracy does not apply to statements which are clearly distinguishable as analysis, comment or opinion, rather than statements of fact. 9b The standard is concerned only with material inaccuracy. For example, technical or unimportant points unlikely to significantly affect the audience's understanding of the programme as a whole are not material. 9c In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity. 9d The assessment of whether the broadcaster has made reasonable efforts to ensure accuracy includes consideration of the following, where relevant: the source of material broadcast (eg, whether the programme is produced by a</p>	<p>9. ACCURACY –Proposed Draft Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming: is accurate in relation to all material points of fact; is accurate in relation to all material points of fact; does not mislead. 9a This standard does not apply to news, current affairs and factual programmes broadcast on foreign pass-through channels, over which the broadcaster retains little or no editorial control. 9b The requirement for accuracy does not apply to statements which are clearly distinguishable as analysis, comment or opinion, rather than statements of fact. 9c The standard is concerned only with material inaccuracy. For example, technical or unimportant points unlikely to significantly affect the audience's understanding of the programme as a whole are not material.</p>	<p>9. ACCURACY –Proposed Draft Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming: is accurate in relation to all material points of fact; does not mislead. 9a The requirement for accuracy does not apply to statements which are clearly distinguishable as analysis, comment or opinion, rather than statements of fact. 9b The standard is concerned only with material inaccuracy. For example, technical or unimportant points unlikely to significantly affect the audience's understanding of the programme as a whole are not material. 9c In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity. 9d Talkback programmes will not usually be subject to the accuracy standard. 9f The assessment of whether the broadcaster has made reasonable efforts to ensure accuracy includes consideration of the following, where relevant: the</p>

<p>reputable organisation or relies on an authoritative expert); whether the broadcast was live; whether there was some obvious reason to question the accuracy of the programme content before it was broadcast; whether the broadcaster sought and/or presented comment, clarification or input from any relevant person or organisation; the extent to which the issue of accuracy is reasonably capable of being determined by the broadcaster</p>	<p>9d In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity. 9f The assessment of whether the broadcaster has made reasonable efforts to ensure accuracy includes consideration of the following, where relevant: the source of material broadcast (eg, whether the programme is produced by a reputable organisation or relies on an authoritative expert) whether the broadcast was live; whether there was some obvious reason to question the accuracy of the programme content before it was broadcast; whether the broadcaster sought and/or presented comment, clarification or input from any relevant person or organisation; the extent to which the issue of accuracy is reasonably capable of being determined by the broadcaster.</p>	<p>source of material broadcast (eg, whether the programme is produced by a reputable organisation or relies on an authoritative expert); whether the broadcast was live; whether there was some obvious reason to question the accuracy of the programme content before it was broadcast; whether the broadcaster sought and/or presented comment, clarification or input from any relevant person or organisation; the extent to which the issue of accuracy is reasonably capable of being determined by the broadcaster.</p>
<p>FTA TV STANDARD 3 – Privacy Broadcasters should maintain standards consistent with the privacy of the individual. 3a When considering an individual’s privacy, broadcasters shall apply the privacy principles developed by the Broadcasting Standards Authority (see Appendix 2).</p>	<p>Pay TV STANDARD P9 – Privacy Content should conform to the Privacy Principles outlined in Appendix 1.</p>	<p>Radio STANDARD 3 – Privacy Broadcasters should maintain standards consistent with the privacy of the individual. 3a When determining privacy complaints broadcasters shall apply the privacy developed by the Broadcasting Standards Authority (see Appendix).</p>
<p>10. PRIVACY –Proposed Draft Broadcasters should maintain standards consistent with the privacy of the individual. 10aThe privacy standard applies only to identifiable individuals. An individual may be identifiable even if they are not named or shown. 10b Broadcasters should not disclose private information or material about an individual in a way that is highly offensive to an objective reasonable person in the position of the person affected. 10c There must be a reasonable expectation of privacy in relation to the information or material disclosed. Factors to consider include, but are not limited to, whether the information or material is not in the public domain; and/or it is intimate or sensitive in nature; and/or the individual could reasonably expect it would not be disclosed). 10d A person will not usually have a reasonable expectation of privacy in relation to matters in the public domain. In some circumstances, there may be a reasonable expectation of privacy in relation to such information or material even though it is in the public domain. 10e Broadcasters should not intentionally intrude upon a person’s reasonable expectation of solitude or seclusion in a way that is highly offensive to an objective reasonable person in the position of the person affected. 10f It is a defence to a privacy complaint to publicly disclose matters of legitimate public interest. The level of public interest must be proportionate to the seriousness of the breach of privacy in order for the defence to apply. 10g It is not a breach of privacy where the person concerned has given informed consent to the disclosure or intrusion. A parent or guardian, or other person aged 18 or over in loco parentis (standing in the shoes of the parent or guardian), can consent on behalf of a child under the age of 16 years, but the broadcaster must be satisfied that the broadcast is not contrary to the best interests of the child.</p>	<p>10. PRIVACY –Proposed Draft Broadcasters should maintain standards consistent with the privacy of the individual. 10aThe privacy standard applies only to identifiable individuals. An individual may be identifiable even if they are not named or shown. 10b Broadcasters should not disclose private information or material about an individual in a way that is highly offensive to an objective reasonable person in the position of the person affected. 10c There must be a reasonable expectation of privacy in relation to the information or material disclosed. 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<p>FTA TV STANDARD 6 – Fairness Broadcasters should deal fairly with any person or organisation taking part or referred to. 6a A consideration of what is fair will depend upon the genre of the programme (e.g. factual, dramatic, comedic or satirical programmes). 6b Broadcasters should exercise care in editing programme material to ensure that the extracts used are not a distortion of the original event or the overall views expressed. 6c Except as justified in the public interest:</p>	<p>Pay TV STANDARD P7 – Fairness People and organisations taking part or referred to in programmes should be dealt with fairly. (a) The editing of extracts of programme material should not distort the original event or original views expressed. (b) People should not be portrayed in a way which represents them as inherently inferior or which encourages discrimination against a section of the community protected by human rights legislation. (c) Children and young</p>	<p>Radio STANDARD 6 – Fairness Broadcasters should deal fairly with any person or organisation taking part or referred to. 6a A consideration of what is fair will depend upon the genre of the programme (e.g. talk/talk back radio, or factual, dramatic, comedic and satirical programmes). 6b Broadcasters should exercise care in editing programme material to ensure that the extracts used are not a distortion of the original event or the overall views expressed.</p>

<ul style="list-style-type: none"> • contributors and participants should be informed of the nature of their participation; • programme makers should not obtain information or gather pictures through misrepresentation; • broadcasters should avoid causing unwarranted distress to surviving family members by showing footage of bodies or human remains. <p>6d Broadcasters should respect the right of individuals to express their own opinions.</p> <p>6e Individuals and particularly children and young people, taking part or referred to should not be exploited, humiliated or unfairly identified.</p> <p>6f Where the programme deals with distressing circumstances (e.g. grief and bereavement) discretion and sensitivity are expected.</p>	<p>people taking part or referred to should not be exploited, humiliated or unnecessarily identified.</p> <p>(d) Nothing in this standard is intended to prevent the broadcast of content which is: (i) factual, or (ii) the expression of a genuinely-held opinion in news, current affairs or other factual programmes, or (iii) in the legitimate context of a dramatic, humorous or satirical work.</p>	<p>6c Contributors and participants in any programme should be dealt with fairly and should, except as required in the public interest, be informed of the nature of their participation. 6d Broadcasters should respect the right of individuals to express their own opinions.</p> <p>6e Children and young people taking part or referred to should not be exploited, humiliated or unnecessarily identified.</p> <p>6f No telephone conversation should be recorded or broadcast unless the recipient has been advised that it is being recorded for possible broadcast, or is aware (or ought reasonably to have been aware) that the conversation is being broadcast. Exceptions may apply depending upon the context of the broadcast, including the legitimate use of humour.</p>
<p>11. FAIRNESS –Proposed Draft Broadcasters should deal fairly with any person or organisation taking part or referred to in any broadcast.</p> <p>11a A consideration of what is fair will depend on the nature of the programme (eg, news and current affairs, factual, dramatic, comedic or satirical). Context should also be considered, including the public interest in the broadcast.</p> <p>11b Participants and contributors should be informed, prior to broadcast, of the nature of the programme and their proposed contribution, except where justified in the public interest, or where their participation is minor in the context of the programme.</p> <p>11c Whether informed consent was required or has been obtained from a participant or a contributor may be a relevant consideration in determining whether that participant or contributor was treated fairly</p> <p>11d If a person or organisation referred to or portrayed in a broadcast might be adversely affected, that person or organisation should usually be given a fair and reasonable opportunity to comment for the programme, prior to broadcast. What is 'fair and reasonable' will depend on the circumstances.</p> <p>11e 'Door-stepping' an individual or organisation as a means of obtaining comment will normally be unfair, unless all legitimate and reasonable methods of obtaining comment have been exhausted.</p> <p>11f Edited excerpts should fairly reflect the tenor of the overall events or views expressed.</p> <p>11g Broadcasters must not broadcast information obtained by misrepresentation or deception (including by hidden camera), except where justified by the public interest.</p> <p>11h Individuals, and particularly children and young people, featuring in a programme should not be exploited, humiliated or unfairly identified.</p> <p>11i Where programmes deal with distressing circumstances (eg, grief and bereavement) broadcasters should show discretion and sensitivity.</p>	<p>11. FAIRNESS –Proposed Draft Broadcasters should deal fairly with any person or organisation taking part or referred to in any broadcast.</p> <p>11a This standard will usually only apply where broadcasts have been locally produced by or on behalf of the broadcaster.</p> <p>11b A consideration of what is fair will depend on: the nature of the programme (eg, news and current affairs, factual, dramatic, comedic or satirical); the public interest in the broadcast; the target and likely audience; audience expectations; whether the programme was live or pre-recorded.</p> <p>11c Participants and contributors should be informed, prior to broadcast, of the nature of the programme and their proposed contribution, except where justified in the public interest, or where their participation is minor in the context of the programme.</p> <p>11d Whether informed consent was required or has been obtained from a participant or a contributor may be a relevant consideration in determining whether that participant or contributor was treated fairly.</p> <p>11e If a person or organisation referred to or portrayed in a broadcast might be adversely affected, that person or organisation should usually be given a fair and reasonable opportunity to comment for the programme, prior to broadcast. 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What is 'fair and reasonable' will depend on the circumstances.</p> <p>11e Edited excerpts should fairly reflect the tenor of the overall events or views expressed.</p> <p>11f Broadcasters must not broadcast information obtained by misrepresentation or deception (including by hidden recording device), except where justified by the public interest.</p> <p>11g The use of prank calls as a legitimate expression of humour will usually be acceptable, but caution should be exercised to prevent undue harm to unsuspecting parties.</p> <p>11h individuals, and particularly children and young people, featuring in a programme should not be exploited, humiliated or unfairly identified.</p> <p>11i Where programmes deal with distressing circumstances (eg, grief and bereavement) broadcasters should show discretion and sensitivity.</p>

D) Discussion of current and proposed draft codes

- 1. Good Taste and Decency-** This standard currently applies across all three codes, the main variations being visual warnings for television, and the provision for explicit adult TV content on Pay-TV premium channels and the proposed allowances for talk-back radio. The proposed revisions to the current codes are useful although some comment about the principles and particular guidelines is merited. Taste and decency are perhaps the most subjective set of standards, and the BSA's own audience research shows that public sensibilities evolve over time. Although audience tolerance for sexual and violent and other potentially disturbing or offensive content may have increased in recent years, there remains a significant constituency who do not enjoy content with graphic sex, violence or strong language. Even if these audience segments are not the majority, consideration should be given to ways to ensure broadcasting offers a range of scheduled content that all audiences can appreciate. As mentioned earlier, insofar as the proliferation of new reception technologies expands the on-demand options available to audiences, this arguably strengthens the case for retaining the watershed points and extending this to all linear scheduled platforms.
With the exception of explicit adult content on premium subscription or on-demand services, there is no obvious reason why the same basic good taste and decency principle could not apply across all platforms. For example 1c of the proposed radio code would apply equally well to television, whether FTA or Pay. In regard to talk-back/debate/discussion programmes where opinions are expressed as part of the genre, it is evident that provisions here would logically extend to several television genres where presenter opinions are routinely included in magazine-type programmes. However, these should still be subject to other standards such as overall balance, fairness and discrimination/denigration (and where the genre is presented in the format of news or current affairs, other criteria salient to factual content should apply). Enabling informed consumer choice through the provision of sufficient information is essential (through whatever channel is used) about the genre and the content of the programmes- including indications of sex, violence and profane language, and perhaps with special indications where there are especially graphic. As filtering technology becomes more widely available through reception devices like PVRs, it would be useful for broadcasters (including Freeview) to actively promote any available filtering systems to assist parental control over children's access.
- 2. Responsible Programming/ Content Classification/Filtering (FTA)/ Programme Information-** There is evidently merit in ensuring that audiences are sufficiently informed of the nature of the programmes before they watch/listen, and consistency across platforms is desirable in this regard. Overall the revised draft improves the clarity on the nature of classification but does not render the three codes entirely consistent in this respect. The new draft also removes other aspects of the code which may be desirable in other regards: As suggested earlier, the move from a focus on *social responsibility* to *programme information disclosure* is, in some respects, a dilution. This may align the text more with the letter of the law, but one might dispute that in doing so, it detracts from the spirit. The change reflects a more consumerist notion of the audience, specifically that responsibility is solely a matter of information provision to the individual viewer or listener, which implicitly removes any responsibility from the broadcaster for giving consideration to the collective interest of the public as citizens, not only in terms of individual programming but in respect to the overall texture of the schedule. Indeed, the proposal that the draft code for radio should simply notify audiences when content falls "outside audience expectations of the radio station or of the particular programme" is effectively an invitation for programme makers and broadcasters to assume a lower standard of practice than the codes of practice would otherwise require on the pretext of customary practice and audience expectation. This is not a trifling issue of semantics, but a quite important normative premise. For this reason it is recommended that the BSA reconsider the proposed changes, especially since there is no indication that the current codes were in any way unlawful or misleading.
- 3. Law & Order-** Although this standard applies to all three codes, respective codes are not currently equivalent. The Free-to-Air code is the most comprehensive, and with allowances for the non-visual format of radio, there is no reason why this should not extend to all platforms. The proposed expanded guidelines for the Pay TV and Radio code are helpful but there seems no obvious reason why the more comprehensive FTA TV version could not be applied to all.
- 4. Children/Children's Interests-** The absence of any reference to this standard in the current Radio code is anomalous, perhaps reflecting a) the extent to which visual media are deemed to be more influential than audio or textual content, especially on children, and b) the relative paucity of radio content aimed specifically at children. This does not reflect any technical necessity and insofar as convergence is likely to entail more exposure of younger audiences to a wider variety of media texts, the introduction of this standard to radio as well as television platforms is welcome. Given that Pay-TV is likely to include specialised channels aimed at children, some separate guidelines for the Pay-TV code is justified. One issue that is worth emphasising, however, is the problematic tendency to homogenise 'children' as a coherent audience segment or even a genre. The proposed emphasis on context is useful, but it may be useful to consider how far the notion of 'children' might warrant some differentiation between, say, pre-schoolers and teenagers.

5. **Violence-** The principal anomaly with the existing standards is the absence of this category from the Radio Code, which implicitly assumes that violence comprises explicit visual depiction of physical assaults (e.g. punching or shooting). The extension of the code to include radio content is therefore welcome. The inclusion of guidelines on violence for the Pay-TV code is also appropriate and helps increase consistency across all platforms. However, it is noteworthy that the more specific guidelines on depictions on violence in connection to sexual activity have been rendered less specific in the proposed revisions. The BSA may wish to consider whether there is merit in reinstating these. The additional issue that the BSA might consider is the question of the extent to which violence in a broader sense of the infliction of deliberate harm might entail considerations of audience warnings where harmful or injurious actions are inflicted either by implication without actual depiction (the ear-cutting scene in *Reservoir Dogs* is a case in point), or through verbal or emotional abuse. The recent debates over cyber-bullying might be a case in point- arguably such actions are not in and of themselves violent, but if the intent or effect is to inflict physical, psychological, or social harm, then a broader conception of what constitutes violence may be useful for the BSA to consider.
6. **Discrimination/Denigration-** The obvious omission in the current set of codes is the absence of this standard from the Pay TV code. The proposed expansion of the guidelines for this standard is welcome because it increases both the clarity and the consistency of the code. The emphasis on a high threshold to ensure freedom of expression is important, although it might also be useful to clarify how far live broadcasts or ostensibly 'serious' debate are considered mitigating factor for the expressions of opinions which would otherwise breach the standard (talk-back radio and magazine programmes wherein the presenters are given leeway to issue provocative opinions are the obvious cases in point). Another consideration here is the extent to which a programme in which personal opinion is an intrinsic component might be given greater leeway on this standard where there is a matter of substantive public interest or public policy issue at stake. On the one hand, the domain of legitimate debate should not be restricted by over-sensitivity to what some might deem 'politically incorrect' views; but neither should the pretext of debate be used to ignore inflammatory or prejudicial comments, especially where this might be predictable from the political, cultural, religious or gender-related views of certain groups or individuals.
7. **Liquor/Alcohol-** There are currently some variations between the three sets of codes, but the proposed drafts increase the consistency. It is not clear why minor variations still remain, but these are not problematic. One might observe that, despite being legal, alcohol abuse is far from the only form of substance abuse evident in New Zealand, and on that basis perhaps consideration should be given to widening the code to include other forms of intoxicants or drugs.
8. **Controversial Issues-Viewpoints (FTA) / Balance (Pay)-** The Controversial Issues-Viewpoints standard currently applies only to Free-to-Air TV and Radio. The 'Balance' standard, meanwhile, is exclusive to the Pay-TV code but it arguably overlaps with some elements in the more comprehensive Controversial Issues-Viewpoints standard. The proposal for a more consistent 'Balance' standard across all 3 codes is therefore welcome in principle, but there remain some issues and discrepancies which need further consideration. Although the FTA platforms tend to include a wider range of factual content, comparable genres are available on Pay-TV platforms (including licensed 'pass through' channels dealing with news and current affairs genres), while FTA broadcasters also carry a range of content involving controversial issues which are outside their editorial control (see also later comments on the Accuracy standard). There is therefore no platform-based or technical reason why Pay-TV services should not be subject to the same requirements as Free-to-Air TV and Radio. Given the proliferation of content formats and genres which blur the distinction between factual content and opinion or advertorial, there is a need for this code to work in alignment with both the accuracy, fairness and the content information standards- hence a programme which is presented as factual but which comprises mainly of opinion or evidences systematic bias ought to indicate this to the viewer/listener, regardless of whether it is on a Pay or FTA platform. Another potential issue with the new draft formulation is the application of the 'balance' standard to issues *only* where there is a 'controversial' element. This might help avoid the default requirement to present *all* viewpoints on an issue when there is a consensus among a large majority of reasonable informed people, especially where the dissensus stems from cranks, pseudo-experts and actors promoting views motivated by vested interests (such as those who dispute the harmfulness of tobacco and certain agrichemicals or deny any link between fossil fuel emissions and climate change). However, it should be apparent that even within the parameters of ostensibly *non-controversial* mainstream opinion there is still a need for some form of balance. Moreover, if satisfying the controversy criterion systematically excludes non-mainstream or radical viewpoints then this could inadvertently restrict broadcasters' role in fostering informed and debate between perspectives with plausible claims to the truth. Most contemporary opinions on scientific, political, economic and cultural matters (from the earth's orbit around the sun to the rights of women to vote) were cranky, minority opinions at the time! The BSA may therefore wish to revise the provisions in Pay-TV code guideline 8c and also consider whether Radio code standard 8b and 8c obviate the need for 8a.
9. **Accuracy-** Given the importance of this standard for a wide range of broadcast programming it is interesting to note that the rather simplistic notion of accuracy in the current codes glosses over a range of complexities which arise in regard to the verification of facts and the grounds upon which they might reasonably be disputed. The proposed revisions do go some way to remedying this and creating consistency across the platforms, but they still leave some discrepancies and issues unresolved. As with the question of balance, too much leeway is given to 'pass through' channels

over which broadcasters have minimal control (see the reasons already mentioned in relation to the Balance/Controversial Issues standard). Meanwhile, the exemption of content where there is a clear indication that the material presented is opinion begs the question of how to deal with ostensibly factual genres where the two are blurred (sometimes by design).

Given the overwhelming evidence that the commercial news media in the digital media environment are under increasing pressure to cut costs and maximise audience appeal and advertising revenue, there is a significant likelihood that professional news standards will become harder, not easier to uphold. Moves to cut the number of reporters, increased pressure for real-time updates, lack of resources for investigative reporting, increased reliance on overseas news feeds or sub-editing, and increased dependence on information subsidies from interest groups and lobbyists all threaten the quality of news. Although verification, accuracy, impartiality, balance and objectivity remain essential news values, they are often problematic because the events in the social world being reported are in part socially constructed and subject to different framing, definitions and interpretations. Earthquakes, for example, are publicly verifiable events, so if ten buildings fall down and twenty people are killed, then it's possible in principle to count the buildings and the bodies objectively- the material facts are publicly verifiable (or falsifiable) and true for everyone in the same way. But if the story then extends into questions of culpability, building standards, and government planning, then different frames of interpretation, prioritising the perspective of certain actors could be contested.

The context of audience reception needs consideration- specifically the anticipation of a reasonable person who accesses the content that the information conforms to professional news or factual content standards, i.e. that it purports to be truthful, that the facts have been verified as far as is reasonably possible, and that the content is as objective, balanced and impartial as possible. In other words, if something is presented as news to the public and a reasonable person could be expected to treat it as news, i.e. believe it to be factual content and possibly act upon it, then it should be subject to professional norms and regulations as news. If it is opinion or advertorial or political propaganda then it should be possible to discern this from the presentation of the content form. Some of the material currently broadcast as news or current affairs would probably struggle to satisfy the criteria mentioned above. Insofar as the digital media environment has seen an expansion of material that is passed off as news or factual content without any verification or attempt at balance is not a reason to indulge these practices- it is a reason to signal that it falls short of public journalism standards. The key question is whether news media content and formats engender the audience's reasonable expectation that it will be factual, accurate, fair, balanced etc. In NZ, most news media do purport to provide this (although they sometimes don't), and so a reasonable audience member's expectations should be protected. In a sense this could be viewed as a trading standards principle- the product has to do what is says on the label, and if it's labelled as 'news' or 'current affairs' or other factual content, then it needs to be subject to appropriate standards.

The case of Fox News on Sky could arguably be an exception given its unapologetic blurring of fact with neoconservative opinion. It is nevertheless anomalous that Fox is permitted to promote itself as 'fair and balanced' when it manifestly fails to uphold such journalistic standards. One might contend that most educated people are well aware of Fox News' ideological provenance, but that does not obviate the need to inform audiences accordingly (by way of analogy, everyone except for scientists employed by the tobacco lobby know that smoking is harmful, but health warnings are still required on packets). Indeed, despite the overwhelming evidence for systemic inaccuracy and bias on Fox News⁷, it is nevertheless telling that a recent survey found it to be the most trusted network news in the US. Whether local or international, if the news is to function as news, the principles of accuracy, balance and fairness must be applied, or else their likely absence signalled. One suggested remedy here would be a regular on-screen disclaimer, noting that the accuracy, fairness and balance of the content on channels which have demonstrably abandoned any normal standard of professional journalism cannot be guaranteed. In any case, the limited resources of NZ broadcasters and news/ factual content producers mean there is still a reliance on international content providers over whom the broadcaster has no direct editorial control. Without suggesting that there are significant journalistic shortcomings in news material sourced from reputable television news services overseas (especially those with a public service footing such as the UK's BBC and the Australian ABC), it would still be wise to note where the accuracy and balance of news content relies on the source. As a case in point, the BBC was itself subject to Ofcom investigation over documentaries sourced from FBC Media which were found to be sponsored by the Malaysian government⁸. Third party sourcing was not regarded as an adequate excuse for inaccuracy or bias. Content regulation in New Zealand should aspire to uphold a comparable standard of editorial responsibility. It would therefore be worth considering indicating on regular news items where a story has been licenced wholesale from a third party and not directly verified by the local broadcaster.

- 10. Privacy-** Again, this currently applies as a standard to all three codes. The expanded guidelines, including the information in the BSA's privacy appendix, are consistent and clear provides relevant guidelines, and with due consideration of non-visual radio formats, the same principles apply across platforms. The more complex issues concerning privacy arise in the context of information disseminated through other media, including online/social media outlets, but this is mostly beyond the scope of the current exercise. One possible further consideration (which overlaps to some

⁷ For example, see <http://www.mintpressnews.com/pants-on-fire-analysis-shows-60-of-fox-news-facts-are-really-lies/205563/> and compare with <http://www.politico.com/story/2015/03/fox-news-trusted-network-poll-115887>

⁸ See <http://www.mintpressnews.com/media-watchdog-exposes-bbc-cnn-propaganda-profits/208779/>

degree with the fairness principle) concerns the question of more specific protocols for making use of personal information derived from social media, especially if this is provided through a third party.

11. **Fairness-** There are some elements of overlap between this standard and those concerning discrimination/denigration, balance and accuracy, and many of the same observations apply. There are some variations between the three codes, notably in regard to telephone interviews for radio (which is a legitimate technical consideration), although the difference between the current FTA TV and Pay-TV codes is more anomalous. The expanded guidelines increase the consistency across the 3 platforms and clarify the specific practices involved. Given the number of new digital devices through which audio-visual and textual content might be recorded or accessed (including social media), it makes sense to make the technological references to recording platform neutral and emphasise the need for informed consent before broadcast under most circumstances.

Additional note on the Election Programmes Code

The Election Programmes Code is generic to the three platforms covered by the BSA regulation, so there are no obvious inconsistencies. However, it is apparent from cases such as the appearance of the prime minister talking with celebrities on an ostensibly non-election programme on Radio Live (the complaints about which were rejected by the BSA but upheld by the Electoral Commission), that there is a need to extend the definition of what constitutes an election-related programme. The inclusion of candidates or other party figures in broadcast programmes during the run-up to an election cannot avoid conferring an enhanced public profile on the persons concerned, even if the subject matter does not directly relate to the election itself. Obviously this would exclude mainstream news and current affairs where politicians become newsworthy for other everyday reasons, but broadcasters should still be cognizant of the extent to which political PR firms seek to shape the news agenda before elections in ways that gain politically-relevant coverage over-representing certain political figures.
