

The Broadcasting Standards Authority

Freedom in Broadcasting without Harm

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29 June 2020

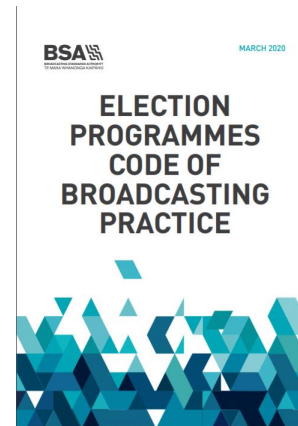
BSA: Who we are

Broadcasting Standards Authority

- ▶ Established by Broadcasting Act 1989
- ▶ Independent Crown Entity
- ▶ Co-regulatory environment - quasi-judicial
- ▶ 4 Authority Members
- ▶ 6 staff in Wellington

BSA: What we do

- ▶ **Three main functions:**
 - ▶ Complaints determination
 - ▶ Oversight and development of broadcasting standards system
 - ▶ Education and Engagement
- ▶ **Four Codes of Broadcasting Practice**



BSA: Applying standards in broadcasting

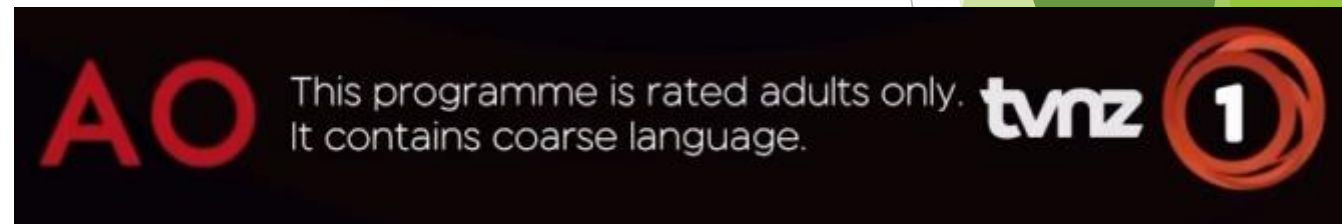
BSA Vision: Freedom in broadcasting without harm





Freedom of expression vs harm

- ▶ Section 14, Bill of Rights Act 1990
- ▶ Starting point in consideration of complaints
- ▶ Includes Broadcaster's right to impart ideas and information *and* Audience's right to receive that information
- ▶ Public interest considerations
- ▶ Weighed against possible harm to individuals or society

Role of Audiences: Choice and Control

The freedom and capacity of an audience to make viewing and listening choices, and to be able to prevent children and young people from viewing or listening to inappropriate material are significant factors in determining what is, and what is not, acceptable.



The Simpsons 8:00 PM - 8:30 PM PGR   More info	Movie: Man On A Ledge 8:30 PM - 10:25 PM AO  AD  More info
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Changes - Timebands & Classifications

- ▶ From 1 May 2020
- ▶ Free-to-Air TV classification labels changed to match Pay TV labels
- ▶ Timebands have also changed slightly
 - ▶ **G** - Approved for general viewing.
 - ▶ Can play any time
 - ▶ **PG** - Parental Guidance recommended for younger viewers.
 - ▶ Can play any time
 - ▶ **M** - Suitable for Mature Audiences 16 years and over
 - ▶ 9am-3pm weekdays (not weekends or school holidays)
 - ▶ 730pm-5am
 - ▶ **16** - People under 16 years should not view.
 - ▶ After 8.30pm until 5am
 - ▶ **18** - People under 18 years should not view.
 - ▶ After 9.30pm until 5am



Standards

- ▶ **Standards which relate to social responsibilities**
 - ▶ Good taste & decency
 - ▶ Programme information
 - ▶ Children's interests
 - ▶ Violence
 - ▶ Law & order
 - ▶ Discrimination & denigration
 - ▶ Alcohol
- ▶ **Standards which relate to information broadcast**
 - ▶ Balance
 - ▶ Accuracy
- ▶ **Standards which relate to people or organisations taking part or referred to in broadcasts**
 - ▶ Privacy
 - ▶ Fairness

BSA: Complaints process

- ▶ Complaints go to Broadcaster first (except privacy or election complaints) - 20 working days
- ▶ Refer to BSA if dissatisfied with Broadcaster's response - 20 working days
- ▶ Submissions from broadcaster and complainant sought
- ▶ Authority considers materials and makes determination - usually no hearing
- ▶ Written decision issued to parties, then published on BSA website
- ▶ Parties have right of appeal to the High Court

Children's Interests

Broadcasters must ensure children can be protected from content that may adversely affect them

- ▶ Key contextual factors:
 - ▶ Classification
 - ▶ Time of broadcast (before 8.30pm = generally children's viewing time)
 - ▶ Warnings
 - ▶ Availability of blocking technology



Children's Interests - example



2019-026 - Promo for *The Shallows* played during *Finding Dory*

Good Taste and Decency

Current norms of good taste and decency should be maintained consistent with the context of the programme and the wider context of the broadcast

- ▶ Offensive language, sexual material, nudity, violence
- ▶ Content which may cause widespread undue offence or distress or undermine widely shared community standards
- ▶ Context is important. BSA looks at:
 - ▶ Nature of the programme
 - ▶ Target audience
 - ▶ Classification
 - ▶ Time of broadcast

Good Taste and Decency - example

2018- 010 - Naked Attraction - TVNZ

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

- ▶ The standard applies only to recognised ‘sections of the community’, which are consistent with the grounds for discrimination listed in the Human Rights Act 1993.
- ▶ Discrimination - encouraging the different treatment of the members of a particular section of the community, to their detriment
- ▶ Denigration - devaluing the reputation of a class of people



Human Rights Act 1993

Public Act 1993 No 82
Date of assent 10 August 1993
Commencement see section 1(2)

Discrimination and Denigration cont'd

- ▶ Factors considered:
 - ▶ the language used
 - ▶ the tone of the person making the comments
 - ▶ the forum in which the comments were made, for example, a serious political discussion, or a satirical piece
 - ▶ whether the comments appeared intended to be taken seriously, or whether they were clearly exaggerated
 - ▶ whether the comments were repeated or sustained
 - ▶ whether the comments made a legitimate contribution to a wider debate,
 - ▶ were the comments gratuitous and calculated to hurt or offend

Discrimination and Denigration - example



2018-090 - Wellington Mornings with Heather du Plessis-Allan - Pacific Islands

BSA orders

- ▶ Broadcast statement/apology
- ▶ Costs to the Crown - up to \$5,000
- ▶ Privacy compensation - up to \$5,000
- ▶ Portion of legal costs
- ▶ Refrain from advertising
- ▶ Refrain from broadcasting
- ▶ Refer complaint back to broadcaster

Election Programmes

ELECTION AND REFERENDA ADS, EDITORIAL AND PROGRAMME CONTENT

WHO DOES WHAT?



TV and radio
party & candidate
ads and
programme
content



Paid party &
candidate ads in
other media.
Paid referenda &
third party
election ads in all
media



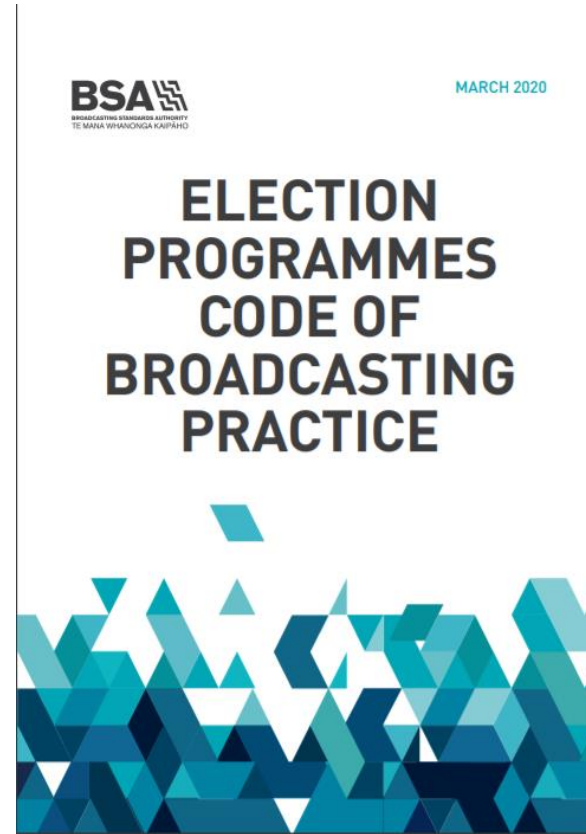
Advertiser identity
/ promoter
statement issues /
expenditure limits



Print / digital news
sites
Editorial content

New Election Programmes Code

- ▶ New Code from March 2020
- ▶ Standards are similar
- ▶ Includes guidelines and commentary to better explain how standards apply
- ▶ Removed opening and closing addresses - legislative changes
- ▶ Available on BSA website



Election Programme Standards

- ▶ E1: Election Programmes subject to other Codes (*except balance*)
- ▶ E2: Election Programme Advocacy - Factual Information should be clearly distinguished from opinion or advocacy
- ▶ E3: Denigration - Election Programme may oppose but must not denigrate a political party or candidate
- ▶ E4: Misleading Programmes - Election Programme may not imitate an existing programme, format or identifiable personality in a manner likely to mislead

Questions and further info

- ▶ Questions?
- ▶ For more information:
 - ▶ www.bsa.govt.nz
 - ▶ Broadcasting Standards in New Zealand Codebook (online)
 - ▶ Latest decisions (online and in BSA Pānui)
 - ▶ Sign up to BSA Pānui
 - ▶ Follow us on Twitter @BSA_NZ
 - ▶ Email us: info@bsa.govt.nz
 - ▶ Phone us: 0800 366 996