

## Australian Broadcasting Corporation Amendment (Fair and Balanced) Bill 2017



**December 2017**

The Media, Entertainment & Arts Alliance (MEAA) is the largest and most established union and industry advocate for Australia's creative professionals. Its membership includes journalists, artists, photographers, performers, producers, ballet dancers, symphony orchestra members and musicians, venue and event workers, sportspersons and officials, together with film, television and performing arts technicians. We have a diverse and vibrant membership across all spheres of creative endeavour in Australia.

## Australian Broadcasting Corporation Amendment (Fair and Balanced) Bill 2017

### *MEAA Position*

This Bill is a calculated insult directed at the ABC and its employees. The proposed addition to the *ABC Act* borders on comical, but is unfortunately rooted in a transgressive campaign to undermine the performance and reputation of the nation's most esteemed (and scrutinised) broadcaster.

MEAA believes this misleading and dangerous Bill should be withdrawn without further debate.

### *ABC Policies*

The inference that balance and fairness are not present in the ABC's editorial operations is rejected.

The corporation's detailed Editorial Policies recognise all necessary professional journalistic standards. These policies exceed, in scope and length, any other known editorial policies covering Australian media organisations.

The Bill's introduction comes six months after the Fox News Network in the United States abandoned its provocative 'Fair and Balanced' motto, which was surely the inspiration for this attack on the ABC's independence.<sup>1</sup>

### *The Proposed Bill*

The Bill amends section 8(1)(c) of the Australian Broadcasting Corporation Act 1983 as follows:

#### ***Duties of the Board***

*(1) It is the duty of the Board:*

*(a) to ensure that the functions of the Corporation are performed efficiently and with the maximum benefit to the people of Australia;*

*(b) to maintain the independence and integrity of the Corporation;*

*(c) to ensure that the gathering and presentation by the Corporation of news and information is, **fair, balanced, accurate and impartial according to the recognized standards of objective journalism; and ...**"*  
*emphasis added*

The redundancy of the proposed amendments is self-evident. Section 8(1)(c) already requires accuracy and impartiality 'according to the recognised standards of objective journalism'.

Elsewhere in the ABC's Editorial Policies, concepts and duties related to independence, integrity, objectivity, impartiality, together with the need for 'fair and honest dealing'<sup>2</sup> are acknowledged and articulated.

MEAA shares the ABC Managing Director's mystification with the purpose of the Bill. She stated at an Estimates hearing held in October 2017 that:

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<sup>1</sup> Fox News Drops 'Fair and Balanced' Motto, Michael M Grynbaum, New York Times, 14 June 2017

<sup>2</sup> See principle 5 of the Editorial Policies, *Fair and honest dealing*, page 8

*“So I query, again, what problem we're trying to solve to add those words into the charter.*

*“Frankly, we are concerned about how those words will be read, certainly, by people who choose to take an aggressive view towards achieving a false balance, I guess, not based on the weight of evidence. I know Mr Sunderland in particular has written something recently on the way in which we have our editorial policies referring to fairness and balance.”<sup>3</sup>*

MEAA also concurs with Alan Sunderland’s recent commentary on the merits of the Bill. Mr Sunderland’s Estimates evidence included the following observation:

*“Notions of fairness and balance need to be carefully unpacked and explained in order to avoid some of the pernicious issues that can affect journalism around false balance. So I think putting them in the charter in the duties of the board is a combination of unnecessary and potentially misleading. I think that, while those notions can and do exist, they exist in a very carefully described and contextualised way already in our policies, and that's where they belong.”<sup>4</sup>*

In his commentary for *ABC Online* on 2 November, 2017, Mr Sunderland noted that:

*“When it comes to ‘balance’, we explain very carefully that ‘impartiality does not require that every perspective receives equal time’, but that one of the hallmarks of good journalism is balance that ‘follows the weight of evidence’.*

*“In short, “fairness” and “balance” are not and never have been recognised standards of objective journalism. They can be helpful indicators of impartiality and accuracy, but only if they are put in the right context and used wisely. In other words, if something is “accurate and impartial” it will always meet the recognised standards of objective journalism. If it is fair and balanced, it might not.”<sup>5</sup>*

#### *MEAA’s Code of Ethics*

MEAA notes that the Communications Minister has sought to justify the Bill by reference to MEAA’s Journalist Code of Ethics, which he said “refers to ‘fairness’ no less than six times.”<sup>6</sup>

MEAA’s first Code of Ethics was introduced in 1944 by MEAA media’s forerunner, the Australian Journalists Association. Neither at that time nor at any point has the Code ever mentioned “balance” as an ethical requirement.

In Clause 1 the Code states, “Do your utmost to give a fair opportunity for reply”<sup>7</sup>. This was added to clause 1 in the late 1990s.

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<sup>3</sup> Communications and the Arts Portfolio, Estimates, 24 October 2017, page 75

<sup>4</sup> Communications and the Arts Portfolio, Estimates, 24 October 2017, page 81

<sup>5</sup> ‘What’s Wrong with being Fair and Balanced’, Alan Sunderland, ABC Online, 2 November 2017

<sup>6</sup> “ABC reforms to be introduced into the Senate”, Senator the Hon Mitch Fifield, Minister for the Department of Communications and the Arts, October 18 2017

[http://www.minister.communications.gov.au/mitch\\_fifield/news/abc\\_reforms\\_to\\_be\\_introduced\\_into\\_the\\_senate#.WhYfPEqWaUl](http://www.minister.communications.gov.au/mitch_fifield/news/abc_reforms_to_be_introduced_into_the_senate#.WhYfPEqWaUl)

<sup>7</sup> MEAA Journalist Code of Ethics <https://www.meaa.org/meaa-media/code-of-ethics/>

The report of the Ethics Review Committee that informed this amendment said about a “right of reply”:

*‘The standard does not go as far as making the giving an opportunity an absolute requirement, because there will be occasions when, despite reasonable efforts made in good faith, the subject of the report cannot be contacted. Or... the subject may have ‘gone to ground’.*<sup>8</sup>

A “right of reply” is not the same as “balance”. Balance assumes that multi-faceted discussion is taking place and that, despite the merits of some parts of the discussion and the unworthiness of other parts, each and every side must be given equal measure.

The practice of journalism, through newsgathering and news reporting, does not work that way because facts are not elastic.

MEAA’s *Code of Ethics* makes it clear in that same first clause that MEAA Media’s members have an obligation to “report and interpret honestly, striving for accuracy, fairness, and disclosure of all essential facts.”

MEAA contends that requiring journalists to apply balance may compel them to apply a distorting emphasis to irrelevant, non-newsworthy material that is not factually based.

A fair and contextual reading of the Code of Ethics undermines the Minister’s observations about the Code’s contents. In each case the word ‘fairness’ appears on the Code of Ethics, it has power and certainty. Out of context, as expressed in the proposed legislation – “fair and balanced” – it is at best meaningless and at worst dangerous.

It could far too easily be interpreted as a demand that every piece of journalism contain equal amounts of coverage from or about opposing views. That is not objectivity (which is what we all demand of quality journalism). Real objectivity entails presenting, to the best of one’s capacity, impartiality rather than artificially determined word counts, sound bites or images.

MEAA  
15 December 2017

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<sup>8</sup> *Ethics in Journalism – Report of the Ethics Review Committee, Media, Entertainment & Arts Alliance Australian Journalists Association Section*, Melbourne University Press 1996