

**HAVE
YOUR
SAY**

REVIEW OF THE ELECTION PROGRAMMES CODE OF BROADCASTING PRACTICE 2019 PUBLIC CONSULTATION

KEY DATES

24 October 2019
Public consultation opens

22 November 2019
Public consultation closes

1. BACKGROUND

The Broadcasting Standards Authority (BSA) works with broadcasters to develop codes of broadcasting practice that apply to all broadcasters in New Zealand.

The Election Programmes Code of Broadcasting Practice (the Election Programmes Code) sets out standards that apply to Election Programmes which may be broadcast for political parties and candidates in the lead up to the General Election.

In anticipation of the 2020 General Election, we are reviewing the Election Programmes Code to ensure that it is up to date and relevant to the current media environment. This code was last updated in May 2011.

Key objectives for this review are to:

- include guidelines to assist broadcasters to meet the standards in the Election Programmes Code
- ensure the Election Programmes Code reflects the 2017 amendments to Part 6 of the Broadcasting Act 1989 (regarding Electoral Broadcasting)
- seek alignment (as appropriate) with equivalent standards with which media (and political parties/candidates) may be required to comply (eg Advertising Standards Authority and NZ Media Council codes).

Proposed updates to the Election Programmes Code have been developed in consultation with broadcasters and other industry and government stakeholders. The key focus has been to incorporate guidance under each standard. The core standards have not been materially amended (with the exception of the removal of standard E5). The purpose of the current public consultation process is to enable all interested parties to have a say in the development of the Election Programmes Code, and to ensure that it reflects the general values and expectations of our diverse New Zealand society.

2. WHAT HAS CHANGED?

Proposed changes to the Election Programmes Code include the following:

- amendments reflecting changes to the Broadcasting Act (including the removal of old Standard E5)
- the addition of guidelines to assist with the interpretation and application of each standard (reflecting principles drawn from previous Authority decisions)
- amendments to improve alignment with other standards with which media must comply
- additional information regarding the roles of other entities involved with election related content
- clarification of what constitutes an 'Election Programme'
- clarification and modernisation of the language in the code.

Overall, the proposed changes are intended to make the Election Programmes Code more user-friendly and generally provide greater clarity for broadcasters and members of the public.

3. SPECIFIC QUESTIONS

We are now inviting public submissions on the new draft Election Programmes Code. In particular, we seek your views on the following:

1. Are the proposed guidelines for each standard clear, appropriate and helpful?
2. Are there any additional guidelines you would recommend for any of the standards?
3. Do you have any views on how the standards should apply to political party promises (ie promises as to future conduct)?
4. Standard E3 states that election programmes may not include 'material which denigrates a political party or candidate' (with 'denigrate' defined as *devaluing the reputation* of the political party or candidate).

To ensure this standard does not capture situations it is not meant to (eg where a party's or candidate's reputation is devalued by virtue of legitimate political criticism of their policies/perspectives) do you consider there is a need to either:

- a. define denigration so that it is limited to purposeful or intentional devaluing of reputations (eg 'denigrate' is defined as *attempting to devalue* the reputation of a party/candidate); or
- b. include a reasonableness standard (such that denigration is assessed by reference to the view of 'the reasonable person')?

Alternatively, do you consider that guidelines E3b and E3c adequately deal with this issue? They :

- c. require a 'high level of condemnation, often with an element of malice or nastiness' for a finding of denigration
 - d. clarify that the standard is not intended to prevent the broadcast of material that is factual, a genuine expression of serious comment, analysis, opinion or advocacy or legitimate humour or satire.
5. Given our objective of ensuring alignment with equivalent standards with which media may be required to comply, are there any other issues which need to be considered?
 6. We intend to translate the code into te reo Māori and other languages. Which languages should the code be translated into?

4. SUBMISSION PROCESS

Public consultation opens on **24 October 2019** and will close at **5pm** on **22 November 2019**.

Submissions can be emailed to the BSA at info@bsa.govt.nz or sent to us by post to

BSA
PO BOX 9213
Wellington 6141

If you have any questions please contact us on 0800 366 996.

Any submission should include your full name, a contact phone number & email address, your physical address and advice regarding your preferred form of contact. Contact details of submitters will not be made public, but may be used for questions and future consultation unless otherwise requested.

You may wish to use the submission form available (but this is optional).

Any questions on the consultation process or about the BSA in general can be directed by email to us at info@bsa.govt.nz or call us on 0800 366 996.

Your submission may be published on our website. Submissions may also be subject to disclosure under the Official Information Act 1982. If your submission contains sensitive material that you wish the BSA to withhold from publication on our website or under the Official Information Act, you should clearly identify the relevant information and the applicable grounds under which the BSA could seek to withhold the information.